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OFFICIAL REPORT

OF THE

PROCEEDINGS AND DEBATES

OF THE

CONVENTION

ASSEMBLED AT SALT LAKE CITY ON THE FOURTH DAY OF MARCH, 1895, TO ADOPT A

CONSTITUTION

FOR THE

STATE OF UTAH.

(Ter.) Constitutional Convention

SALT LAKE CITY

Compliments of
James T. Hammond

OFFICERS OF THE CONVENTION.

PRESIDENT:

JOHN HENRY SMITH, Salt Lake City.

SECRETARIES:

PARLEY P. CHRISTENSEN, Grantsville, Tooele County.
C. S. RAPP, Assistant, Ogden, Weber County.

ENROLLING AND ENGROSSING CLERK:

JOSEPH A. SMITH, Providence, Cache County.

SERGEANT-AT-ARMS:

R. CLAWSON, Ephraim, Sanpete County.

MESSENGER:

THOMAS S. WATSON, Heber, Wasatch County.

WATCHMAN:

BRUCE JOHNSON, Salt Lake City.

JANITOR:

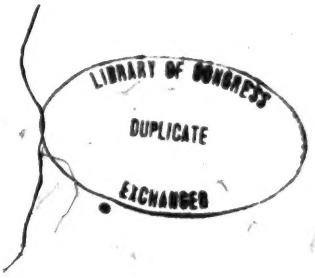
J. N. SCOTT, Salt Lake City.

PAGES:

JOHN H. THORN, Salt Lake City.
L. C. CAMP, Salt Lake City.

COMMITTEE CLERKS:

MISS B. T. MACMASTERS, Salt Lake City.
MISS HENRIETTA CLARK, Salt Lake City.



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MARCH 1930

OFFICIAL REPORT

OF THE

PROCEEDINGS AND DEBATES

OF THE

CONVENTION.

FIRST DAY.

MONDAY, 12 m., March 4, 1895.

The Delegates elected to the Convention to adopt a Constitution for the State of Utah assembled at the city of Salt Lake this day under and by virtue of the provisions of an Enabling Act passed by the Congress of the United States, approved July 16th, 1894, in the following words:

AN ACT to enable the People of Utah to form a Constitution and State Government, and to be admitted into the Union on an equal footing with the original States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled:

That the inhabitants of all that part of the area of the United States now constituting the Territory of Utah, as at present described, may become the State of Utah, as hereinafter provided.

SEC. 2. That all male citizens over the age of twenty-one years, who have resided in said Territory for one year next prior to such election, are hereby authorized to vote for and choose delegates to form a Convention in said Territory. Such delegates shall possess the qualifications of such electors; and the aforesaid Convention shall consist of one hundred and seven delegates, apportioned among the several counties within the limits of the proposed State as follows: Beaver County, two delegates; Box Elder County, four delegates; Cache County, eight delegates; Davis County, three delegates; Emery County, three delegates; Garfield County, one delegate; Grand County, one delegate; Iron County, one delegate; Juab County, three delegates; Kane County, one delegate; Millard County, two delegates; Morgan County, one delegate; Piute County, one delegate; Rich County, one delegate; Salt Lake County, twenty-nine delegates thus apportioned, to-wit: Salt Lake City, First Precinct, four delegates; Second Precinct, six delegates; Third Precinct, five delegates; Fourth Precinct, three delegates; Fifth Precinct, three delegates; all other precincts in said county, outside of Salt Lake City, eight delegates; San Juan County, one delegate; San Pete County, seven delegates; Sevier County, three delegates; Summit

County, four delegates; Tooele County, two delegates; Uintah County, one delegate; Utah County, twelve delegates; Wasatch County, two delegates; Washington County, two delegates; Wayne County, one delegate, and Weber County, eleven delegates; and the Governor of said Territory shall, on the first day of August, eighteen hundred and ninety-four, issue a proclamation ordering an election of the delegates aforesaid in said Territory, to be held on the Tuesday next after the first Monday in November following. The board of commissioners known as the Utah Commission is hereby authorized and required to cause a new and complete registration of voters of said Territory to be made under the provisions of the laws of the United States and said Territory, except that the oath required for registration under said laws shall be so modified as to test the qualifications of the electors as prescribed in this act; such new registration to be made as nearly conformable with the provisions of such laws as may be; and such election for delegates shall be conducted, the returns made, the result ascertained, and the certificate of persons elected to such Convention issued in the same manner as is prescribed by the laws of said Territory regulating elections therein of members of the Legislature. Persons possessing the qualifications entitling them to vote for delegates under this act shall be entitled to vote on the ratification or rejection of the Constitution, under such rules or regulations as said Convention may prescribe, not in conflict with this act.

SEC. 3. That the delegates to the Convention thus elected shall meet at the seat of government of said Territory on the first Monday in March, eighteen hundred and ninety-five, and, after organization, shall declare on behalf of the people of said proposed State that they adopt the Constitution of the United States, whereupon the said Convention shall be, and is hereby, authorized to form a Constitution and State government for said proposed State.

The Constitution shall be republican in form, and make no distinction in civil or political rights on account of race or color, except as to Indians not taxed, and not to be repugnant to the Constitution of the United States and the principles of the Declaration of Independence. And said Convention shall provide, by ordinance irrevocable without the consent of the United States and the people of said State—

First. That perfect toleration of religious sentiment shall be secured, and that no inhabitant of said State shall ever be molested in person or property on account of his or her mode of religious worship: *Provided*, That polygamous or plural marriages are forever prohibited.

Second. That the people inhabiting said proposed State do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof; and to all lands lying within said limits owned or held by any Indian or Indian tribes; and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States; that the lands belonging to citizens of the United States residing without the said State shall never be taxed at a higher rate than the lands belonging to residents thereof; that no taxes shall be imposed by the State on lands or property therein belonging to or which may hereafter be purchased by the United States or reserved for its use; but nothing herein, or in the ordinance herein provided for, shall preclude the said State from taxing, as other lands are taxed, any lands owned or held by any Indian who has severed his tribal relations and has ob-

tained from the United States or from any person a title thereto by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any act of Congress containing a provision exempting the lands thus granted from taxation; but said ordinance shall provide that all such lands shall be exempt from taxation by said State so long and to such extent as such act of Congress may prescribe.

Third. That the debts and liabilities of said Territory, under authority of the Legislative Assembly thereof, shall be assumed and paid by said State.

Fourth. That provision shall be made for the establishment and maintenance of a system of public schools, which shall be open to all the children of said State and free from sectarian control.

SEC. 4. That in case a Constitution and State government shall be formed in compliance with the provisions of this act, the Convention forming the same shall provide by ordinance for submitting said Constitution to the people of said State for its ratification or rejection, at an election to be held on the Tuesday next after the first Monday in November, eighteen hundred and ninety-five, at which election the qualified voters of said proposed State shall vote directly for or against the proposed Constitution, and for or against any provisions separately submitted. The return of said election shall be made to the said Utah Commission, who shall cause the same to be canvassed, and if a majority of the votes cast on that question shall be for the Constitution, shall certify the result to the President of the United States, together with a statement of the votes cast thereon, and upon separate articles or propositions, and a copy of said Constitution, articles, propositions and ordinances. And if the Constitution and government of said proposed State are republican in form, and if all the provisions of this act have been complied with in the formation thereof, it shall be the duty of the President of the United States to issue his proclamation announcing the result of said election, and thereupon the proposed State of Utah shall be deemed admitted by Congress into the Union, under and by virtue of this act, on an equal footing with the original States, from and after the date of said proclamation.

SEC. 5. That until the next general census, or until otherwise provided by law, said State shall be entitled to one Representative in the House of Representatives of the United States, which Representative in the Fifty-fourth Congress, together with the Governor and other officers provided for in said Constitution, may be elected on the same day of the election for the adoption of the Constitution; and until said State officers are elected and qualified under the provisions of the Constitution, and the State is admitted into the Union, the Territorial officers shall continue to discharge the duties of the respective offices in said Territory.

SEC. 6. That upon the admission of said State into the Union, sections numbered two, sixteen, thirty-two and thirty-six in every township of said proposed State, and where such sections or any parts thereof have been sold or otherwise disposed of by or under the authority of any act of Congress, or other lands equivalent thereto, in legal subdivisions of not less than one quarter section, and as contiguous as may be to the section in lieu of which the same is taken, are hereby granted to said State for the support of common schools, such indemnity lands to be selected within said State in such manner as the Legislature may provide, with the approval of the secretary of the interior; *Provided*, That the second, sixteenth, thirty-second and thirty-sixth sections embraced in permanent reservations for national purposes shall not, at any time, be subject

to the grants nor to the indemnity provisions of this act, nor shall any lands embraced in Indian, military, or other reservations of any character be subject to the grants or to the indemnity provisions of this act until the reservation shall have been extinguished and such lands be restored to and become a part of the public domain.

SEC. 7. That upon the admission of said State into the Union, in accordance with the provisions of this act, one hundred sections of the unappropriated lands within said State, to be selected and located in legal subdivisions, as provided in section six of this act, shall be, and are hereby, granted to said State for the purpose of erecting public buildings, at the capital of said State, when permanently located, for legislative, executive, and judicial purposes.

SEC. 8. That lands to the extent of two townships in quantity, authorized by the third section of the act of February twenty-one, eighteen hundred and fifty-five, to be reserved for the establishment of the University of Utah, are hereby granted to the State of Utah for university purposes, to be held and used in accordance with the provisions of this section; and any portions of said lands that may not have been selected by said Territory may be selected by said State. That in addition to the above, one hundred and ten thousand acres of land, to be selected and located as provided in the foregoing section of this act, and including all saline lands in said State, are hereby granted to said State, for the use of said university, and two hundred thousand acres for the use of an agricultural college therein. That the proceeds of the sale of said lands, or any portion thereof, shall constitute permanent funds, to be safely invested and held by said State; and the income thereof to be used exclusively for the purposes of such university and agricultural college respectively.

SEC. 9. That five per centum of the proceeds of the sales of public lands lying within said State, which shall be sold by the United States subsequent to the admission of said State into the Union, after deducting all the expenses incident to the same, shall be paid to the said State, to be used as a permanent fund, the interest of which only shall be expended for the support of the common schools within said State.

SEC. 10. That the proceeds of lands herein granted for educational purposes, except as hereinafter otherwise provided, shall constitute a permanent school fund, the interest of which only shall be expended for the support of said schools, and such land shall not be subject to pre-emption, homestead entry, or any other entry under the land laws of the United States, whether surveyed or unsurveyed, but shall be surveyed for school purposes only.

SEC. 11. The schools, colleges, and university provided for in this act, shall forever remain under the exclusive control of said State, and no part of the proceeds arising from the sale or disposal of any lands herein granted for educational purposes, or of the income thereof, shall be used for the support of any sectarian or denominational school, college, or university.

SEC. 12. That in lieu of the grant of land for the purposes of internal improvement made to new states by the eighth section of the act of September fourth, eighteen hundred and forty-one, which section is hereby repealed as to said State, and in lieu of any claim or demand by the State of Utah under the act of September twenty-eighth, eighteen hundred and fifty, and section twenty-four hundred and seventy-nine of the Revised Statutes, making a grant of swamp and overflowed lands to certain states, which grant, it is hereby declared, is not extended to said State of Utah, the following grants of land are hereby made to said State, for the purposes indicated, namely:

For the establishment of permanent water reservoirs for irrigating purposes,

five hundred thousand acres; for the establishment and maintenance of an insane asylum, one hundred thousand acres; for the establishment and maintenance of a school of mines in connection with the university, one hundred thousand acres; for the establishment and maintenance of a deaf and dumb asylum, one hundred thousand acres; for the establishment and maintenance of a reform school, one hundred thousand acres; for establishment and maintenance of State normal schools, one hundred thousand acres; for the establishment and maintenance of an institution for the blind, one hundred thousand acres; for a miners' hospital for disabled miners, fifty thousand acres. The United States penitentiary near Salt Lake City and all lands and appurtenances connected therewith and set apart and reserved therefor are hereby granted to the State of Utah.

The said State of Utah shall not be entitled to any further or other grants of land for any purpose than as expressly provided in this act; and the lands granted by this section shall be held, appropriated, and disposed of exclusively for the purposes herein mentioned, in such manner as the Legislature of the State may provide.

SEC. 13. That all land granted in quantity or as indemnity by this act shall be selected under the direction of the Secretary of the Interior, from the unappropriated public lands of the United States within the limits of said State of Utah.

SEC. 14. That the State of Utah shall constitute one judicial district, which shall be called the district of Utah, and the circuit and district courts thereof shall be held at the capital of this State for the time being. The judge of said district shall receive a yearly salary of five thousand dollars, payable monthly, and shall reside in his district. There shall be appointed clerks of said courts, who shall keep their offices at the capital of said State. There shall be appointed for said district one district judge, one United States attorney, and one United States marshal. The regular terms of said courts shall be held at the place aforesaid on the first Monday in April and the first Monday in November of each year. For judicial purposes, the district of Utah shall be attached to the eighth judicial circuit, and only one grand jury and one petit jury shall be summoned in both of said courts.

SEC. 15. That the circuit and district courts for the district of Utah and the judges thereof, respectively, shall possess the same powers and jurisdiction and perform the same duties possessed and required to be performed by the other circuit and district courts and judges of the United States, and shall be governed by the same laws and regulations.

SEC. 16. That the marshal, district attorney and clerks of the circuit and district courts of the said district of Utah, and all other officers and other persons performing duty in the administration of justice therein, shall severally possess the powers and perform the duties lawfully possessed and required to be performed by similar officers in other districts of the United States, and shall, for the services they may perform, receive the same fees and compensation allowed by law to other similar officers and persons performing similar duties.

SEC. 17. That the Convention herein provided for shall have the power to provide, by ordinance, for the transfer of actions, cases, proceedings, and matters pending in the supreme or district courts of the Territory of Utah at the time of the admission of the said State into the Union, to such courts as shall be established under the Constitution to be thus formed, or to the circuit or district court of the United States for the district of Utah; and no indictment, action, or proceeding shall abate by reason of any change in the courts, but shall be proceeded with in the State or United States courts according to the laws thereof, respectively. That all

cases of appeal or writ of error heretofore prosecuted and now pending in the Supreme Court of the United States upon any record from the supreme court of said Territory, or that may hereafter lawfully be prosecuted upon any record from said court, may be heard and determined by said Supreme Court of the United States; and the mandate of execution or of further proceedings shall be directed by the Supreme Court of the United States to the circuit or district court hereby established within the said State from or to the supreme court of such State, as the nature of the case may require. And the circuit, district, and state courts herein named shall, respectively, be the successors of the supreme court of the Territory as to all such cases arising within the limits embraced within the jurisdiction of such courts, respectively, with full power to proceed with the same, and award mesne or final process therein; and that from all judgments and decrees of the supreme court of the Territory, mentioned in this act, in any case arising within the limits of the proposed State prior to admission, the parties to such judgment shall have the same right to prosecute appeals and writs of error to the Supreme Court of the United States as they shall have had by the law prior to the admission of said State into the Union.

SEC. 18. That the sum of thirty thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any money in the treasury not otherwise appropriated to said Territory for defraying the expenses of said Convention and for the payment of the members thereof, under the same rules and regulations and at the same rates as are now provided by law for the payment of the Territorial Legislature.

SEC. 19. That the Constitutional Convention may, by ordinance, provide for the election of officers for a full State government, including members of the Legislature and Representative in the Fifty-fourth Congress, at the time for the election for the ratification or rejection of the Constitution; but the said State government shall remain in abeyance until the State shall be admitted into the Union as proposed by this act. In case the Constitution of said State shall be ratified by the people, but not otherwise, the Legislature thereof may assemble, organize and elect two Senators of the United States in the manner now prescribed by the laws of the United States; and the Governor and Secretary of State of the proposed State shall certify the election of the Senators and Representative in the manner required by law, and when such State is admitted into the Union, as provided in this act, the Senators and Representative shall be entitled to be admitted to seats in Congress, and to all rights and privileges of Senators and Representatives of other states in the Congress of the United States; and the State government formed in pursuance of said Constitution, as provided by the Constitutional Convention, shall proceed to exercise all the functions of State officers; and all laws in force made by said Territory at the time of its admission into the Union shall be in force in said State, except as modified or changed by this act or by the Constitution of the State; and the laws of the United States shall have the same force and effect within the said State as elsewhere within the United States.

SEC. 20. That all acts or parts of acts in conflict with the provisions of this act, whether passed by the Legislature of said Territory or by Congress, are hereby repealed.

Mr. CRANE. At the request of a large number of the delegates——

Mr. EVANS (Weber). I desire to introduce a resolution:

"Whereas, the Enabling Act makes no provision as to who shall call the Convention to order, therefore be it resolved, that the oldest delegate hold-

ing a certificate of election be accorded the courtesy of calling the Convention to order."

Do I hear a second to this resolution?

The resolution was seconded by a number of delegates.

Mr. EVANS (Weber). I want to say, gentlemen, in support of this resolution—just a moment,—that the Enabling Act, as you all know, makes no provision at all as to the person who shall call the Convention to order. I have noticed in some of the proceedings in other States, of conventions similar to this, that where that is the case, or where the law does not provide as to the person who shall call the Convention to order, the delegates extend, as a matter of courtesy, that honor to the oldest delegate in the convention; and, gentlemen, it seems to me that that in this case, to allay any kind of feeling which might arise by reason of any action of anybody, it would be a generous thing for us to do to venerate old age and give this honor to the oldest delegate, whoever he may be. As many as favor the resolution will say aye——

Mr. EICHNOR. Mr. Chairman——

Mr. EVANS (Weber). Contrary, no.

Mr. EICHNOR. Is any person allowed to speak on this question?

Mr. EVANS (Weber). I am not presiding here.

Mr. EICHNOR. Does the gentleman from Weber County assume that he has the right to speak, and no one else?

Mr. EVANS (Weber). No, sir; I do not, but this certainly seems to me to be a question we ought to pass upon without any feeling.

Mr. CRANE. At the request of a large number of the delegates who are here present, I have been requested to call this Convention to order. I will call upon President George Q. Cannon to ask the Divine blessing. The honor was accorded President Woodruff, to ask the Divine blessing on this assemblage here today, but unfortunately President Woodruff is indisposed. The committee therefore considered it but right that President Cannon should ask the Divine blessing.

Mr. EVANS (Weber). Gentlemen of the Convention, are we to pass upon this question? Of course we are not a Convention yet. This is simply a matter of courtesy, and I ask the privilege of being recognized for the purpose of having it passed upon, at least.

Mr. SQUIRES. Mr. Chairman, I move as an amendment to that resolution, that the Hon. Charles Crane be selected to call this Convention to order.

Motion seconded by a number of delegates.

Mr. CRANE. Gentlemen, you have heard the motion. Are you ready for the question? [Calls for the question.] All those in favor of the motion——

Mr. EVANS (Weber). I would like to know, Mr. Chairman, whether the matter is open for discussion.

Mr. CRANE.——will please say aye; contrary, no. The ayes seem to have it. The ayes have it.

Mr. EVANS (Weber). Division.

Mr. JAMES. Oh, no.

Mr. CRANE. If the Convention will please come to order, President Cannon of the Church of Jesus Christ of Latter-day Saints will ask the Divine blessing.

Mr. GEORGE Q. CANNON. Mr. Chairman and gentlemen of the Convention, it is but just to say that it is very unexpected to me to be called upon, but President Woodruff sent word to me a few minutes ago that he was unable to appear here to officiate in this capacity, and requested that I would appear and act for him. Will the assemblage please rise?

The delegates having risen, Mr. Cannon invoked the blessing as follows:

Our Eternal Father, we approach Thee in the name of Thy Son, Jesus Christ, upon this occasion, and we desire to do so in a manner that shall be acceptable in Thy sight. We feel, our Father, that this assemblage needs Thy

Holy Spirit to be with them, they need Thy help, so that in the consideration of the great and important questions that shall enter into their discussions, they may be filled with that feeling that cometh from Thee, with love for each other and for humanity, and be inspired by the highest and most patriotic motives that can fill the human breast; that in the framing of this important Constitution for this great country, they may, our Father, look constantly to Thee for that aid and help which Thou alone can give, and that even though they may not believe in Thee (there may be some, our Father, who do not have faith in God)—yet that in their hearts there may be a desire to do that which is right for their fellowmen, and to look forward to the best interests of this country, and to do everything that is possible to make this a great and a grand country, under a Constitution that shall be liberal in the largest acceptation of that term. Our Heavenly Father, the hearts of the people of this Territory are centered in their desire that this Convention may be one that shall do honor to the great questions that shall be brought before it. We therefore invoke Thy divine blessing upon all connected therewith. We ask Thee to manifest Thy power, for we do feel deeply interested in the results of the debates that shall take place here; and wilt Thou remove, Father, from the breasts of these men every feeling of improper partisanship, that they may not contend for party advantage, nor to succeed in any direction that is not in the interests of the entire people. Help them, our Heavenly Father, we beseech Thee, and let Thy blessings rest down upon every one of them, and upon him who shall be called upon to preside, whoever he may be, that he may preside with dignity and with fairness, in the midst of this Convention; and upon the committees that shall be appointed, that they may be filled with the same spirit and feeling and disposition, and that the whole people may rejoice exceedingly before Thee, the Lord our God, at the results of this Convention, and the spirit that shall be manifested by those who take part in its proceedings. All of which we humbly ask in the name of Jesus Christ, our Lord, amen.

Mr. CRANE. The next proceeding and ceremony to-day will be the calling of the list of all those who have certificates, by the Secretary of State, Hon. C. C. Richards.

The list was then read by Secretary Richards.

Mr. CRANE. I will now call upon the Chief Justice of the Territory to swear the members in.

The oath was then administered by Chief Justice Merritt.

Governor West then addressed the Convention as follows:

Mr. Chairman and Gentlemen of the Convention: This is a red-letter day for Utah; this is the most glorious day of her history. The people who came here forty-seven years ago and made a settlement, acting with the avowed purpose, with the hope, with the desire, to grow in numbers, and by their energy and industry develop a people and a country worthy to take a place among the states of this great Republic, through all the years until now have worked and labored, endured hardships and privations, and we stand to-day with all the benefits of their toil, their energy, and their labor, as the great treasure we propose to unite to this Union of states.

Now, gentlemen, you have assembled for the purpose of making a Constitution for this new commonwealth. No greater trust, no greater responsibility, could be given you than the one entrusted to you by the confiding people of Utah. Your work, if well and wisely done, as I do not doubt but it will be, is not for to-day, it is not for to-morrow, but it is for years to come. It is not the laws that you make that can be changed with every recurring session of the Legislature, or with every passing breath

of public opinion, but you are to make the Organic Law, you are to lay down the fundamental principles that must guide and control the destinies of this new commonwealth for many years. Therefore, your deliberations should be, as I doubt not they will be, characterized by calm consideration, due deliberation, and an entire absence of passion or of feeling, having but one star as your guide, the good, the help, the prosperity, and the safety of the whole people of this great commonwealth. [Applause.]

Now, while the work that you are to do here to-day will be for the new State of Utah, as constitution makers, you do not plunge into an unexplored field or traverse a vast and barren and uninhabited wilderness. On the contrary, you come of a race of state creators and of constitution makers; you have as your pattern the noblest instrument that probably ever enlightened the world, the great Constitution of our fathers, the Constitution of the United States. [Applause.] You have complied with the law which requires that before you begin your deliberations, a solemn oath be administered to you by the Chief Justice of this Territory, to observe and support that Constitution; and the nearer you keep, in my judgment, to that instrument, and follow its enunciations of fundamental principles, the nearer you will come to the hearts of the people, and commend the new State of Utah to her associates. So you have that instrument; and not only that, but you have the experience and the work of constitution makers of all the other states that have gone before you, and with these lights it would seem that it would be impossible for you to make a Constitution other than a most excellent and admirable one. [Applause.]

Now, gentlemen of the Convention, I feel proud, and esteem it a high honor, to voice the sentiments of the people of Utah, and bid you a hearty and cordial welcome to the responsible and important duties that have been imposed upon you by Utah's great people. I am sure that the work that you do here will receive a cordial and a hearty approbation in the way of ratification by the people; and when that is done, there need be no fear that there can any obstacle interfere with the admission of Utah into this great Union. [Applause.] Before this time a year hence, there will be no prouder, greater commonwealth in this Union of states, than the youngest of the number, Utah. [Applause.]

Mr. CRANE. What is the further pleasure of the Convention?

Mr. CANNON. Mr. Chairman, I take pleasure in nominating as temporary president of this Convention, the Honorable James N. Kimball, of Weber County.

Mr. Kimball was then unanimously elected as temporary president, and was greeted with applause as he ascended the platform.

Mr. CRANE. Gentlemen of the Convention, I take pleasure in introducing to you Honorable James N. Kimball, of Weber County, the temporary president.

President pro tem. Kimball then addressed the Convention as follows:

Gentlemen of the Convention, I thank you for the honor thus conferred upon me. I did not come here prepared to make a speech in assuming the chair this morning; but I have this to say, that this day is one that has been long looked forward to by the people of this Territory, and that while we are assembled here to-day inaugurating this Convention, we are entering upon the performance of one of the most important duties that the people could select us to perform, and while we were elected to the position we occupy in this Convention upon partisan tickets, I feel that we all come here to-day with the idea that we are here now to work for the whole people of the Territory [applause]; and that we will each endeavor to so perform our duty that when this

Convention shall have adjourned, its work will meet with the commendation of all the people of the Territory. Again, gentlemen, I thank you for the honor you have conferred upon me. [Applause.]

Mr. EICHNOR. Mr. President, for temporary secretary, I nominate Mr. Heber M. Wells, of Salt Lake.

Mr. Wells was unanimously elected to the position.

Mr. SYMONS. Mr. President, I nominate J. F. Chidester, of Garfield County, for temporary sergeant-at-arms.

Mr. Chidester was unanimously elected.

Mr. VAN HORNE. Mr. President, I move you that the chair appoint a committee of five on privileges, elections, and qualifications of members.

Mr. IVINS. Mr. President, does the gentlemen mean that this committee of five have control of all these different matters, or that a committee of five in each of these different departments be appointed?

Mr. VAN HORNE. One committee, is the motion, Mr. President.

Mr. VARIAN. Mr. President, it seems to me that the usual and precedented order of business at this stage of the temporary organization would be the appointment of a committee on credentials. The committee spoken of is a committee belonging to a permanent organization.

The PRESIDENT pro tem. I heard no second to Mr. Van Horne's motion.

Mr. VARIAN. I move that a committee of seven be appointed as a committee on credentials.

The motion was agreed to.

Mr. JAMES. Mr. President, I move you that we take a recess until 4 o'clock.

Mr. CANNON. Mr. President, there being no second to that motion, I move you that a committee of five be appointed by the chair, on rules of order.

Mr. RICHARDS. Mr. President, I move you that the Convention do now adjourn until to-morrow at 2 o'clock.

The motion of Mr. Richards was rejected.

Mr. VARIAN. Mr. President, I am informed by the chair that he desires half an hour or such a matter to make up that committee. As a matter of courtesy to the chair, I now move that we take a recess of an hour in order that the committee on credentials can be formed. It ought to be formed at once, or as soon as may be, in order that this matter may be taken up.

Mr. JAMES. I move as an amendment, that we take a recess of two hours.

Mr. KEARNS. Mr. President, I move as a substitute for that, that we adjourn until to-morrow morning.

Mr. EVANS (Weber). I was going to suggest to the gentleman from Salt Lake, that if we are going to have an adjournment, it ought to be long enough so that some of us can go out and get something to eat.

Mr. VARIAN. Perhaps I can make a suggestion that will obviate the difficulty. This is only for the purpose of enabling the chair to make its appointments; then the probabilities are that the Convention will have to adjourn until to-morrow, because the committee on credentials will have to have time to investigate and perform their duty. It is only for the purpose of enabling the chair to appoint that committee.

Mr. RICHARDS. Why not take an informal recess until the chair has an opportunity to select the committee?

Mr. VARIAN. I will so treat the motion, yes.

The motion was agreed to, and the Convention took an informal recess of one hour, after which it was called to order by the president pro tem.

The PRESIDENT pro tem. Gentlemen of the Convention, I will announce as the committee on credentials which I have selected:

C. N. Strevell, Mons Peterson, D. B.

Stover, David Evans, A. W. Ivins, B. H. Roberts, G. B. Squires.

Mr. EVANS (Weber). Mr. President, as a member of that committee, I would like to know the sense of the house as to what are the duties, and what is expected of them. I do not know whether I understand the extent of the power that is intended to be given to that committee.

The PRESIDENT pro tem. I assume that it is to pass upon credentials.

Mr. EVANS (Weber). I want to know whether it is expected that that committee will pass upon the contests or not?

The PRESIDENT pro tem. I did not so understand it when the motion was made.

Mr. VARIAN. Mr. President, it is a matter of parliamentary law, the committee on credentials report who are entitled to seats in this body.

The PRESIDENT pro tem. That is as I understand it, Mr. Varian.

Mr. EVANS (Weber). According to the certificates they hold?

Mr. VARIAN. Yes, sir.

Mr. EVANS (Weber). I did not want any conflict in the committee, and that is why I asked the question.

On motion the Convention then adjourned until to-morrow at 10:30 o'clock a. m.

SECOND DAY.

TUESDAY, March 5, 1895.

The Convention was called to order at 10:30 a. m. by President pro tem. Kimball.

Roll call showed a quorum present.

Prayer was offered by Rev. T. C. Iliff, of the Methodist Episcopal Church.

The journal of the first day's proceedings was read and approved.

Mr. RICHARDS. Mr. President, I move that the oath of office be administered to those Delegates who are present this morning and who were not sworn in yesterday.

Mr. JOLLEY. Mr. President, before we proceed, I would like to say that J. L. Jolley and Mr. Peterson went down to the Chief Justice and took the oath. If it is necessary, we will take it again.

The PRESIDENT pro tem. That is not necessary, I think, sir.

The oath was then administered to Messrs. Thatcher and Hammond.

Mr. CHRISTIANSON. Mr. President, I, in connection with Mr. Jolley, took the oath yesterday.

Mr. PIERCE. Mr. President, I would suggest that the records ought to be amended in such a way as to show that these two gentlemen took the oath, that our record would be complete; and they would prima facie be entitled to participate in the proceedings; otherwise, the record would not show that they had taken the oath.

The PRESIDENT pro tem. That oath was taken privately, was it, before the Chief Justice at chambers?

Mr. JOLLEY. Yes, sir; in his office. Chairman Crane was present.

The PRESIDENT pro tem. In order that it might get on the minutes, we can order the minutes to show that they took the oath before the Chief Justice on yesterday.

Mr. EVANS (Weber). I would like to inquire of the gentleman who it was that was present when the oath was taken.

The PRESIDENT pro tem. Mr. Crane, he says.

Mr. EVANS (Weber). Who?

The PRESIDENT pro tem. Mr. Crane.

Mr. EVANS (Weber). Oh! [Laughter.]

The oath was then administered to Messrs. Thatcher, Hammond, Jolley, and Christianson.

The committee on credentials then presented its report, which was read.

Mr. VAN HORNE. Mr. President, I move you that the report of the committee as received be referred back to the committee with power to investi-

gate and report upon the qualification of the members-elect from the third precinct of Salt Lake City.

Mr. EICHNOR. I second that motion.

Mr. VARIAN. Mr. President, before the vote is taken on this question, I desire to make some observations to the assembly in support of the points that I shall make; that you are absolutely without jurisdiction in the premises. It is true, a body of this kind has the physical power; a member may cast his vote through and because of his own volition to do an act which, joined with the votes of others, may result in the consummation of something; but he has not or may not have the legal right to do it; and I know that every member of this body—every gentleman who accepts a seat in the Convention, appreciates the dignity and responsibility of his position, so that he will not knowingly violate law, concerning any vote he may have to give.

I desire to call the attention of the gentlemen, first, to the fact that this is not yet the Constitutional Convention of Utah. It is a preliminary assembly of persons who have been prima facie shown entitled to do—what. To participate in the permanent organization; nothing more has been done. You have under the statute law and the parliamentary law, written and unwritten, which has been handed down ever since the British Houses of Parliament were constituted, no authority as a deliberative or as a legislative body. The question presented involves the power of a legislative body to judge of the qualification of its members. I affirm that right (speaking for myself), in its fullest extreme and to the fullest extent. In the absence of some higher authority controlling the deliberations of the body called into existence by that very authority, it must of necessity exist. It involves the very right of representation and free government. But we have not reached that stage of the proceedings yet; we are not yet a legislative body; we are still bound by the law which called us into existence, and which has itself determined the qualifications of those who shall be called upon to organize permanently this Convention.

I had supposed on yesterday that this question was so well settled and so well known that it would not be seriously controverted, but reading in the papers this morning the suggestions that had been made concerning it, and being confronted with a motion which involved the determination of this question by this body, through its committee on credentials, I ask the gentlemen present to bear with me for a few moments, so that I may, if possible, convince you, as I have convinced myself, that we lack the very essence of the right here—the power.

The Enabling Act prescribes that the election for delegates to this Convention shall be conducted, the returns made, the result ascertained, and the certificate of persons elected to such Convention issued, in the same manner as prescribed by the laws of the Territory at the present time. Those laws, and taking into consideration the act of Congress, which gives them potency and effect, require the issuance of certificates of election by a returning officer or board. The act of Congress provides that that shall be the only evidence—that is what it says—the only evidence of the right of the person claiming a seat, to sit in the first instance. This is not a new question. If there were not anything in the statute concerning it, it would doubtless be governed by the general rule which governs in all such cases, that where there is a requirement by statute of official documentary evidence, by way of certificate, as evidence of the right of a person to an office to which he claims to be elected, that he, for the time being, and he alone, is the incumbent. And in its application to legislative bodies the rule, as you will see, is laid down in these terms practi-

cally. And whether he be rightfully or wrongfully elected, he sits until the power of the legislature may be exercised, after investigation and inquiry, after a hearing at which everybody interested may be heard, shall determine to the contrary, and put in his place the man who shall have been found to have been legally elected.

Mr. Cushing, in his great standard work on the law and practice of legislative assemblies, lays down the doctrine thus:

"The right to assume the functions of a member in the first instance, and to participate in the preliminary proceedings and organization, depends wholly and exclusively upon the return of certificate of election, those persons who have been declared elected and are duly returned being considered as members until their election is investigated and set aside, and those who are not so returned being excluded from exercising the functions of members, even though duly elected, until their election is investigated and their rights admitted."

Further, he says:

"It follows, therefore, that wherever these two principles—freedom of election and equality of representation, are admitted to be fundamental, as they are in all the constitutions of government in this country, the manner of conducting elections, which has been established by the law and the evidence agreed upon beforehand to authenticate them, cannot be varied or departed from in any important particular consistently with the very nature of a representative government, and consequently, that the only evidence by virtue of which any one can rightfully assume or be permitted to assume the functions of a member of a legislative assembly under such a form of government, is the return of certificate which contains and embodies the results of the proceedings at the election as decided upon by the returning officer."

And further:

"The principles of parliamentary law applicable to the question are perfectly simple and plain, founded in the very nature of things, established by the uniform practice and authority of parliaments and confirmed by reason and analogy. These principles are as follows: First, that every person duly returned is a member, whether legally elected or not, until his election is set aside. Second, that no person, who is not duly returned, is a member, even though legally elected, until his election is established."

In the same line stands another writer, Judge McCreary. I read from his work on election:

"The regular certificate of election properly signed is as we have seen to be taken as sufficient to authorize the person holding it to be sworn in. It is prima facie evidence of his election and the only evidence thereof which can be considered in the first instance and in the course of organization of a legislative body."

He goes on to say, touching the question of the qualification of a member who holds the certificate and speaking of a challenge made to his qualifications:

"It is to be presented at the earliest possible moment after the meeting of the house."

That does not refer to the preliminary organization. Further he says:

"It is to be observed in the outset that when a number of persons come together, each claiming to be a member of a legislative body, those persons who hold the usual credentials of membership are alone entitled to participate in the organization, for it is as we have said and had occasion several times to repeat, a well settled rule that where there has been an authorized election for an office the certificate of election which is sanctioned by law or by usage is the prima facie written title."

So another writer, Mr. Paine, on the law of election, relative to this subject matter under discussion, says:

"The certificate of an officer charged by law with the duty of ascertaining, declaring, and certifying the result of an election is conclusive evidence of the result, except in a statutory or parliamentary contest which can only be made before a legally constituted and organized assembly with jurisdiction to determine the question."

That is, the qualification of its own members.

Mr. Cushing says, in another place, in relation to the question of determining the right of members to seats in the legislature or in a legislative body:

"Each branch when duly organized and without waiting for the organization of the other may proceed to the transaction of any business of which it

has exclusive jurisdiction by itself and which does not require the intervention of the other, and therefore until both are organized should not send the above mentioned notices to the executive. In the meantime either branch, as soon as it is duly organized, may proceed for example to investigate and settle the rights of claimants to seats."

Now, sir, in the case here, as we are informed by the report of the committee on credentials, the representation from a certain precinct in this city is not here.

So far as this body is now informed there has been no return made; it cannot know officially that there has been an election in that precinct; it cannot know that until it is formed into the Constitutional Convention, with power and jurisdiction to determine the question from its proper and appropriate committee, to make investigation, to call witnesses, and determine from evidence who it is that is entitled to represent, if any one, that precinct in this Convention. It does not necessarily follow as a matter of course that anybody is, because there have been cases and there may be again where nobody is elected to represent the people in a particular locality, owing to this, that, or the other cause, as the case may be.

I call attention now to what Judge McCreary says, who, as you know, was a distinguished and very learned circuit judge of the United States for many years and won chief distinction as a text writer and particularly on this subject:

"There is still another class of cases which have arisen in the lower house of Congress in which neither party holds credentials, the governor or other returning officer having refused to declare either to be elected, [that would seem to be this case] in some of these cases, the house, (after its organization) has undertaken, upon such documentary evidence as it has been able to bring before it without delay to decide the case and order one or the other to be sworn in pending the controversy. Of course the house must in each case of this character, judge whether there is before it sufficient prima facie evidence of the election of either one of the claimants, but as a general rule, it is believed that in the absence of credentials none should be admitted to the seat in advance of an investigation by a committee, after a report thereon, and such special inquiry and report can scarcely be possible unless there is something in the nature of credentials or of written evidence of the election of one or the other claimants. If the returns are duly certified the house might act upon these or if there is an informal certificate the house may order an inquiry into its effect, but if there is no record or other documentary evidence to show what the result of the election was, it is believed that a full investigation upon the merits should precede the swearing in of either applicant. If the house finds it is obliged to take testimony generally to decide the prima facie case, it will generally find that it cannot stop short of hearing all the evidence and deciding upon the merits."

That seems to fit this case; it appears by the report from the committee on credentials that there has been no return made from the third precinct of this city and county, but it appears that affidavits have been filed tending to show that certain persons named therein were duly elected.

It is not possible, gentlemen, without overturning all the traditions and customs and laws of the century, to permit the simple filing of an affidavit that a man was elected to take the place of the certificate required and provided by law and determine the very question.

I do not doubt that when this Convention shall have been organized that through its appropriate committee it may reach out its arm and take control of this question, but it cannot determine it summarily; it has no right any more than a court of justice to pass upon questions of this kind in a summary way, or without full notice and full hearing and a fair trial. And its report again is subject to the challenge, to the inspection of the Convention, whose duty it will be to review it and go through it again. Neither is it an answer to say that if this thing is not done some portion of the people of this Territory will for a time and a time only probably remain unrepresented in the Constitutional Convention. It is better for the

interests of the State, it is in the line of public policy that the organization of a body like this should not be delayed pending the determination of contests of this kind or of claims of this character; better that people should be unrepresented all through the session than that the whole people should for even a day remain unrepresented as they are each day that is passed in this manner by adjourning from day to day awaiting the return of a committee sent out by a preliminary organization.

Mr. Paine says in that line on that subject:

"The proposition that it is better to have the seat occupied even by an intruder than to have the district temporarily unrepresented is unsound; it is subversive of the very fundamental principles of popular representation,"

and as I read before, Judge McCreary supports him in that.

Now, then, where is your authority for this? There is none. What is the necessity for it? Is it one that will bear the light of inspection? Is it true that it is done in order to qualify any particular person to become an officer of the permanent organization of the Constitutional Convention? I submit these questions to you, each of you who are entitled to vote here at this time. First, do you believe in your conscience and your hearts, under your oath, that you have power to do it, and second, do you believe that if you have the power or do it, you deem it to be expedient and feasible to exercise it under these circumstances? Do you propose to present to those who are to come after you in this Territory by the record made here of this first and greatest legislative body that will ever be held in it, the spectacle of 102 representatives practically representing the entire Territory dawdling away their time from day to day, spending the money of the people of the United States, over four hundred dollars every day, to await the result of an investigation which may go into days, may last weeks, to determine whether the third precinct of Salt Lake City shall be represented by five men, and who they shall be? What reason is there for it? Is it a dignified spectacle that we are going to present to the world and to the people of the Territory? The spectacle of being unable to perfect a permanent organization without going into an election contest and inquiry in this particular stage of the proceedings, and unable then, unless that election contest and the inquiry concerning it shall result in a particular way; that is what it means and it cannot be disguised nor can it be juggled out of existence. That is the spectacle that the delegates who are to form this Constitutional Convention when it shall be organized will present to the people of the Territory and the people of the United States. That is what the record will contain, whether in terms or not, that they had delayed their organization, in order to ascertain whether it were possible to reach a certain result concerning an election contest coming from one precinct in the entire Territory.

I, for one, am not willing to vote towards such a determination; I don't believe that this assembly at this time has the power to open up that contest. I don't believe that you have the power to determine upon affidavit first, whether a precinct should be represented or not—that is to say whether there was a lawful election; whether any one of the candidates represented in the election had the qualifications to take the seat as a member of the Constitutional Convention; whether any one of the candidates received a sufficient number of votes to authorize his admission; because all those matters must, if this Convention when it is organized performs its duty, be gone into and determined, and that must be determined after a hearing and a trial. As a matter of common knowledge we

know that there have been and are conflicting claims concerning this particular precinct; there has been a great deal of excitement, considerable irritation, perhaps some bitterness growing out of the matter, as it has been presented to the public during the past two months. While as men we know that there is not one of us that knows as judges where the right lies. You cannot say that you do, and you cannot one of you say that you ever will until you sit down and carefully and with unbiased minds and unclouded judgments, in so far as you can produce such a state in yourselves, and determine the question as you are bound to do it regardless of party fealty or of any allegiance, except your allegiance to the Constitution of the United States.

I appeal to you now, Republicans and Democrats—I appeal if that is not the case. I appeal to you not to write this shameful record here upon the history of this Constitutional Convention in the very beginning of its life; remember that the future will sit in judgment upon the past and the time will come when every act that we do here will be called to our recollection and in different frames of mind and perhaps under different conditions and circumstances, we will pass upon the question ourselves and for ourselves, and condemn or praise our conduct as we think it deserves. I appeal to you to stop. It is not worth it. The game, (to use a common expression), is not worth the powder. You cannot afford to do it. I cannot afford to do it. We cannot afford to make a record like this. It is our duty whatever our feelings may be, whatever our desires may be, to go on with this organization and to take up this question and any other of a similar nature, if there should be one, in the legal and parliamentary way, having power to act and power to decide. Suppose you carry this motion; your committee conforms to it upon evidence sufficient or insufficient, as the case may be, reports a representation for the third precinct; and suppose those gentlemen take their seats; one or more of them take positions or hold office in the Convention, and after a contest when the Convention is fully organized, a hearing is had before this committee on privileges and elections, and it should be honestly determined at the expiration of the time that there had been a mistake—upon a fuller and a fairer and a more candid hearing—and it would be found the duty of the Convention to notify the gentlemen who had been seated by the temporary organization, which is not the Convention, to step down and out, what sort of a spectacle would this Convention present? I mean these delegates when organized in the Convention as they will be. I appeal to you to think of those things, not to dilly dally along here day after day to accomplish a purpose which, however righteous and just under ordinary circumstances, reaches now under the conditions to the dignity of almost a crime. It is an offense against parliamentary law, it is an offense against statutory law, it is an offense against the law of representation, to keep this Territory unrepresented during the period that will be occupied here until this matter shall be determined, unless—and of course I do not assume that—unless, Mr. President, it is already determined. There should be no question about that. It is either one thing or the other; either this means there is to be a hearing or it means that the question has been determined without a hearing. If there is to be a hearing, anybody that is interested has a right to be heard and take up the time of the committee and the time of the temporary organization in support of his claim. If there is not to be a hearing, why refer it to a committee at all? If it is to be done by the physical force of votes, they can be called here, and under the general law of the land—the

parliamentary law, if there is a majority of votes in favor of that proposition, it will be carried.

I submit this to you, gentlemen, in all seriousness, and trust that you will not be carried away into so grave and serious an error, that you will not permit yourselves to make such a mistake as will be made if this matter is prolonged and carried out as indicated by this motion.

Mr. THURMAN. I would like to have the motion read.

The Secretary then read the motion.

Mr. VAN HORNE. Mr. Chairman and gentlemen of the Convention, as the mover of the motion, it becomes my duty to speak to the question of whether it shall prevail or not. You have heard an argument against the motion. With you will rest the question of whether it is right, whether it is just, whether it is equitable, and whether it is legal, that that motion shall prevail.

To begin with, I will say that so far as I, the mover of the motion, was actuated, I made that motion with a full adherence and a full recognition of the solemn oath I took on becoming a member of this Convention. I made the motion and I adhere to the motion with a full consciousness that I am sworn to uphold the Constitution of the United States; that I am, by implication, sworn to do only such things as I think to be legal, to be right, to be equitable. No purpose other than the purpose that the people who have expressed their preference for delegates to this Convention shall have that expression recorded in the form of the delegates they sent here. No other motive than that the whole people of Utah shall be recognized in this Convention is in my mind in making that motion.

The gentleman says that only upon the permanent organization does this become a Convention; that we are dilly dallying with the question from day to day in order to seat certain men.

Mr. VARIAN. I didn't put it in that way.

Mr. VAN HORNE. I understood the gentleman that way. I may have been mistaken.

Mr. VARIAN. I said if it should be so.

Mr. VAN HORNE. The legal question of whether this is a Convention or not and whether it only becomes a Convention upon the permanent organization, I take it is decided by our action yesterday. If we were not a Convention yesterday, we have not met in accordance with this law, because it says the Convention shall meet on the first Monday in March, 1895. If we were a Convention when we met and effected a temporary organization, we are a Convention now, and will be so long as in the suffrage of these delegates here the temporary organization is continued. The gentleman says that perhaps it might come that no one would be represented from the third precinct of Salt Lake City during the whole course of the Convention. Would we have a Convention under such circumstances, when the law under which we are organized here prescribes that the Convention shall consist of 107 members? It does not mean "may" consist of that number, but to be a Convention it "shall" consist of 107 members.

The question of its once becoming a Convention when 107 members are seated—the question that it must have at some time that 107 members under this law, wouldn't be effected by what might happen in the judgment of Providence or by act of visitation of God in destroying that number, after they were once members of the delegation and the Convention was complete.

Gentlemen, we will have the permanent record of what we have done here if this Constitution becomes the Constitution of the State of Utah, and so far from thinking that it is a crime that the preliminary organization of this Convention should determine upon

some representation of some kind for a portion of the population of Utah Territory, I am willing that I go down on the records of this Convention and of all time committed to the proposition that what is just and fair and equitable and in accordance with the expression of the will of the people was attempted to be carried out by me in this Convention.

The question comes in as a contested election; it comes in with gentlemen occupying seats in this Convention, where their title is in doubt; it comes according to the report of the committee, not upon contests before them. It comes simply upon the proposition that by some means and in some way there is no representation for the third precinct of Salt Lake City in this Convention; that before that committee on credentials is filed some evidence tending to show that certain persons and no other are entitled to seats in this Convention and should have received the prima facie evidence of their title to seats. It is not our purpose, it is not our right, I take it, to go into the facts which have brought about such a state of circumstances. The only thing we can do is to recognize from the report the fact that such is the case. I think there will be no question of the fact that if the report of the committee shall be that five gentlemen shall be seated from the third precinct of Salt Lake City and they are seated by the vote of this Convention, they will then be in the position of persons holding seats on prima facie evidence and will be subject to any legal contest that may be made against their title. The purpose of a report of a committee on such a matter as this is to put into the seat to represent the people who have cast their ballots some one who has some evidence sufficient to justify his claim to a seat and to have the question whether his claim is a good one or not, and whether he shall be unseated or not, adjudicated by this Convention.

If this were a question in which partisanship might come, if it were something that a majority was striving to do to interfere with the rights of a minority, under our oaths as members of this Convention, we would be bound not to support it; but it is not; it does not tend in that way; the question is not who shall represent the third precinct of Salt Lake City, whether it shall be represented by Democrats or by Republicans. The question is, shall we proceed with the deliberations of this Constitutional Convention and deprive one portion of our great people of their right to be represented in choosing an organization and determining and outlining the policy which this Convention shall pursue. I take it—going into common report—that the non-partisanship of such a motion will be shown by the report of the committee. I take it upon my knowledge, as the gentleman takes things, that on the report of that committee, we will find that it has decreased the majority of this Convention and has not increased it. I take it that after the report of such committee, no gentleman can say that it was an attempt of the majority to force a wrong upon the minority of this Convention.

But, gentlemen will say, have said, that we are dilly dallying with this question, spending the money of the people, in order to determine some things that seem to be some way fixed in his mind as the purpose of this motion. We have precedent for continuing the temporary organization from day to day. If I am not mistaken the constitutional convention of South Dakota did not complete its permanent organization for six days after the time appointed for the first meeting of the convention. South Dakota is to-day in the Union of states without a stain upon her escutcheon because she spent six days before making a permanent organization.

Now, gentlemen, there is one other point and only one other point that I

care to refer to, and that is the admission of the gentleman that we have the power to do this thing. That if we vote to do it, it will be done. It is the question, and after the vote is taken, if it should result in that way, that it would do anything more than simply make a record, as he says, of an attempted crime. Does he think that it would affect the legality of the action of this Convention? Does he think that if we did that which was just a right and equitable thing, putting the representatives of the people of the third precinct of Salt Lake City into their seats in this Convention, making thereby the Convention represented by a full number of delegates, as required by law, that the fact that it had been done in preliminary organization would, after the Constitution had been drafted and submitted to the people and accepted by them, in any way affect the validity of such a Constitution? When all the people are represented here, can any greater question be raised as to the validity of our acts than when part of them are excluded from the floor of this Convention? Only a part of the people, according to the gentleman's contention, may have a permanent organization and proceed with this business; but the whole of them, according to this contention, likewise, if this motion prevailed and the gentlemen from the third precinct were seated—if anything after that was done, it would be an outrage upon the people. I take it that no member of this Convention will for one moment think that if the people are given full representation, if we are here, 107 delegates in temporary organization, if after that a permanent organization is effected and the deliberations of this Convention so proceeded with and our actions receive the suffrages of the people that any question can be raised with regard to the validity of it. Gentlemen, I hope the motion will prevail.

Mr. THURMAN. Mr. Chairman, I desire to ask the mover for information—whether his motion contemplates deferring the permanent organization until the proposed report of this committee, or whether the matter is proposed to be referred to the committtee and the Convention to go on with its work?

Upon the proper understanding of that question perhaps will depend my vote at least. If the motion contemplates deferring the permanent organization of this Convention, I shall perheps vote one way; if it contemplates not deferring the permanent organization, I shall vote the other.

Will the gentleman answer the question?

Mr. VAN HORNE. The motion contemplates nothing except what it expressed; the reference of the report of the committee back to the same committee with instructions to investigate and report.

Mr. THURMAN. I will ask another question.

Is the purpose of this motion to defer the permanent organization, whatever may be on the face of the motion—is that the purpose of it?

Mr. VAN HORNE. No, sir; that is not the purpose of it.

Mr. THURMAN. Then, I understand the gentleman is willing to go on with the permanent organization?

Mr. VAN HORNE. I am willing to say this, that if the committee reports contests of the gentlemen claiming seats, that we will enter into the question of whether or not we will proceed with permanent organization, regardless of that.

Mr. THURMAN. I believe I am satisfied.

Mr. EVANS (Weber). Mr. Chairman, I believe that this is a matter which it will not be considered a waste of time to discuss a little while for the purpose of informing ourselves upon our exact situation. I desire to call attention a little more specifically to the law of Congress, which enabled Utah to elect

delegates to the Constitutional Convention and form a Constitution. I call the attention of the Convention to the second section of the Enabling Act and shall only read the portion of the section which relates directly to the election of delegates to this Convention.

(Reads.)

"And such election for delegates shall be conducted, the returns made, the result ascertained, and the certificate of persons elected to such Convention issued in the same manner as is prescribed by the laws of said Territory, regulating elections therein of members of the Legislature."

Now in order to ascertain what those laws provided, it will be necessary to make reference to them, in order to ascertain just who are properly elected delegates to this Convention—as has been suggested, prima facie entitled to seats in the Convention, I call attention to the Edmunds law passed in 1882, by the Congress of the United States. In section 9, which created the board of canvassers, is the following provision:

"The canvass and return of all votes at elections in said Territory for members of the Legislative Assembly thereof shall also be returned to said board, which shall canvass such returns and issue certificates of election to those persons who being elegible to such election shall appear to have been lawfully elected, which certificates shall be the only evidence of the right of such persons to sit in such assembly."

Now the words "Legislative Assembly," and "Assembly" might be changed to the word "Convention." And that section would be directly then applicable to the question which we now have in hand. Let us read it with the word Convention interpolated into the statute as required by the Enabling Act:

"The canvass and return of all votes at elections in said Territory for members of the Constitutional Convention shall also be returned to said board, which shall canvass such returns and issue certificates of election to those persons who being eligible to such election shall appear to have been lawfully elected, which certificates shall be the only evidence of the right of such persons to sit in such Convention."

Mr. Chairman, it seems to me that in the light of the Enabling Act and the laws under which this assemblage has gathered, there can be but one opinion upon the question. It would seem to me in this preliminary organization that if we were to undertake to pass upon the election of any member who did not hold a certificate from this returning board, such action upon our part would be revolutionary and without jurisdiction. We are here as a body of men for the purpose of forming a fundamental law to guide the future State. Can we afford upon the very threshold of our duties to put an act upon the record here, which in itself is revolutionary and contrary to the very acts of Congress which have called us here together? As has been so ably stated by the gentleman upon the other side of the house, the preliminary organization is always effected and acts simply for the purpose of determining prima facie who shall sit in the Convention when organized. It is for the purpose, in other words, of aiding the organization of the Convention itself.

When the Convention is organized—it is usual—it is lawful among all parliamentary bodies, among all constitutional and legislative bodies, that persons claiming seats in the body, not holding certificates from the regularly constituted returning board, shall apply to that organized body for seats.

Let us see further what the spirit and meaning of this Enabling Act is. Let us see if we can ascertain from it whether it was intended that we should meet here and adjourn from day to day for the purpose of determining in advance the question as to who shall have seats in this Convention and expend the public moneys, or what the intention of Congress was. The gentleman from Salt Lake probably unconsciously or unintentionally misquoted the provisions of the

Enabling Act, which calls us together in this hall.

As I understand him, he said the Enabling Act provided that the Convention should meet on the first Monday in March, 1895. The second section of the act reads as follows:

"That the delegates to the Convention thus elected shall meet at the seat of government of said Territory on the first Monday in March, 1895, and, after organization shall declare on behalf of the people of said proposed State that they adopt the Constitution of the United States, whereupon said Convention shall be, and is hereby, authorized to form a Constitution and State government for said proposed State."

What was the intention of Congress in passing section 3 of this act? It was clearly its intention that the delegates should meet and not only meet and appoint committees upon credentials for the purpose of ascertaining who was elected in any case where it is not shown by the certificate which they hold, but it goes further in its intention and states that they must meet and organize. Suppose, Mr. Chairman, this matter be referred back to the committee, what is the power of that committee in this preliminary organization? If it had power at all, which I deny, then it has the power to receive evidence necessary for the purpose of determining the question as to who was elected. We must go into the question as to whether there was an election held. We cannot take judicial notice of that fact. We must take the returns, and if discrepancies appear upon the face of the returns, wouldn't we have the right, as a committee, to go into the ballot box and open it, and determine from the ballots who might be elected? We would have the right to receive any evidence which was within our reach and which a legislative body might enforce by process, and examine it, and determine this question. I don't say that this would be done; there may be considerable harmony upon the part of the members of the committee. I believe no member of the committee desires to do that which would wrong any man, but that is not the question here. We are not presumed to know what has been published in the newspapers and take that as evidence, but our duties would be to receive evidence, consider it, determine the question as to who was elected, and the reason why certificates were not issued, and then, in an organized capacity, we might have the right to seat those delegates and I believe we would have.

Mr. VARIAN. I would like to ask the gentleman: Suppose a contest was filed when the committee went out—some parties filed affidavits claiming they were elected, what would be their duties then?

Mr. EVANS (Weber). I say then, if we had any duties to perform at all—I don't believe that we have any duty to perform, but if we did perform the duties of the ordinary committees on privileges and contested elections, we would have the right to receive any evidence within our reach for the purpose of determining who was elected.

Mr. VAN HORNE. May, I ask a question, Mr. Evans?

Mr. EVANS (Weber). Yes, sir.

Mr. VAN HORNE. You call attention to the statute showing a certificate should be the only evidence that would entitle one to a seat. Would you contend that if no certificate was issued, we would be unable at any stage in our proceedings of organization, to seat members elected from the third precinct?

Mr. EVANS (Weber). I do not. And I want to be distinctly understood upon that question. I have taken the position heretofore and I take it now, that when this Convention is regularly organized, it has the inherent power to judge of the qualification of its own members in the absence of any paramount law prohibiting it.

Mr. JAMES. Mr. Evans, may I ask you a question?

Mr. EVANS (Weber). And I will state

upon that particular question, I believe the act of Congress determines—

Mr. JAMES. May I ask you a question, regarding that?

Mr. EVANS (Weber). Yes, sir.

Mr. JAMES. Could you proceed under a permanent organization with any different course than you would proceed under a temporary organization; wouldn't your course of procedure have to be absolutely the same?

Mr. EVANS (Weber). Why, no; the law and decisions of the court, as have been quoted by the gentleman from Salt Lake, clearly point out the distinction. The temporary organization is effected by those persons holding prima facie evidence of their election; holding the certificate of the returning board, authorized and constituted by law. That is their right, to take the first step. But our position is that we have no right to determine whether these officers are or are not elected in the manner prescribed by law, in a temporary organization, and seat them as permanent members.

Why one of the best illustrations that could have been given was given by the gentleman from Salt Lake. It has been stated upon the part of another member from Salt Lake that there may be some individual who does not occupy a seat with us, who has some laudable ambition. It may be true—public rumor says it is, the newspapers say it is. But suppose the gentleman were seated in this temporary organization and placed in the chair as a permanent officer and then when we have the power of a Convention in our organized capacity, it will be determined that he was not properly elected to this Convention. What a spectacle it would present indeed—what a reflection it would be upon the intelligence of a free people. There should be a gentleman in the chair whose election is not in any manner in question; and by saying this, I do not desire to reflect upon the other question, that the honorable gentleman who aspires to that position is not entitled to a seat here. We do not know whether he is or not. There is one thing sure, that if he is, the Democrats in this Convention will vote to seat him. [Applause.] And all we ask of you is to proceed in a regular way, a legal way, and a way in which we have jurisdiction to proceed, a way in which all parliamentary bodies have proceeded, and we are asking nothing else.

I promised to refer to this statute on the question of the right of the permanent organization to seat any delegate whose election is contested. Of course this is applicable to the legislature, but there is a provision in the same act of Congress of 1882, commonly known as the Edmunds law, as follows:

"Each house of such assembly after its organization shall have power to decide upon the elections and qualifications of its members."

Now, gentlemen, can there be anything more plain than that? Make your Convention here the legislature and the law is applicable to it, and after the organization of this Convention, then we have the power to pass upon the qualifications of those delegates to seats in the Convention, but before that time we are devoid of power and cannot exercise it.

Mr. EICHNOR. Mr. Chairman, and gentlemen of the Convention, the first gentleman that opposed this motion yesterday made a motion to appoint a committee on credentials; if I am wrong, if I am in error, why please correct me.

Mr. VARIAN. Yes, sir, that was perfectly proper.

Mr. EICHNOR. I will state now, and I can cite a number of instances where the secretary of a state or the secretary of the territory is called into the convention and reads the roll. There is no committee on credentials, and I challenge any man to dispute that. When the committee on credentials is ap-

pointed, they throw open the whole question of contests and we have the right to determine it in a temporary organization. [Applause.]

I will state, gentlemen, that as a member of the majority of this house, (in politics I am a Republican) I propose to deal on the floor of this house with my political opponents the same that I would deal with them in private life; I am going to be fair and square in the matter. [Applause.]

I propose to vote for the seating of three Democrats and two Republicans. It is an historical fact that in the third precinct in Salt Lake City, Salt Lake County, Utah Territory, three Democrats, namely, Andrew Kimball, A. H. Raleigh, and William B. Preston are elected to this Convention, and that John Henry Smith and George R. Emery are also elected, and I hope that this motion will prevail and we will settle it in a temporary organization. The people of Utah have suffered enough from disfranchisement, and we are not going to set the example in this Constitutional Convention. [Applause.]

Now, Mr. Chairman, I will state further with regard to the gentleman's quotation from parliamentary law; analyze the matter that he read and what does it say? That members that have no certificate shall not be entitled to take part in the first instance. What is the first instance of this Convention? The temporary organization. Did John Henry Smith, George R. Emery, A. H. Raleigh, Andrew Kimball, and William B. Preston take part in this? No, but we are going to seat them in the temporary organization that they shall have as full voice, power, and right as any other member on this floor to take part in the permanent organization. That is my sentiment in this matter. If I stand alone, I care not, I am willing to go down on record here, that I believe that if any one has juggled, if any trickery has taken place, if any chicanery has been practiced, that I am not going to hedge myself around with a little technicality and say we don't know it. It is as clear as the noonday sun that three Democrats and two Republicans are elected. We might as well be plain in the matter and face the situation as it is. It is not worth while then to beat around the bush.

Mr. EVANS (Weber). What is the use then in referring it to a committee on credentials at all? Why not pass on it right here if they have the power to do it.

Mr. EICHNOR. They can bring it directly before the house. I have investigated the matter to my own satisfaction as far as I am concerned. I have lived here and I have watched the contest for the last three or four months, and I say, gentlemen, don't be alarmed about voting for this motion; for the only disgrace that can be attached in any manner to the election of the delegates to the Constitutional Convention, I will refer the gentleman to Sanpete County and the third precinct.

Mr. IVINS. Mr. Chairman, may I ask the gentleman a question? I just wish to ask the gentleman if he can quote some authority to us, I would like to have it. I am in earnest about this now—if he can quote some authority for the assertion that this committee on credentials that has been appointed under temporary organization has authority to act in all cases of elections and contests as he states that they have.

Mr. EICHNOR. No. The way I understand it, there is really no contest at present. But I will hand the gentleman part of the convention record of the constitutional convention of the state of New York, where the question came up, whether the house had the power to seat other delegates in which there were contests, and here are a number of states referred to in which the committee on credentials acted.

Mr. IVINS. Will the gentleman please read the authority? I don't want him to cite them to me for me to read.

Mr. EICHNOR. There are two columns there; I didn't wish to take up the time; I will pass it over to the gentleman if he wishes it.

Mr. IVINS. I thought it would be too long for you to read.

Mr. EICHNOR. If the gentleman takes issue with me, I will state the facts.

Mr. VARIAN. It was after the organization?

Mr. IVINS. Certainly; I don't question the right after the organization is effected. I want him to quote me a single instance where it has been done under the temporary organization.

Mr. EICHNOR. There is not a word said about the permanent organization; it simply states that the committee on credentials settled the matter.

Mr. CHIDESTER. Mr. Chairman, and gentlemen of this Convention, I don't wish to appear to be revolutionary in this matter, but it appears to me that we have a simple duty to perform, and when I left home I came here to represent a portion of the community that sent me here, and their wishes are that I should act fairly in this matter; and in reading the act that enables us to elect delegates and assemble here, I find in the third section the following words:

(Reads section three of Enabling Act.)

In this act it also provides that each county shall have a certain representation in this Convention and if I am not mistaken it sets out that Salt Lake County may have thirty-nine. Now, then, we find here that Salt Lake County is not fully represented; we find that a portion of the representation that was assured to them is, for some cause, prevented from taking seats here, and, with the other delegates who have been accorded seats here, going forward and organizing this Convention and preparing to comply with this section and formulate a Constitution for the State of Utah. Now, then, it appears to me that this being the fact, and the fact that we have gone so far in organizing as to temporarily organize, and appoint a committee on credentials, that as an inherent right they have a right to determine this question, especially when this Convention of delegates, after temporarily organizing, refers the matter back to them.

Now, whether this is revolutionary or not, I say that to me it seems to be justice. It seems to me that I would hate to go back and face my constituents and have them say to me that some certain members who had been elected to this Convention had been denied seats, and I hadn't backbone to stand up here in defense of truth, in defense of right of representation. I take it, gentlemen of this Convention, that is one of the greatest rights that men can have, is to be represented in forming the government under which they live, and it is not a full Convention until they are seated. Some one has been elected here. As for me, I know not who it is and I care not who it is. If it would change the complexion of this Convention, I would sustain this just as quick. I don't wish to be so partisan in my feelings that I would try to thwart the will of the people and the ends of justice. Therefore, gentlemen, I would sustain this motion and I wouldn't wish to influence any man, but to give my sentiments and it shall be in favor of this motion.

Mr. VARIAN. Mr. Chairman.

Mr. JAMES. Mr. Chairman——

The CHAIRMAN. Mr. Varian had the floor first.

Mr. JAMES. Mr. Chairman, I would like to have the privilege of speaking once to other gentlemen's twice.

Mr. VARIAN. The gentleman can speak when I get through.

Mr. JAMES. The gentleman wasn't interfered with when he spoke for an hour this morning.

Mr. VARIAN. I didn't interfere with him. I had the floor.

The CHAIRMAN. You need not discuss it, Mr. Varian, I recognize you.

Mr. VARIAN. I don't want to be criticized in that way. My friend Eichnor asked me the open question, if it were so that on yesterday I moved to appoint a committee on credentials, and from that he went on to argue that that was an admission of power. Not so. A committee on credentials might possibly be waived by a body like this, but it does not necessarily follow that if it chooses to have one the power of the committee is in any way acknowledged. I undertake now to challenge the gentleman or anybody, and give them all the time they want, to produce an authority in any legislative body that is worthy of the name, to the effect that a committee on credentials on preliminary organization has anything more to do than to look at the face of the returns.

Now, there is a necessity for that sometimes. Sometimes there are two sets of returns. Sometimes on the face of one return there is an inconsistency or inaccuracy, which can be solved upon the face of it and the history of parliamentary proceedings shows that in such cases they report those matters back to the convention or legislative body for its determination. As to that I say that you have complete and full jurisdiction.

I don't deny that at all. If there had been two sets of certificates here, or if there had been one set of certificates and there were inaccuracies or there were discrepancies or inconsistencies upon the face of either of them so that it was difficult or impossible to determine from the certificates themselves what they meant or who they seated; of course the committee would refer it back to this body and it would determine it from the face of the returns if it could. If it could not, it would send it over to the permanent organization.

But I want to call the attention of the house now, (so far as my friend, Mr. Eichnor, is concerned) to the fact that at least one champion of this motion has already sat in judgment, he has made up his mind, he is ready to decide now, without a hearing, without a trial, without going through any form of parliamentary proceeding or judicial proceeding to determine the question that five gentlemen whom he has named are authorized to be seated here if he can accomplish it. Think of that. Supposing that there shall be at noon, if this matter is referred back to the committee, two or three others come with a contest, in what sort of a spirit does my friend, Eichnor, go to determine that question? He has not been a judge of a court of record, listening to this evidence. He has not been I suppose, connected with the cases sufficiently to have in his mind a judgment as to what the effect of the evidence was, but from what he knows, from what he feels, from what he understands he is ready now to vote, first, last and all the time to seat a certain number of gentlemen.

It seems to me, gentlemen, that it won't do to distort or disturb this question by getting away from it. The fact is here for you to consider, have you the power, have you the right, do you admit for a moment that if any other set of candidates comes before your committee on credentials and demands a hearing—do you admit your power to go into it, your right to go into it? Or are you willing to say, if you haven't the power to do that, that you have a right to seat either of them until they have a hearing on both sides?

Until you are organized you have no authority to control even the fund which is given by Congress into the hands of the secretary of the Territory to pay the expenses of this Convention. You have no authority to pay the expenses of witnesses. You can do nothing, and I would like to know how a contest of that kind is to come before a committee on credentials.

I submit that to the gentleman from Sevier, I think it is, who spoke last.

Mr. EICHNOR. May I ask Mr. Varian a question.

Mr. VARIAN. Yes, sir.

Mr. EICHNOR. Mr. Varian, you are aware that the Utah Commission appointed a canvassing board for Salt Lake County, are you not?

Mr. VARIAN. Why, I have read that; I know that it is a fact outside of this Convention.

Mr. EICHNOR. Do you know what their report was on the third precinct?

Mr. VARIAN. Well, what then?

Mr. EICHNOR. Well, I ask you whether you know it?

Mr. VARIAN. I understand that it was that there were elected three Democrats and two Republicans.

Mr. EICHNOR. Yes, and I was right present when they footed up the tallies.

Mr. VARIAN. This is the most remarkable method of a lawyer determining a question. I presume if my friend Mr. Eichnor were on the bench and these cases had come before him as they did before one of the judges, he would have said:

"Gentlemen, it isn't necessary to take any evidence here: I know all about it; I was present; I saw it, I heard that, I know that the three Democrats and two Republicans were elected and you need not waste time with me. Enter upon your judgment." [Laughter.]

Hasn't this discussion developed a tendency to which I allude in one of my remarks before, that we are likely to get into a very bad scrape in this business, that we are likely to be misled and commit a very grave error?

Mr. JAMES. Mr. Chairman, I don't want to say much, I don't wish to take up the time of this Convention in discussing a proposition whether we shall give the opportunity to five gentlemen who claim to be elected and entitled to seats in this Convention, or whether we shall not give them the opportunity to establish their claim to those seats.

I don't wish to take up the time of this Convention long on a proposition of this kind; I take it for granted that the gentlemen assembled here are a class of men that have justice instilled into their minds beyond that narrowness of an attempt to defeat men that have been honestly elected to their seats, and it has been so decided as Mr. Eichnor said by a committee appointed to make the canvass, and who have made their returns.

Now I say, gentlemen, this motion included nothing more than to give these gentlemen a chance to prove whether that commission appointed by the Utah Commission made a correct count or whether they did not.

Now, I want to say to each one of you gentlemen here, you vote against this resolution and you vote against a proposition to give those five gentlemen a chance to establish whether they are entitled to their seats or not.

Every one of you that has talked here has made that admission, that you believed that we could take it up and decide it in a permanent organization, but you say to these men:

"No, you shall not come into this Convention, until we do away with this temporary organization. Then we will allow you to come in, even though we conduct the Convention clear to the end with the officer that we have in that chair now, which we have a right to do."

Every one of you knows that this temporary organization has just the same authority as any organization, or that it is possible to confer upon a body of men.

It cannot be otherwise. The Enabling Act said that you should meet here yesterday at the seat of government and that you should proceed to organize.

Haven't you done it? Yes, sir. You met here on yesterday and you organized. Now, if that wasn't an organization that has control of all

affairs that come before this body of men, what are we here for to-day?

Mr. EVANS (Weber). Mr. James, may I ask you a question? If we organized on yesterday, what is the imperative duty of this Convention immediately after organization?

Mr. JAMES. The imperative duty of this organization is just exactly what we went through.

Mr. EVANS (Weber). To adopt the Constitution of the United States?

Mr. JAMES. Yes, sir; we did that in the oath; when we took the oath every one of us did it.

Mr. VARIAN. Oh, well——

Mr. JAMES. And when you introduced the resolution to appoint the committee on credentials you performed an act under that temporary organization. They did it in one of the Dakotas—a temporary organization lasted there for five or six days; they transacted regular routine business and nobody said that it wasn't legal or proper.

Now, there has been a good deal said here about some attempt to put into office some gentleman that was the choice of this Convention, provided he could be seated. Now, gentlemen, is that any argument why we should not seat these men? For Heaven's sake, if they are the choice of the majority of the people, let the majority have their choice for their presiding officers. I should feel prouder of an election to an office in this Convention if I found I could be elected by the votes of 107 and could not be elected by the votes of 102. I should appreciate the election by the 107 very much the most.

Now, I want to say, Mr. Chairman, so far as proceeding with business that I am ready to go right on with business. We have an organization here; it is perfectly competent. We have plenty of preliminary work. I am ready to proceed with arranging of committees, putting those committees into shape, so as to get ahead with our work. It is not necessary that we should get our permanent organization to do that.

Mr. EVANS (Weber), Mr. James, let me ask you another question.

Mr. JAMES. Yes, sir.

Mr. EVANS (Weber). Do you concede the idea that this preliminary organization has the power to do business?

Mr. JAMES. It has absolutely, and you are one of the judges whether it has or not, and the majority are here to say. We are a body of men that are not governed nor controlled by any precedent or any parliamentary usage. We can make our own parliamentary law.

Mr. EVANS (Weber). Have you read the third section of the Enabling Act?

Mr. JAMES. I have.

Mr. EVANS (Weber). What do you gather from it?

Mr. JAMES. I gather from it that we are simply here as a body of men so far as the detail of our work is concerned, to decide how we shall proceed with it.

Mr. EVANS (Weber). But the section itself says how we shall proceed.

Mr. JAMES. We have conformed to that part of it.

Mr. EVANS (Weber). Have we yet adopted the Constitution of the United States?

Mr. JAMES. Yes, sir.

Mr. EVANS (Weber). How?

Mr. JAMES. By our oath on yesterday.

Mr. EVANS (Weber). Then, your idea is that we are now organized?

Mr. JAMES. Yes, sir.

Mr. EVANS (Weber). Then, what is the use of the committee on credentials at all?

Mr. JAMES. Simply to decide the rights of the gentlemen that have seats in this Convention.

Mr. EVANS (Weber.) Your idea is that we can adopt the Constitution under the present organization?

Mr. JAMES. Yes, sir; we can do any-

thing in this organization that we see fit to do that is proper in forming a Constitution.

Now, I want to say, as to meeting, as Mr. Evans says, and adjourning from day to day, we only met yesterday. The remark has been used very fluently though "from day to day, from day to day." A person would think the debate here had been continued as long as the contest on the Idaho senatorial election from the remarks that have been made.

Now, I say here that we met yesterday, and did just about, according to my observation, as conventions do everywhere. We are doing to-day as they do everywhere, except that I will say that I never found a convention where the members of that convention attempted to pass a resolution to prevent delegates elected to that convention from an opportunity of showing whether they were elected or not. That is the only difference between the action of this Convention, and the usual run of conventions where I have had an opportunity of observing.

Mr. EVANS (Weber.) Have you any State in mind?

Mr. JAMES. Now, I hope gentlemen of this Convention, that there will not be a single voice raised against this resolution, not one. I hope that you will all vote for it, because it is just; and it is right, and it is proper.

The question is not up for discussion now whether these gentlemen should be seated or whether they should not be seated; it is a question whether we shall proceed so as to give them a chance to show whether they should be seated or not; that is all there is in it. Why should it meet with such opposition? Why not adopt it and give the gentlemen a chance to be heard? Give them opportunity to be seated if they are entitled to be seated.

I thank you, Mr. Chairman, I didn't intend to take up so much of your time.

Mr. ROBERTS. Mr. Chairman, I wish to make just a few remarks on the question before the house.

I don't believe there is any disposition either on the part of the committee on credentials or on the part of the members of this Convention to deprive gentlemen from the third precinct of Salt Lake City of a seat in this Convention.

The whole question before the house it seems to me, is simply whether, under the temporary organization, the committee on credentials is qualified to enter into the investigation of the election cases in the third precinct. That is the question involved in this motion to refer the report of the committee back to it with instructions to proceed to an investigation of that case. It has been developed in the course of discussion on this floor on the question, that the very great reason for reaching the consideration of the election of these members now, is that one of their number could have an opportunity to aspire to a high position in the permanent organization of this Convention.

I wish to call the attention of members to this circumstance, that the investigation of that committee on the subject of these elections may consume considerable time and to me it would be a sad spectacle to linger along in our work day by day with the formal meetings of a preliminary organization, awaiting the action of this committee on credentials, while they investigate that subject. It is patent to all of us that there has been a good deal of controversy over those election cases.

It is possible that they may be determined in an hour or two, but it may take days to investigate that case, and it would be a waste of time—a useless waste of time of 102 members comprising this Convention when they have the authority and power to act and proceed with the business before the Convention; it would, sir, be a burning shame to continue this temporary organization day by day, awaiting the report of that committee.

With all due respect to the gentleman who was last on the floor, I must hold on the opinion that this Convention has no power to proceed with the appointment of committees and with the work of forming the Constitution until the permanent organization is effected, and I believe the gentleman from Weber who spoke upon the subject at some length read the law that applies in this case, that until this Convention is organized we can not go into a consideration of these cases.

The gentleman told us there is no contest in this case. We do not know whether there will be a contest or not. There is ground for contest and the contest may arise.

In the meantime we present the spectacle before the country of wasting, literally, the time of this whole Convention pending the investigation of this question. For what?

Why, for the only purpose of giving some gentleman an opportunity to aspire to an office in the permanent organization.

Is it true that of all the delegates assembled there is but one man that can be elected to the position of president of the permanent organization?

Gentlemen have quoted the fact, (I presume it is a fact, I accept it as such upon their statement) that South Dakota operated for six days under its temporary organization. If South Dakota so proceeded, South Dakota wasted just so much of its time.

I appeal to the common sense of this Convention, not to pick bad from bad, but let us proceed upon lines that will enable us at once to discharge the duties devolving upon the members of this Convention, that of writing a Constitution for the future State of Utah, and not hang up this Convention pending the action of a committee.

Let us proceed upon lines that we are sure will be right. Let this matter go over to a committee of elections and privileges under the permanent organization.

Men would do well perhaps—I doubt not in my estimation that they would do well to suppress personal ambition in order that work may go on.

Mr. Chairman, I can not support this resolution, as I do not think that committee on temporary organization has the power to investigate those elections and it would be, in my estimation, a burning shame to hang up the proceedings of this Convention, perhaps for days, before proceeding to act.

Mr. GOODWIN. Mr. Chairman, only for a moment.

It seems to me we are wandering away from the question. In all matters of this kind when a committee of credentials is appointed, that committee goes out, comes in, and makes a partial or a whole report. The committee on credentials have been out once and they have made a partial report and asked for instructions on the remainder of it. This resolution instructs them to go back and examine the papers in the case and make another report; if that is satisfactory to this house, it will be adopted. If not, it will be rejected.

We are talking about the powers of the committee. They have simply the powers to examine the papers in the cases as presented to them and give that fact before this house. I do not see that this debate is proper at this point. It seems to me that when they make their final report then it will be for this Convention to decide whether they will accept that report or not.

Now, the gentleman that just spoke wondered if there were but one gentleman in this house that could act in one of the higher offices. I beg to assure him there are 102. Now, the object of that committee to have a primary report is to see if there are not 107.

Mr. CANNON. Mr. Chairman and gentlemen of the Convention, I favor the motion which has been made.

I favor it because, unless we do hear

from that committee and until they report upon these contested seats or upon the seats that are in question, you don't have full representation. Fourteen hundred men, within a fraction more or less, are denied representation, until these cases are settled.

The gentleman who last spoke in opposition to this motion said:

"Is there but one man here who is worthy of the high position to which he aspires?"

I would ask, is there one man here who would deprive fourteen hundred American citizens of the right of representation, even in the formation of this permanent organization. The gentleman stated that he was willing to concede that in all human probability later on these men would be seated. Why not seat them so that they have their voice upon every question that comes up before this Convention?

The Convention, as I take it, is the judge of the qualification of its own members. The committee on credentials—whether or not it had the power to investigate these cases, comes in and reports to us certain facts, declaring that five men have presented certain evidences of their election.

Just 102 men had the certificate of the secretary of the Territory. They declare that they have there a judgment of a certain court, and if you will investigate those papers you will find that in that judgment and made a part thereof are certain findings of fact, which declare that five men had a majority of the votes cast in that election.

The men who haven't seats on this floor represent a constituency larger than many of the counties of this Territory combined, and the principle which is at stake is not so trifling as gentlemen would make it appear.

The gentleman who last spoke in opposition said: "Shall we fritter away days in investigating this?" I would say, aye, when in so doing we have a principle at stake, which is the basis upon which our government rests; that it is that which brought on the war with Great Britain and made our country free—the right of representation; and here we have fourteen hundred men asking through their duly elected delegates they should be represented on this floor.

For this reason and because I believe that we have the right to refer this matter to them, I am in favor of referring it to the committee with power to act.

Gentlemen have said not to take note of newspaper rumors, yet every man who has spoken in opposition to this motion, commencing with the man who opened the opposition, has taken newspaper rumor and has attempted to play upon your fears and prejudices, claiming that some man aspires to a high position and that because of these newspaper rumors you should deny people their representation. I say that it shows the bias of their argument, for they do not take note of that which has been published for months and they listen eagerly to that which has been whispered for a few hours.

I am in favor of the motion.

[Applause.]

[Calls for the question.]

Mr. HART. I move you, Mr. Chairman, as an amendment to the motion that we adopt the report of the committee on credentials. There is some doubt even in the mind of the gentleman who made his motion, it seems to me, as to the scope and purpose of it and I am in favor of disposing of this question in parts. Let us seat 102 members first and then afterwards decide what we shall do—whether we shall refer this matter to the committee on credentials in reference to the third precinct, or whether we shall proceed to a permanent organization, and therefore, Mr. President, I move you this amendment.

The CHAIRMAN. I hear no second to that motion.

Are you ready for the question on the original motion?

Mr. VAN HORNE. Mr. Chairman, I wish to call the attention of the members of the Convention briefly to some things——

Mr. EVANS (Weber). I second the amendment to the motion.

The CHAIRMAN. Mr. Van Horne has the floor now.

Mr. VAN HORNE.——that have been said in the discussion of this motion.

I wish to call attention to the first part of section 2, Enabling Act.

"Such delegates shall possess the qualifications of such electors; and the aforesaid Convention shall consist of 107 delegates."

As we are now, we consist of 102 delegates. I wish to call also the attention of the Convention to the argument of the gentleman from Weber County, with regard to the latter part of the same section, in which is provided the manner in which these elections shall be conducted, the returns made, the results ascertained, and the certificates of persons elected to such Convention issued, in such manner as is prescribed by the laws of said Territory regulating elections therein of members of the Legislature. The gentleman called attention to the fact of a special statute in the Territory which says that the certificate issued by the returning board shall be the only evidence entitling a person to a seat.

The act of Congress says——

Mr. EVANS (Weber). Mr. Van Horne, you misunderstood me. This is an act of Congress I am talking about.

Mr. VAN HORNE. You referred to an act of Congress governing the Legislature of Utah.

Mr. EVANS (Weber). Yes, sir.

Mr. VAN HORNE. This is not incorporated into the Enabling Act under which we are acting to-day. That provision is left out of that, as to what evidence or certificate shall be given and in place thereof is put in the mandatory direction to the Utah Commission to issue the certificate to the person elected. That certificate for some reason, as it appears from the report of the committee on credentials, has not been issued to the members-elect from the third precinct. There is no prima facie title to a seat from the third precinct.

We are not 107 delegates. The committee reports that there are certain things before them tending to show that these gentlemen were elected as delegates and are entitled to a seat.

Upon the report of that committee and the adoption, if it be adopted, by this Convention, there will be a prima facie case made, entitling those gentlemen to a seat; and the question of open contests will then come before this Convention properly, and can be properly made.

I call the attention of this Convention to the fact also instanced by the gentleman from Weber, that we have not adopted the Constitution of the United States.

I do not think that the contention is right, that our simply taking the oath as individual delegates is an adoption of that Constitution, as provided in this Enabling Act. I think it will require an ordinance of this Convention, and that that ordinance must come immediately after the permanent organization of this Convention, and immediately after the permanent organization of this Convention, the Convention shall declare on behalf of the people that they adopt the Constitution of the United States.

Unless in temporary organization we seat some gentlemen from the third precinct, who will be authorized on behalf of the third precinct and the fourteen hundred voters therein to declare that they adopt the Constitution of the United States? Can we do it? We are not elected as their representatives; they have a right to a voice in saying

whether they shall adopt the Constitution of the United States or not.

If those five members come in here and others here are unwilling to adopt the Constitution of the United States, we could not proceed with making a Constitution for the State of Utah.

Mr. Chairman, it is not a question of rumor; it is not a question of newspaper notoriety, that is to be determined in this Convention; it is a question of fairness, of justice, of compliance with the act under which we sit in this Convention, and of the ability to so fill the Convention, that when it comes to the adoption of the Constitution of the United States by this Convention, no part of the people of the Territory of Utah can ever say, "our delegates could not take part in the adoption of the Constitution of the country."

Mr. MURDOCK (Beaver). Mr. Chairman, I think this is a very simple matter, although there has been a great deal said about it. Would we be a perfect body according to the Enabling Act and according to our own judgment, without the whole delegation? I say not.

Some have questioned a temporary organization as being incompetent to do business. Why, it is a very absurd thing in my estimation. What are they for? They are to remove every obstacle that may present itself before this body, and prepare for a permanent organization, and if they haven't the right to remove every obstacle that may present itself before this body, then they are a body that has no power whatever.

It is not in the hands of this body to refer this to the committtee. It is in the hands of the committee, and I have that confidence in that committee, that they will be able to handle the matter properly in the interests of this Convention. There have been intimations made that there was something being labored for. That comes hereafter, in regard to the permanent organization. I thank you for your consideration.

[Calls for the question.]

Mr. ELDREDGE. Mr. Chairman, I wish to be brief and to call attention to a few items in section two of the Enabling Act.

The "Convention shall consist of 107 delegates, apportioned among the several counties, within the limits of the proposed State, as follows." It goes on and enumerates the several counties until it reaches Salt Lake County, and states that Salt Lake County shall have 29 delegates, "thus apportioned, to-wit," etc. And when we reach the third precinct, we find, that it entitles that precinct to a representation of five delegates on this floor.

That precinct then becomes a constituent part, Mr. Chairman and gentlemen of this Convention, of this Convention, and the people residing within its borders have the same rights and privileges as the peopeople of any other county of this Territory, and the proceedings, as I understand it, as now being taken are not for the purpose of giving some gentleman who may aspire to the chairmanship or presidency of this Convention the opportunity of doing so, but they are for the purpose of giving that precinct a representation upon this floor, even if it only be *de facto* in place of *de jure*.

Therefore, I am in favor of leading up to this specific object, and as I underderstand the situation that committee on credentials has had proof by certificates issued by the commission to seat 102 delegates on this floor, and they have evidences of a different character by affidavits, etc., that show that there are five others entitled to seats here and that there has been no contest filed against the seating of those five, and therefore it is not a case of contest, but it is purely a case of representation, and are we, at the very opening of this Convention, at the very beginning of

forming a Constitution granting unto the people the rights and privileges that they wish to exercise, to undertake to perpetrate upon one of the principal precincts of this county such things as these people have suffered under too long? [Applause and cries of no.]

Mr. THATCHER. I do not desire, Mr. Chairman, and gentlemen of the Convention, to occupy more than a few brief moments of the valuable time of this gathering, but I do wish to call the attention of the Convention to the expressions of the committee itself. All this time has been devoted to a discussion in trying to refer the matter to the committee, in which they disclaim any jurisdiction whatever, and therefore if it comes before them, it will go before a a body of men who claim that they have no authority in the matter.

If you permit me, Mr. Chairman, I will read their language:

(Reads from report.)

Here we have the opinion of the committee itself. I think there is no division of opinion as to the right of five gentlemen representing the fourteen hundred, but I think it will take us some time to determine who those five gentlemen are.

Mr. LAMBERT. Mr. Chairman, I would like to have our secretary read the motion that was made.

Motion was read by the secretary.

The question being put and the ayes and noes called for; the vote was as follows:

AYES—61.

John R. Murdock	Symons
Anderson	Eichnor
Gibbs	Moritz
Peter Low	Mackintosh
Maughan	Lambert
Chidester	Hill
Peterson	Morris
Heyborne	Button
Hyde	Van Horne
Ryan	Wells
Coray	James
J. E. Robinson	Goodwin
Thompson	Ricks
Crane	Miller
Allen	Brandley
G. P. Larsen	Eldredge
Lund	Keith
Jolley	Kearns
L. Larsen	J. D. Murdock
Page	Stover
Peterson	Clark
Christianson	Maeser
Williams	Jos. R. Murdock
Cannon	W. E. Robison
Bowdle	Farr
Green	Strevell
Cushing	Driver
Squires	Adams
Shurtliff	McFarland
Haynes	Kimball
Pierce	

NOES—37.

Peters	Johnson
William Low	Thurman
Thatcher	Corfman
Kerr	Partridge
Warrum	A. J. Evans
Hughes	Creer
Thoreson	Halladay
J. P. Low	Lemmon
Hart	Boyer
Roberts	Engberg
Call	Thorne
Barnes	Cunningham
Sharp	Buys
Howard	Ivins
Francis	Snow
Nebeker	David Evans
Hammond	Lewis
Varian	Maloney
	Spencer.

The motion was thereupon declared carried.

Mr. FARR. Mr. Chairman, I have deferred making remarks on this question. My mind has been clear through from the start——

The CHAIRMAN. Mr. Farr, there is nothing before the house.

Mr. EVANS (Weber.) Mr. Chairman, he is an old gentleman, and I move that he be extended the courtesy.

Mr. FARR. The remark has been made that this committee has reported and they have not the authority. I wish to say that that committee has the authority according to their report, which is right in the matter.

Mr. KERR. I move we adjourn until three o'clock.

Seconded.

Mr. CRANE. Will the gentleman allow me to make a motion?

I desire, Mr. Chairman, to make a motion that the chair appoint a committee of seven to confer with the secretary of the Territory in regard to furniture of this room.

Will Mr. Kerr withhold his motion for that motion?

Mr. KERR. That may lead to a considerable discussion. It seems to me that it can be brought up this afternoon.

The CHAIRMAN. The motion to adjourn is in order.

Mr. PIERCE. Mr. Chairman, I arise to a point of order; it wasn't a motion to adjourn, it was a motion to fix the time for adjourning.

The CHAIRMAN. I understand the motion to be that we do now adjourn.

Carried.

The Convention then, at one o'clock p. m., adjourned until 3 o'clock p. m.

TUESDAY, 3 o'clock p. m., March 5, 1895.

The Convention was called to order by temporary Chairman Kimball.

Mr. VAN HORNE. Mr. Chairman, I move you that the chair appoint a committee of five on site of holding this Convention and furniture.

Carried.

Mr. ROBINSON (Kane). Mr. Chairman, I move you that while this matter is under consideration we adjourn until to-morrow morning at 10 o'clock.

Mr. THURMAN. Oh, no, let's go on.

Mr. EVANS (Weber). I second the motion.

Mr. CHAIRMAN. You will withdraw the motion until the committee is appointed, won't you?

Mr. ROBINSON (Kane). Yes; after the committee is appointed, I will make that motion.

The CHAIRMAN. The chair will appoint on the committtee W. G. Van Horne, A. C. Lund, J. A. Hyde, S. R. Thurman, Aquila Nebeker.

Mr. KERR. Mr. Chairman, I move that we proceed to the election of a permanent president of this Convention.

Seconded.

Mr. ROBINSON (Kane.) Mr. Chairman, I make a motion to adjourn, which is before the house.

Mr. THURMAN. Mr. Chairman, just one moment; I don't suppose this Convention will commence the permanent organization at this time.

The CHAIRMAN. That motion is not before the house. I heard no second.

Mr. THURMAN. But there is something that we can do and we will facilitate business by doing it. If the Convention had the power to act as it did this morning, and they exercised it, we can proceed at the present time to at least determine the standing committees that this Convention ought to have, and we can so far proceed with that that we will save probably just twenty-four hours by doing it now. If the gentleman will withhold his motion to adjourn until at least that much is done, I will move the chair to appoint a committee to report to-morrow morning the number and kind of standing committees the Convention ought to have. Of course, I don't believe in exercising that power under the temporary organization, but we have broken over the rule and I am in favor of doing it for the sake of getting along, even if the permanent organization has to ratify what we do.

Mr. MALONEY. Mr. Chairman, I second that motion.

The CHAIRMAN. I didn't understand that the gentleman from Kane County yielded his motion.

Mr. ROBINSON (Kane). No, sir; I haven't yielded, on the ground that the

other committee should make its report before we can proceed in a proper manner.

Mr. EICHNOR. Mr. President, I would request the gentleman from Kane County to withhold his motion for a little while. I understand the committee on credentials is ready to report.

Mr. ROBINSON (Kane.) I will withhold it on that ground.

Mr. ELDREDGE. Mr. Chairman, I would move that the chair appoint a committee, consisting of one member from each county, to formulate the number of committees that will be necessary for this Convention to appoint and report to-morrow.

Mr. CHAIRMAN. That was the motion already made by Mr. Thurman and seconded by Mr. Maloney, with the exception as to the number of the committees.

Mr. THURMAN. I will accept the amendment of Mr. Eldredge.

Carried.

The CHAIRMAN. I would like to request each county delegation to select it own members and furnish me the names for that committee.

Mr. THURMAN. Shall we take an informal recess for a few minutes?

The CHAIRMAN. I understand the committee on credentials has now come in; we will hear their report pending that.

The committee on credentials thereupon reported as follows:

Mr. President and gentlemen of the Convention:

Your committee, to whom was resubmitted the matter of right to seats in the Convention from the third precinct, Salt Lake City, beg to report that they have examined the evidence in the above named cases, and find from the face of the returns that the following named gentlemen are entitled to seats in the Convention:

George R. Emery, W. B. Preston, John Henry Smith, Andrew Kimball, A. H. Raleigh, and that there is no contest in any of these cases. We respectfully recommend that they be seated in the Convention.

[Signed] CHARLES N. STREVELL,
Chairman.

Mr. STREVELL. Mr. Chairman, I wish to move the adoption of this report.

Mr. JOLLEY. I second the motion.

The CHAIRMAN. The other part of the report is not read; it remains the same as it was read this morning, in favor of 102.

Mr. JAMES. Do I understand that the report is unanimous?

Mr. STREVELL. It is, yes, sir.

Motion carried.

Mr. EVANS (Weber) offered the following resolution:

Resolved, that we proceed immediately to effect a permanent organization.

Mr. ROBERTS. I second the motion.

Mr. ROBINSON (Kane). I wish to press my motion to adjourn.

Mr. EICHNOR. I move to lay that motion on the table.

Motion seconded.

Mr. JAMES. Mr. Chairman, I move that the gentlemen just seated come forward and be sworn in.

Mr. EICHNOR. Then I will withhold my motion to lay on the table with the consent of my second.

Thereupon Messrs. Emery, Smith, Kimball, Raleigh, were sworn in by the temporary chairman.

Mr. ROBINSON (Kane). I wish to press my motion to adjourn, Mr. Chairman, until tomorrow at 10:30.

Mr. EVANS (Weber). Mr. Chairman, I suppose, of course, that motion is not debatable, except as a question of time, and I want to oppose it for the reason that I think that we ought to commence doing business, and I move as an amendment to that, we adjourn for ten minutes. I want to say, Mr. Chairman, that we ought to do something now; we have gotten along so far, we ought to commence to legislate. We ought to organize. It has been stated that this Convention costs four or five hundred dollars a day. If it is carefully estimated it will be found it will cost one thousand dollars a day counting rents, reporters,

officers, and printing, and we have only a thirty thousand dollars appropriation, which will only run us through thirty days; it seems to me that we ought to do something now. We certainly can effect the permanent organization, having committees appointed and commence doing the work that the people expect us to do.

Amendment seconded.

Mr. THURMAN. Mr. Chairman, I wish to call the attention to the fact that there is a matter that was begun a few moments ago that has not been completed, and that motion was of no avail unless we complete that committee, so that they can go to work; and for that reason I will favor the motion to adjourn, or take a recess, whatever you may please to call it, for ten minutes so that the county delegations can get together and name a man to suggest to the chair.

Mr. VAN HORNE. Very well, I have no objection to that.

Mr. THURMAN. In the meantime, gentlemen of the majority, if you can agree on your chairman, we will proceed with the business; we think that we can accept it.

The Convention thereupon took a recess for ten minutes.

At the expiration of ten minutes the Convention was called to order and the following appointed as a committee for the purpose of determining the number and kind of standing committees that the Convention shall have:

Messrs. Pierce, Salt Lake; Anderson, Beaver; Snow, Washington; Francis, Morgan; Allen, Piute; Chidester, Garfield; Peters, Box Elder; Howard, Emery; Roberts, Davis; Heyborne, Iron; Robinson, Kane; Keith, Summit; Ryan, Juab; Kerr, Cache; Stover, Tooele; Jolley, Sanpete; Corfman, Utah; Buys, Wasatch; Maloney, Weber; Nebeker, Rich; Robison, Wayne; Thompson, Millard; Peterson, Grand; Hammond, San Juan; Miller, Sevier; Johnson, Uintah.

Mr. VAN HORNE. Mr. Chairman, I would request the chair to substitute some gentleman's name instead of mine on the committee on site and furniture.

The CHAIRMAN. Do you decline?

Mr. VAN HORNE. Yes, sir, I decline.

The CHAIRMAN. I substitute the name of Jacob Moritz on the committee on site and furniture in place of W. G. Van Horne.

Mr. CRANE. Mr. Chairman, I move we now adjourn until 10:30 to-morrow morning.

Carried.

The Convention thereupon, at 3:45 o'clock, adjourned until 10:30 o'clock to-morrow morning.

THIRD DAY.

WEDNESDAY, 10:30 a. m., March 6, 1895.

The Convention was called to order by Mr. Goodwin, of Salt Lake.

Mr. GOODWIN. Gentlemen, the Chairman pro tem. is ill this morning and he has done me the honor to ask me to rap around in his chair until you can do better.

The Reverend R. G. McNiece, of the First Presbyterian Church, offered prayer.

The secretary then called the roll showing the following members present:

Adams	Larsen, C. P.
Allen	Lemmon
Anderson	Lewis
Barnes	Low, William
Boyer	Low, Peter
Brandley	Low, J. P.
Buys	Lund
Call	Maeser
Cannon	Mackintosh
Chidester	Maloney
Christianson	Maughan
Clark	McFarland
Coray	Miller
Corfman	Morris
Creer	Moritz
Cunningham	Murdock, Beaver

Cushing	Murdock, Wasatch
Driver	Murdock, Summit
Eichnor	Nebeker
Eldredge	Page
Emery	Partridge
Evans, Utah	Peters
Evans, Weber	Peterson, Grand
Farr	Peterson, Sanpete
Francis	Pierce
Gibbs	Raleigh
Goodwin	Richards
Green	Ricks
Hammond	Roberts
Hart	Robinson, Kane
Haynes	Robison, Wayne
Halliday	Ryan
Heyborne	Sharp
Hill	Shurtliff
Howard	Smith
Hughes	Snow
Hyde	Spencer
Ivins	Squires
James	Stover
Johnson	Symons
Jolley	Thatcher
Kelsel	Thompson
Keith	Thoreson
Kearns	Thorne
Kerr	Thurman
Kimball, Salt Lake	Van Horne
Kimball, Weber	Warrum
Lambert	Williams
Larsen, L.	

Mr. EVANS (Weber). Mr. Chairman, I desired to be excused for to-day.

Mr. RICHARDS. Mr. Chairman, I also desire to make the same request. I have a case on trial requiring my attention.

Messrs. Evans and Richards were excused.

The SECRETARY pro tem. Mr. Chairman, I have a request from Mr. Whitney asking to be excused because he was called to Provo on account of sickness.

Mr. ADAMS. I wish to ask to have Mr. Strevell excused. He was unable to come this morning.

The CHAIRMAN. The gentlemen will be excused.

Minutes of the previous day's session were read and approved.

Mr. ADAMS. Mr. Chairman, Mr. F. J. Kelsel of Weber is in the house and has not been sworn in; I would suggest that he be sworn in, and if in order I would move that he be.

Mr PIERCE. Is Mr. Preston here also? While we are waiting, I desire to move that until otherwise ordered the Convention be governed by Roberts' Rules of Order. We have adopted no rules of order yet. These are the standard rules of order.

Carried.

The oath was then administered to Mr. Kelsel.

Mr. PIERCE. Mr. Chairman, I move you that we do now proceed to elect a permanent president.

Carried.

Mr. SQUIRES. Mr. Chairman, I place in nomination for the position of president of this Convention the Hon. John Henry Smith of the third precinct of Salt Lake City.

Mr. MURDOCK (Beaver). Mr. Chairman, I second the nomination.

The CHAIRMAN. Nominations are in order, gentlemen.

Mr. EICHNOR. Mr. Chairman, I move that the nominations be closed. [Laughter.]

Carried.

The CHAIRMAN. How will you have this vote cast, gentlemen?

Mr. PIERCE. Ayes and noes.

Mr. IVINS. Mr. Chairman, there being but one nominee before the house, I move that John Henry Smith be declared president of this assembly by acclamation.

Seconded by a number of delegates.

Mr. VAN HORNE. Mr. Chairman, and gentlemen of the Convention, it does not seem to me that that ought to be the method of electing a presiding officer for such a solemn body as this. I think the roll should be called and each man's vote taken, and that the

records show in writing that as the name was called each one voted.

The CHAIRMAN. It has been moved and seconded that the rules be suspended and that John Henry Smith be declared permanent president of this Convention by acclamation. Those in favor of the same will say aye; contrary no.

The ayes seem to have it.

Mr. PIERCE. Ayes and noes.

The CHAIRMAN. Mr. Clark, call the roll, please.

Mr. HART. Mr. Chairman, was the vote passed?

What was the judgment of the chair on the motion that we vote Mr. Smith in by acclamation? I understood that motion passed.

The CHAIRMAN. It was a very faint acclamation and the ayes and noes are called for.

Mr. PIERCE. I called for the ayes and noes on the motion to sustain the rules.

Mr. IVINS. Mr. Chairman, I would like to suggest that it is very unusual that time be occupied in calling the roll for the determination of a question of this kind. If there is any doubt, in the mind of the gentleman, as to the result of the vote on my motion, it would be a very easy matter in a moment to ask for a division of the house and let the members indicate their vote by rising. I think that this idea of calling the ayes and noes on a question of that kind is very unprecedented.

The CHAIRMAN. Will you amend the motion to that effect?

Mr. IVINS. Yes, sir, I move that a rising vote be called as an amendment to the motion that has been made.

Seconded.

The CHAIRMAN. Now, let me understand—is this on the absolute vote or is it on the——

Mr. IVINS. It is on my motion that John Henry Smith be declared by acclamation to be the permanent president of this assembly.

The CHAIRMAN. You have heard the motion, gentlemen, those in favor of John Henry Smith for president will stand up.

The secretary pro tem. announced an affirmative vote of ninety.

The CHAIRMAN. There being ninety in the affirmative, I believe it is not necessary to call the noes.

Mr. John Henry Smith is declared permanent president. Mr. Squires and Mr. Roberts, will you conduct Mr. Smith to the chair?

The gentlemen mentioned conducted Mr. Smith to the chair.

Chairman GOODWIN. Gentlemen of the Convention, I have the honor to present your permanent president, Mr. John Henry Smith. [Applause.]

President SMITH. Gentlemen of the Convention: It will be impossible for me to find words to express to you the feelings that are within my breast. For many years it has been a dream of mine that the day would yet come when the people of the Territory of Utah, burying their past differences, would strike hands upon common ground, and as lovers of the same great commonwealth put their hands to the plow of statehood and endeavor to bring the people of that commonwealth into the enjoyment of every right and every liberty that any citizen within the confines of our great Republic does enjoy. I presume that in the efforts of the past there has been a Providence without doubt guiding the destinies of this commonwealth.

I have no doubt that in the future that same Providence, who understands the conditions of its children throughout the world, will guard and guide the interests of this commonwealth and will enable its sons and its daughters to fully magnify the responsibilities that shall be placed upon them when they shall arrive at the full stature of statehood, having performed their part in regard thereto.

I congratulate you gentlemen upon

the labor that lies before you. Six times, if my memory serves me right, in the past an effort of this kind has been made. Conventions have assembled, have discharged the sacred duties placed upon them and have made an effort to place themselves in a position that they could exercise the rights that are inherent in those within a state government, but until the present moment that boon has been withheld. There is no bitterness in me so far as that is concerned, in regard to any of these experiences of the past. We meet upon this floor on common ground, common lovers of a common country, and believers in the labors and administrations of that body of great men, who brought about the liberties of the people of the United States, who love the instrument that came through them, and which has been the palladium of the liberties of the American people, and which is more sacred to any American than life itself.

I doubt not but that every gentleman who is assembled within the confines of this building, as a delegate sent to this Constitutional Convention, feels this in the innermost recesses of his heart, that if his country was in danger or if that instrument of their liberties was in danger, life and everything else would be put upon the altar, looking to the preservation of the same and the maintenance of that government which has become dear to us and which has given to us so many blessings pertaining to life.

My friends, I trust that the experience through which we have gone may be a lesson of profit to every one of us. Let us take these matters under consideration and weigh them in the light of judgment and wisdom, concerning the well being of the commonwealth in which we reside, studying no man's interest but the interest of the whole.

Our people having trusted us here with the grave responsibility of presenting to them for their consideration a fundamental law, under which they expect to live, under which their children and their children's children in all likelihood may live, they look to us to discharge this duty in honor before our country, in honor before our God, in honor before them that sent us here, and in honor to ourselves, who are their representatives, and who realize in some measure the vast responsibility that attaches to this exalted station.

My friends, I trust that in our deliberations there shall not exhibit itself that spirit of partisanship that would lead in any degree to improper, unwise, or inconsiderate feeling. We have fought the battle of the past, we have met each other as men upon the arena, we have done our best to accomplish our view in these matters, and considering all the conditions that surround us, I believe it is the sacred duty of every man who has been sent here to see to it, that so far as is possible we shall work in unison to the accomplishment of one great purpose, and that purpose is presenting to our people a Constitution that shall receive their approval and that shall stamp the men who made it as men of worth, as men of honor, as men who love their country, who love their State, who appreciate the blessings of liberty, and who propose, so far as lies in their power, to exhibit every fairness and justice in their conduct in the performance of that sacred labor.

We have before us a great work to do; we have to consider the conditions of our Territory; we have to consider its resources; we have to consider our ability to perform this duty, in every way, and the ability of the people to fulfill the obligations that we shall present to them and upon which they shall pass.

These matters we have got to consider in the light of judgment and of wisdom. We are not a wealthy people. While we have a goodly land and some day in the future it will have a wonderful population, we are in that condition at the present time that in the con-

sideration of each and every problem that shall come before us in the interest of the government that we seek to establish, we must do it upon the principle of striving to protect the people and preserve them from enormous burdens of taxation.

This duty lies within us, and in the consideration of these matters, everything that can be done that shall tend to enhance the development of our soil—improve every condition, benefit the people, open the doors for the incoming of hundreds that may press upon our soil; the storage of the waters that the lands may be utilized for the purpose of farming, and the opening up of our mines, and the use of the precious metals, should be done. Every condition, every position, everything that would enhance these interests, caring for our flocks and our herds, looking to the advancement of everything that pertains to the well being of our people, I believe lies near to the heart of every man who has entered this assembly, having been sent here by an honest and an upright constituency.

My friends, I trust that we will consider these things, wisely and prudently, that when our work shall be done there shall not be a regret in any breast or in any mind, but with a firm and fixed purpose we stand by the principle of right, the principle of justice, the principle of patriotism, the principle of the love of them that sent us here, and the principles of everything that tends to ennoble and lift up man by giving the broadest liberty and opening up to him in every way the amplest opportunity to utilize the powers with which the great God of Heaven has blessed him.

Thanking you, my friends, for the honor conferred upon me and realising my weakness, so far as that is concerned, in this position, and desiring to have your full support in seeking to discharge this duty, recognising the importance of that duty and feeling that if there was aught in the way that should interfere with the accomplishment of this work, the upbuilding of this commonwealth, by act of mine, I should be as ready and as willing as man could be to step away from this position, which you have tendered me, and leave it open to any man, so far as that is concerned, who might desire to occupy the same; and realizing that every man that is congregated here is amply capable and able to discharge this duty, I trust that in the Providence of Our Father in Heaven that you and I will be blessed in our efforts to accomplish this good work and that the commonwealth that we establish, the Constitution that we shall present to the people, will be a credit to you, and that every one of us will look back in the future days of our lives, and rejoice in the fact that the people of the land trusted us as their representatives, to present to them something that should be the palladium of their liberties, of which they with us will be proud in guarding up to the last moment of their lives.

E. W. Tatlock thereupon asked and obtained permission of the Convention to speak.

Mr. TATLOCK. Mr. President, and gentlemen of the Convention:

I am proud to salute a man who was born in the Territory, whose motto was "Our liberties we prize and our rights we will maintain."

On my way to the building this morning I was accosted by a number of your friends and my friends, the friends of this Convention, who imposed upon me the very pleasant and delicate duty of asking you to accept from them an emblem of your authority during the continuance of this Convention.

The article which I present to you or will present to you is one of domestic manufacture; it was made by one of the good citizens of Salt Lake City. I will mention the parts of this.

The handle, Mr. President, as you will observe, is very slender; a larger one it was believed wouldn't be necessary,

The temper of the Convention is such as ought to and doubtless will prevail during its deliberations.

This handle is made of paradise wood, typical no doubt of the harmony that will prevail in this Convention. [Applause.]

The wood was grown in the Temple square in this city. The body of the gavel is made from mountain mahogany, grown on these grand hills surrounding this city. In the center of this body, at one end, is a piece of wood taken from the keel of an English vessel, the Augusta, which was sunk off the Atlantic coast during the Revolutionary war by the guns of our Revolutionary fathers.

That ship lay imbedded for a period of more than eighty years. It then was resurrected by American ingenuity and genius.

It was thought by the maker of this and his friends that the destruction and burial of that ship would serve to remind some folks at least of the doom that might await tyrants and oppressors, leaving off that part of it, even the resurrection period, after eighty years.

On the reverse end of this gavel is a piece of metal which suspended the bell which first proclaimed the freedom of the American people; that was secured by the maker years ago.

It is believed that when this gavel finally falls at the conclusion of the labors of this Convention, that it will be a proclamation to the people of this Territory giving to them, as did the old liberty bell, freedom and liberty, to this grand people, a grand State which is to be as grand as there is in America.

With the best wishes of your legions of friends, please accept this emblem of your authority. [Applause.]

The PRESIDENT. Gentlemen of the Convention, in your behalf I accept from the hands of our friend this gavel and trust that we may be as sturdy as the oak from which part of it is made, as true as the bell that rung out in the day of our need; and having thus been true and thus faithful, that our friends who presented it, with ourselves, in the day of paradise, may find ourselves there. [Applause.]

What is the further pleasure of the Convention?

Mr. CANNON. Mr. Chairman and gentlemen of the Convention, I desire to introduce the following resolution and move its adoption:

Resolved, that we elect the following permanent officers:
One chief clerk.
One sergeant-at-arms.
One watchman and janitor.
One messenger.
One enrolling and engrossing clerk.
One official stenographer and typewriter.
Two pages, and
Three committee clerks.

Motion seconded.

Mr. KERR. Mr. President, I move to amend the resolution by omitting the three committee clerks.

Amendment seconded.

Mr. SQUIRES. Mr. President, I understand that this committee appointed by the Convention yesterday to fix upon the number of committees which we shall need, during the progress of the Convention, is about ready to report, and I should judge that before we ruled out the election of three committee clerks, it would be wise to get the report of that committee and ascertain how many committees we have got to handle. I do not consider that it is possible for this Convention to get along without committee clerks, especially if we have twenty-five or twenty-six committees.

Mr. ROBERTS. Mr. President, I favor the adoption of the amendment, as I understand it, to the original motion, that we eliminate the committee clerks. I don't understand the object of the committee clerks; if it is supposed that three committee clerks will do the committee work for some twenty-five or twenty-six committees, I think three are abso-

lutely insufficient and I know of no three committees that should be selected out of the number or that could be selected out of the number and given that favor over and above other committees.

It seems to me, sir, that the officials of this Convention, or the officers of the Convention, should be kept down to the necessities of the Convention, and since the appointment of three committee clerks wouldn't be sufficient to operate for all the committees, I believe that each committee will be able to do its own clerical work from among the members of the committee.

Mr. KERR. Mr. President, I think that, as has been suggested, it would be impossible for three clerks to do the work for twenty-five or twenty-six committees, which are to be appointed, because many of these committees will be in session at the same time and it wouldn't be possible for these three clerks to attend to the duties that will devolve upon them.

Furthermore, while it is true that legislative assemblies require committee clerks, as in legislative assemblies bills are being introduced from time to time, it is much more necessary that they have these committee clerks, than in a Convention of this kind where the committees would have under consideration a particular article.

I don't believe that this Convention should vote for a large number of committee clerks—a sufficient number to do the work. If it is desired that committee clerks attend to that work, as three would be insufficient, I am in favor of the committees doing the work.

I think that in each committee there will be those who can attend to this work without our being to the expense of paying committee clerks.

Mr. RICKS. Mr. President, I favor the original motion, for this reason: while I believe that each committee should have its own secretary, I believe too that there ought to be clerks, to prepare the reports of those committees after they leave the hands of the committee, that they may be presented to this assembly in proper shape, and I think that every member of this Convention will agree with me that there is a great deal of work that will have to be done on typewriters; at least, it is the purpose of this original resolution, as I understand it, to employ typewriters for that purpose—to prepare the reports of the committees after they have left the hands of the committees and before they are presented to this assembly.

Mr. THURMAN. Mr. President, I think that there is one reason why we should support the amendment in this case. At any rate we do not now need committee clerks. We do not know whether we will need them at all or not. Should we find that such are a necessity in the progress of our work, we can then appoint them and save something in the compensation. The point suggested by the last gentleman on the floor that typewriters might be needed may be true, but that is not involved in this question. The question here is the appointment of clerks, and they may not be typewriters at all, if appointed.

I can conceive that one or two good typewriters later in the session might be of great use to this Convention, but I believe that we ought to adopt this amendment and leave the question of appointing clerks to rest awhile, until we find a necessity for those clerks.

If it should be true that every committee appointed here will have a man who can do clerical work or more than one, and we can economize and save something in the expense of this Convention, certainly that is a consummation devoutly to be wished by every member here. We don't know just how long our work will require us—how long a time it will take. We know this

much, that we are limited in the amount of money we have to expend.

I favor the amendment for the reasons suggested by others as well as those.

Mr. SQUIRES. Mr. President, as I understand it, there is nothing in this motion which goes to the election of these clerks to-day, and I do not believe that it is contemplated by the maker of the motion that those clerks should be selected to-day. We simply provide by this motion for the permanent officers of the Convention to that point, and I see no possible objection to resolving now that we will at some time employ three committee clerks, and I am willing to have for my part embodied in the resolution that these three clerks shall be typewriters.

Mr. CANNON. Mr. President, and gentlemen of the Convention, as the mover of this resolution, I desire to speak for a moment in its behalf. Several of the gentlemen who have spoken in opposition to the resolution and in favor of the amendment have presented two points. The first because we cannot have twenty-five or the requisite number of clerks, don't let us have any.

Second, that it would be a matter of economy to not have clerks. Now. Mr. President and gentlemen, in this matter it is designed to have enough clerks that those clerks, placed at the disposal of the different committees at different times will probably do all the work.

They certainly should be typewriters, and if possible stenographers. There is no reason why we should be penny wise and pound foolish in this matter. The members are paid much higher than the amount that would be paid to these clerks and the clerks would serve various committees.

When one committee is through with a clerk he can go to the next and so on, and by a friendly arrangement among the committees and the respective chairmen the clerks can be constantly employed.

Another thing, our friends yesterday were very anxious to get down to business. What is the matter with getting down to business to-day? If we have these committee clerks, if the various committees are appointed, if work is assigned to them we can commence at once and the expense of the Convention being something like five hundred dollars per day, don't let us wait to the closing hours before we commence to employ the help that we absolutely need.

The question on the amendment being put and a division called for, was lost by a vote of 44 ayes to 51 noes.

Mr. ROBERTS. Mr. President, I move an amendment to the resolution to this effect, that the question of an official stenographer be referred to a committee of five for the purpose of consideration.

Mr. WELLS. I second the motion.

Mr. CANNON. Mr. President, and gentlemen of the Convention, I think that that would not be necessary. The same object would be attained if the gentleman would wait until this is adopted, and in naming an official stenographer, if he so desire it could be referred to a committee of five. We certainly want an official stenographer.

Mr. ROBERTS. It seems to me that if the gentleman offering the resolution contemplates the reference of the matter of the official stenographer to a committee, if he contemplates that in his resolution, it seems to me, sir, that the proper method of proceeding would be to refer the whole question as to the desirability of having an official stenographer. I am of the opinion that that is a question in the minds of gentlemen in this Convention, and therefore, my amendment contemplated the consideration of the desirability of a stenographer at all, and not merely the suggestion offered by the gentleman who last spoke on the question as to who

the stenographer should be. My amendment involves the consideration of the desirability of the stenographer.

Mr. VARIAN. I would like to suggest to Mr. Cannon that the resolution does not provide for the compensation of the minute clerk and the three committee clerks and possibly some other officer whose compensation is not fixed by statute. What is your pleasure about that?

Mr. CANNON. Mr. President and gentlemen of the Convention, I would state that I thought that later on a committee would probably be appointed to consider this subject of compensation.

Most of the officers named, as Mr. Varian suggests, are provided for by statute. The others, I think that a committee appointed by the house would be better able to investigate the qualifications of those who were employed and the compensation they should receive than it would be to name it and then not know who would fill the office.

Mr. WELLS. Mr. President, I seconded the motion of Mr. Roberts to refer this question or to eliminate from this resolution of Mr. Cannon's, the question of employment of an official stenographer and typewriter. I think that the committee ought also to be clothed with power to consider the advisability of employing an official stenographer and also of selecting the stenographer. I am in favor of that.

Mr. BUTTON. Mr. President, I would like to know, is this an amendment to refer to the committee the question whether it is best to hire a stenographer or not?

The PRESIDENT. I presume that is it.

Mr. BUTTON. I want to know if that is the meaning of this amendment.

Mr. ROBERTS. That is it, sir.

The roll being called on the question of the amendment the vote was as follows:

AYES—48.

Barnes	Lewis
Boyer	Low, William
Brandley	Low, Peter
Buys	Low, J. P.
Call	Maeser
Coray	Maloney
Corfman	Maughan
Cunningham	McFarland
Emery	Murdock, Wasatch
Engberg	Nebeker
Evans, (Utah)	Partridge
Farr	Peters
Francis	Raleigh
Hammond	Roberts
Halliday	Robinson, Kane
Howard	Robison, Wayne
Hughes	Sharp
Hart	Snow
Heyborne	Spencer
Ivins	Thatcher
Johnson	Thoreson
Kerr	Thorne
Kimball, Salt Lake	Warrum
Lemmon	Wells.

NOES—50.

Adams	Kearns
Allen	Lambert
Anderson	Larsen, L.
Bowdle	Larsen, C. P.
Button	Lund
Cannon	Macklntosh
Chidester	Miller
Christianson	Morris
Clark	Moritz
Crane	Murdock, Beaver
Creer	Murdock, Summit
Cushing	Page
Driver	Peterson, Grand
Eichnor	Peterson, Sanpete
Eldredge	Ricks
Gibbs	Ryan
Goodwin	Shurtliff
Green	Squires
Haynes	Stover
Hill	Symons
Hyde	Thompson
James	Thurman
Jolley	Van Horne
Kelsel	Varian
Keith	Williams.

The amendment was declared lost.

Mr. SQUIRES. Mr. President, I move

to amend the resolution by providing that the three committee clerks shall be typewriters.

Seconded.

Mr. CANNON. Mr. President, with the consent of my second I will accept that amendment.

Mr. THATCHER. Will you gentlemen kindly insert the words, "lady typewriters?"

Mr. SQUIRES. I should be very glad Mr. President, when we come to select those clerks if there are lady candidates to give my vote for them.

The resolution was then adopted.

Mr. PIERCE. Mr. President, I move you that we proceed to elect our officers as this resolution contemplates.

Carried.

Mr. EICHNOR. Mr. President, for chief clerk of this Convention, I take great pleasure in nominating Mr. Parley P. Christensen, of Tooele County.

Mr. ANDERSON. I second that nomination.

Mr. THATCHER. Mr. President, there being no further nominations, I move that we suspend the rules and elect him by acclamation.

Carried unanimously.

The PRESIDENT. I would appoint Mr. Eichnor and Mr. Thurman to bring Mr. Parley P. Christensen forward to his seat.

Mr. PIERCE. Mr. President, wouldn't it save time to elect all that we are to elect and have them sworn in at the same time?

The PRESIDENT. Yes; we will let the temporary secretary then retain his seat.

Mr. VARIAN. Mr. President, I move that the candidates of gentlemen for the respective offices in the resolution be named at once, and one vote taken on the whole. We will save half or three-quarters of an hour by doing so. I make that motion in perfect good faith. I understand there are no opposing candidates at all.

Carried.

Mr. DRIVER. I present the name, Mr. President, of Mr. C. S. Rapp, of Weber County, as minute clerk.

Mr. SQUIRES. Mr. President, in order to put them in a way that we can get them all at once, I respectfully request that Mr. Cannon rise and read the names of those candidates that were elected. [Laughter.] If we are going to save time, Mr. President, that is the best way to save time.

Mr. ELDREDGE. I move, Mr. President, that we eliminate from that the committee clerks for the present.

Mr. VARIAN. Mr. President, that motion has already been passed upon.

The PRESIDENT. That motion has been passed upon.

Mr. ELDREDGE. I will then move Mr. President, to reconsider the motion; I voted in the affirmative.

Seconded.

Mr. VARIAN. If the gentleman voted in the affirmative, he is not entitled to reconsider, because that motion was lost on a negative vote.

Mr. SQUIRES. Mr. President, as a matter of fact there are no candidates before this Convention this morning for those three places, consequently the motion would not be necessary. [Laughter.]

The PRESIDENT. You are out of order, Mr. Eldredge.

Mr. ELDREDGE. Mr. President, I voted in favor of the adoption of that motion; that they all be presented at once; now, then, in order to get it before this house that they may eliminate the committee clerks I will move to reconsider the motion, which was on the adoption.

Seconded.

Mr. THURMAN. Mr. President, there are some of us here who for some reason did not have notice of a caucus yesterday afternoon. If some gentleman who was there will state what they did there we can probably adopt it as a whole. [Laughter.]

The PRESIDENT. As I understand

the situation at the present time, it is, Mr. Eldredge moved to reconsider the question of passing upon this at once, having voted in favor of it.

Mr. WILLIAMS. Mr. President, may I ask a question?

Mr. THATCHER. I move as an amendment to that we have a recess of forty-five minutes in order that we may prepare the names of those three.

Mr. WILLIAMS. Mr. President, I would like to ask Mr. Eldredge what his intention is, how he intends to provide for a stenographer and clerk. Does he intend following this up with another motion to name them separately? If he does I have no objection to it.

Mr. ELDREDGE. My object then was to follow this up with a motion so far as it pertains to all except the committee clerks and then handle that question subsequently.

Mr. VARIAN. Mr. President, as the mover of the original motion, I ask then to solve this question, the unanimous consent of the Convention to leaving out the committee clerks at this time. That will leave the resolution simply to elect all the others at once, leaving the committee clerks out.

Mr. BUTTON. Mr. President, I would like to have Mr. Varian, as mover of that motion, leave out the stenographer too.

Mr. VARIAN. No; that has been decided. I don't care to do that. I am in favor of a stenographer. I think it is useless to dwell on that subject.

Mr. BOWDLE. Mr. President, I move you to amend the resolution offered by the gentleman from Salt Lake by striking out the word "stenographer."

Mr. ROBERTS. I second the amendment.

Mr. VARIAN. Mr. President, I arise to a point of order. A motion was made by me and carried by the house to that effect that all of the officers named in the resolution adopted upon the motion of Mr. Cannon, should be elected at once.

Now in order to meet the objection of Mr. Eldredge, I suggest that by unanimous consent that motion stand with the exception that the three committee clerks should be eliminated. There is no motion that I made. It is simply by unanimous consent of this house that they will treat that resolution as adopted in that way.

Now, if the gentleman wants to amend that resolution of Mr. Cannon's, he must move a reconsideration of the vote by which it was adopted. He can not interject that motion upon a request of this kind, which depends upon the unanimous consent of the house as to how they will treat the resolution, which they have already adopted. It seems to me that if I am correct, my position is clear.

Mr. VAN HORNE. Mr. President, I move you to reconsider the resolution which was adopted, saying that we should elect all these officers at once.

Seconded.

Mr. CANNON. Mr. President, I arise for information. Is the resolution which you desire to reconsider the one offered by Mr. Varian?

Mr. VAN HORNE. Yes, sir.

Mr. ROBERTS. Mr. President, for information, I would like to know if the question before the house is upon the unanimous consent for the consideration of Mr. Varian's resolution to eliminate the three committee clerks?

Mr. VAN HORNE. Mr. President, I understood that was adopted. Mr. President, I will say for the benefit of the gentleman, the object of reconsidering this is that while we voted to have a stenographer—the employment of a stenographer is the greatest single expense that I know of connected with this Convention; it takes the place of two or three or perhaps four of the best offices in the gift of this Convention, in the line of expense—perhaps some arrangement can be made, if time is given, by which the salary of the stenographer can be fixed so as to

save this Convention an expense that is greater than they might think they were able to bear; it is for that purpose and the giving time to consider the question to who the stenographer shall be that I ask that that resolution be reconsidered.

MR. ROBERTS. Is then the question, Mr. President, upon the unanimous consent to eliminate the three committee clerks?

The PRESIDENT. Yes, sir; as I understand it.

Mr. RICKS. Mr. President, as I understand the motion of Mr. Van Horne, it is simply to reconsider whether we shall vote upon all these officers at once or vote upon them separately; is that the question?

Mr. VAN HORNE. It is.

Mr. THURMAN. Mr. President, upon the motion of Mr. Van Horne I wish to make this remark: The motion to elect these men or parties in a brood instead of singly was made, as I take it, in the interest of facilitating business. We have spent long enough time here to have selected them one at a time, if we had gone on in the regular order. I favor now that we get back to the point where we can do business in the right way—adopt this resolution and elect these men one at a time.

Mr. VARIAN. Mr. President, in view of the fact that a motion was made to reconsider I will withdraw mine.

The motion of Mr. Van Horne was then carried unanimously.

Mr. RICKS. Mr. President, I move that we proceed to elect the remaining officers one at a time.

SEVERAL DELEGATES. It is not necessary.

Mr. DRIVER. I arise to put in nomination Charles S. Rapp, of Weber County, for minute clerk.

Nomination seconded by a number of delegates.

Mr. RALIEGH. Mr. President, I beg leave to introduce (or recommend the name of Mr. Milando Pratt, as engrossing and enrolling clerk.

Mr. VAN HORNE. Mr. President, I arise to the point of order that that is not the order of business.

The point of order was sustained.

Mr. DRIVER. Mr. President, I move that the rules be suspended and that we elect Mr. Charles S. Rapp by acclamation.

Carried.

Mr. Charles S. Rapp was then elected minute clerk by acclamation.

Mr. LUND. Mr. President, and gentlemen of the Convention, I nominate Mr. R. Clawson, of Sanpete, for the position of sergeant-at-arms.

Mr. BUTTON. I move that the rules be suspended and Mr. Clawson elected by acclamation.

Carried.

Mr. R. Clawson was then elected sergeant-at-arms, by acclamation.

Mr. LAMBERT. Mr. President, I take pleasure in nominating Mr. Bruce Johnson for the position of watchman and janitor.

Mr. PIERCE. I move to suspend the rules and elect by acclamation, Mr. President.

Mr. JAMES. Mr. President, I move that the rules be suspended in all the nominations, not suspended in each case.

Mr. VAN HORNE. Mr. President, I second the motion to suspend the rules in this case.

Mr. IVINS. Mr. President, if the president will permit me to suggest, I regard it as unnecessary to put this question, whether the rules will be suspended unless there is some objection. If there is a motion to suspend the rules, the chair might say, unless there is an objection, the rules are suspended and go right on and elect these officers.

Under suspension of the rules Mr. Bruce Johnson was elected watchman and janitor by acclamation.

Mr. KEARNS. Mr. President, I want

to suggest the name of Mr. Thomas Watson, of Wasatch, for messenger.

Under suspension of the rules, Mr. Thomas Watson was elected messenger by acclamation.

Mr. RALEIGH. Mr. President, I desire to renew my nomination of Mr. Milando Pratt for engrossing and enrolling clerk; I have known him all my life: he has had a great amount of experience, has held such a position in legislatures and other places in this Territory, and I am satisfied that this body of men will find him capable.

Mr. ELDREDGE. Mr. President, I arise to place in nomination for that position the name of Joseph A. Smith, of Cache County.

Mr. ANDERSON. Mr. President, I second that nomination.

Mr. KIESEL. Mr. President, I desire to know for information which of these is on the slate.

Mr. EICHNOR. Smith.

The PRESIDENT. I am not prepared myself to say.

Mr. NEBEKER. Mr. President, I arise in support of the nomination of Mr. Pratt. As the Convention has proceeded as a sort of a ratification meeting, at this point I shall try and break the monotony by voting for Mr. Pratt.

Mr. FARR. Mr. President, I haven't the pleasure of knowing about this slate business. I have nothing to say about that, but Mr. Pratt I am acquainted with, he has been a good faithful servant in days of the past and I know too he is needy of a job and he is worthy and competent and I second the motion.

Mr. ANDERSON. Mr. President, I can say in behalf of Joseph A. Smith, that he is well qualified and a good, competent man and will fill the place with honor and ability if elected.

Mr. CHRISTIANSON. I move you, Mr. President, the nominations close.

Seconded.

Mr. KIESEL. I place in nomination, Mr. President, Mr. Newton Farr from Ogden, Weber County. He has all the qualifications that have been named for the other gentlemen, besides that he is a good Democrat.

Mr. LOW (Cache). I have this to say, Mr. President, in favor of the nominee from Cache County; he is the slated member for this position, he is the gentleman from Cache and should be supported by this Convention.

Mr. THURMAN. Mr. President, I regret to say that we have come to the dividing roads, and I will have to part company with the caucus on this question. I have stood by the caucus faithfully, manfully I trust, although they omitted by an oversight yesterday to notify me that the caucus was going to meet.

The PRESIDENT. They did the same with me.

Mr. THURMAN. But I shall support the nomination presented by the gentleman from Ogden, Mr. Kiesel, of Mr. Farr.

Mr. CHRISTIANSON. Mr. President, I move that the nominations close.

Mr. CORAY. Mr. President, I understand we suspended the rules here to apply to each nomination.

The PRESIDENT. Until objection was made, Mr. Coray.

Mr. MALONEY. Mr. President, the proper thing to do is to call the roll, when there are three candidates.

The PRESIDENT. The question is, shall the nominations close?

Carried.

The PRESIDENT. The nominees before this Convention are Milando Pratt, Joseph A. Smith and Newton Farr.

Mr. CRANE. Mr. President, I move that as the roll is called each man names the candidate he desires for this position.

Mr. PIERCE. That is correct.

The following was the vote on the roll call:

Mr. ADAMS. Smith.

Mr. ALLEN. Smith.

Mr. ANDERSON. Smith.
Mr. BARNES. Pratt.
Mr. BOWDLE. Smith.
Mr. BUTTON. Smith.
Mr. BUYS. Pratt.
Mr. CALL. Pratt.
Mr. CANNON. Smith.
Mr. CHIDESTER. Smith.
Mr. CHRISTIANSON. Smith.
Mr. CLARK. Smith.
Mr. CORAY. Smith.
Mr. CORFMAN. Pratt.
Mr. CRANE. Smith.
Mr. CREER. Pratt.
Mr. CUNNINGHAM. Pratt.
Mr. CUSHING. Smith.
Mr. DRIVER. Smith.
Mr. EICHNOR. Smith.
Mr. ELDREDGE. Smith.
Mr. EMERY. Smith.
Mr. ENGBERG. Pratt.
Mr. EVANS (Utah). Pratt.
Mr. EVANS (Weber). Farr.
Mr. FARR. Pratt.
Mr. FRANCIS. Pratt.
Mr. GIBBS. Smith.

Mr. GOODWIN. Mr. President, may I be permitted to explain my vote?

The PRESIDENT. Yes, sir.

Mr. GOODWIN. It was represented to a few of us that Cache County had set its heart on Mr. Smith; that if he were not nominated for this position it would go Democratic forever. As missionary work I vote for Mr. Smith. [Laughter.]

Mr. GREEN. Smith.
Mr. HAMMOND. Farr.
Mr. HART. Pratt.
Mr. HAYNES. Smith.
Mr. HALLIDAY. Pratt.
Mr. HEYBORNE. Smith.
Mr. HILL. Smith.
Mr. HOWARD. Pratt.
Mr. HUGHES. Farr.
Mr. HYDE. Smith.
Mr. IVINS. Pratt.
Mr. JAMES. Smith.
Mr. JOHNSON. Pratt.
Mr. JOLLEY. Smith.

Mr. KEISEL. Mr. President, I would like to explain my vote; I vote for Mr. Farr for the same reason that Mr. Goodwin voted for the other gentleman—that Cache County may remain Democratic.

Mr. KEITH. Smith.
Mr. KEARNS. Smith.
Mr. KERR. Pratt.

Mr. KIMBALL (Salt Lake). Mr. President, while these other gentlemen are voting on the candidates, I would like the privilege to say and I also ask pardon of the gentlemen for breaking the slate, but at the same time, Mr. Pratt——

Mr. ELDREDGE. Mr. President, let me ask the gentleman, if he knows whether it is broken or not.

Mr. KIMBALL (Salt Lake). I will take chances on that. Mr. Pratt is a good Democrat but while we do not ask any favors, at the same time, I will ask the honorable gentlemen who vote after me to sustain this gentleman.

The SECRETARY. How do you vote?

Mr. KIMBALL (Salt Lake). Pratt.
Mr. LARSEN, L. Smith.
Mr. LARSEN, C. P. Smith.
Mr. LEMMON. Pratt.
Mr. LEWIS. Farr.
Mr. LOW, WILLIAM. Pratt.
Mr. LOW, PETER. Smith.
Mr. LOW, J. P. Pratt.
Mr. LUND. Smith.
Mr. MAESER. Smith.
Mr. MACKINTOSH. Smith.
Mr. MALONEY. Farr.
Mr. MAUGHAN. Farr.
Mr. McFARLAND. Smith.
Mr. MILLER. Smith.
Mr. MORRIS. Smith.
Mr. MORITZ. Smith.
Mr. MURDOCK (Wasatch). Pratt.
Mr. MURDOCK (Summit). Smith.

Mr. NEBEKER. Mr. President, the reason that I vote for Mr. Pratt is not because he is a Democrat, but because I know Mr. Pratt; and am not acquainted with Mr. Smith, and I know

if Mr. Pratt were elected to this position he would be a most efficient officer.

Mr. PAGE. Smith.

Mr. PARTRIDGE. Pratt.

Mr. PETERS. Pratt.

Mr. PETERSON (Grand). Smith.

Mr. PETERSON (Sanpete). Smith.

Mr. PIERCE. Smith.

Mr. RALEIGH. Mr. President, I vote for Mr. Pratt; I didn't know his politics until they were announced by Mr. Kimball, but I vote for him because he is a man.

Mr. ROBERTS. Farr.

Mr. ROBINSON (Kane). Smith.

Mr. ROBISON (Wayne). Pratt.

Mr. RYAN. Smith.

Mr. SHARP. Pratt.

Mr. SHURTLIFF. Smith.

Mr. SNOW. Pratt.

Mr. SPENCER. Farr.

Mr. SQUIRES. Smith.

Mr. STOVER. Smith.

Mr. SYMONS. Smith.

Mr. THATCHER. Mr. President, I think I ought to give some reasons why I give my vote for the candidate of my choice.

In the first place, I am in perfect harmony with the observation of the president in regard to non-partisanship, and think in a body of this kind we ought to be able to rise above it. I think we have set an excellent example in that direction this morning, and as the honorable gentleman on the left stated he did a little missionary work, I want to give him a cue and it is this, that the Democrats of the north have carried their point, because they have been broad and generous to their political opponents, and as another evidence of that I must cast my vote for Mr. Smith.

Mr. THOMPSON. Smith.

Mr. THORESON. Pratt.

Mr. THORNE. Pratt.

MR. THURMAN. Farr.

Mr. VAN HORNE. Smith.

Mr. VARIAN. Smith.

Mr. WARRUM. Farr.

Mr. WILLIAMS. Smith.

Mr. MALONEY. Mr. President, I wish to change my vote from Mr. Farr to Mr. Pratt; and I will further say that I am authorized to withdraw the name of Mr. Newton Farr in favor of Mr. Pratt.

Mr KIESEL. Mr. President, I would like to change my vote to Mr. Pratt.

The PRESIDENT. If there are no objections the name will be withdrawn.

Mr. THURMAN. Mr. President, if I may be——

Mr. EVANS (Weber). Mr. President, I want to change my vote to Mr. Pratt.

Mr. THURMAN. Same for me, Mr. President.

Mr. ROBERTS. Mr. President, I also wish to change my vote from Mr. Farr to Mr. Pratt.

Mr. VARIAN. As Mr. Farr has withdrawn his name, I move that all votes cast for him be given to Mr. Pratt.

Mr. EVANS (Weber.) I second the motion, that all the votes cast for Mr. Farr be given to Mr. Pratt.

Mr. CHRISTIANSON. Mr. President, I arise to ask a privilege of this body, and that is to be absent for sometime, having received word that one of my brothers died this morning.

The PRESIDENT. If there is no objection the gentleman will be granted his leave of absence.

Mr. BOYER. Mr. President, in my sympathy with the man who is bereft of a dear friend, in behalf of myself and others, I would like to know his name and county.

Mr. CHRISTIANSON. My name is Parley Christianson, of Mayfield, Sanpete County.

The SECRETARY. The vote is as follows before any changes were made.

Mr. Pratt, 28.

Mr. Smith, 55.

Mr. Farr, 10.

If the ten votes go to Mr. Pratt it makes him 38 and Mr. Smith 55.

The PRESIDENT. Mr. Smith is elected.

Mr. CRANE. Mr. President, I move that the rules be suspended and that

this Convention extend to Mr. Christianson of Mayfield, Sanpete County, their sincere condolence in his sad bereavement.

Carried.

Mr. KERR. I move we adjourn until 3 o'clock.

Mr. EICHNOR. No, no, let us finish.

Mr. JOLLEY. I suppose it is understood that Mr. Christianson is excused, is it not?

The PRESIDENT. Yes, sir.

Mr. EVANS (Weber). Has the chairman declared the vote?

The CHAIRMAN. There is a motion for adjournment, has there been a second to it?

Mr. KERR. If the vote has not been announced by the chair, I will withdraw the motion.

Mr. EVANS (Weber). A motion to adjourn is not in order pending an election. Mr. President, I now move that the election of Mr. Smith be made unanimous.

Seconded.

Lost.

The PRESIDENT. The next order of business is the election of one official stenographer and typewriter.

Mr. ROBERTS. Mr. President, it occurs to me that the nomination of official stenographer for this Convention is a matter of such importance and involves, as admitted by the gentleman on my right here, some time ago, such a question of expense, that I shall move you that the question of nominations for an official stenographer be referred to a committee of five appointed by the chair.

Seconded.

Mr. ROBERTS. I would have it understood, Mr. President, that that includes the consideration of compensation for the stenographer.

Mr. BOWDLE. Does that contemplate the employment of the stenographer by this committee of five?

Mr. ROBERTS. No, sir.

The PRESIDENT. Just a report upon it—the compensation and all things attendant upon it.

Mr. BOWDLE. And make a report to this body?

The PRESIDENT. Yes, sir.

Mr. SQUIRES. I understand that this Convention has once voted against the motion made by Mr. Roberts when it came in the form of an amendment to the other motion and I hope that the same action will prevail at this time.

Mr. ROBERTS. I wish to inform the gentleman that the motion that was lost before was upon the consideration of having a stenographer at all. The motion now presented to the house is as to nominations and compensation for that position. This was not included in the previous question that was decided by this house.

Mr. SQUIRES. As I understand the order of business under which we are going, we are not considering compensation at this point, we are considering election and I am not prepared to vote for this resolution at this time.

Mr. HAYNES. I move, Mr. President, to pass the question of nomination of a stenographer and typewriter for the present, as a substitute for the motion of Mr. Roberts.

The PRESIDENT. There is no second to that.

Mr. VARIAN. I hope this motion of Mr. Roberts will not prevail; the question of the compensation as was suggested in answer to my inquiry in relation to these offices can be settled hereafter.

This Convention has now determined that it will have a stenographer. Let us name him and the Convention can fix the compensation afterwards. If there is any thought underlying in the Convention that we do not need a stenographer, it seems to me that the sooner we disabuse our minds of that impression the better it will be. We must have a stenographer. It is just as important to preserve the deliberations of this Convention almost as it is to have

a presiding officer. In this age of the world and with our manner and habits of doing business, and more particularly legislative business, it is impossible to get along without a stenographer. There will always be differences of opinion and of recollection as to how questions stand, as to what matters were disposed of, perhaps after days have elapsed, or at least a day, or even hours have elapsed. As a matter of convenience, as a matter of absolute necessity, we must have a stenographer.

Now, what is the use of waiting? I hope that this motion will not prevail, and that we will name the stenographer and leave the question of compensation to be determined hereafter.

Mr. THURMAN. A while ago when the question was before the Convention, whether or not this matter would be referred to a committee, I favored not referring to a committee the question as to whether we would have a stenographer or not. I favor a stenographer and was not willing to be bound by a committee's action upon that proposition. The motion failed to refer the question of having a stenographer at all, and it failed largely—I am satisfied that the failure was due to the suggestion made by Mr. Cannon from Salt Lake, that he favored the referring of the question as to who the stenographer should be to a committee. I know that I voted in the honest belief that the question of who the stenographer should be would be submitted to a committee of this house appointed by the chair, and I had the assurance of gentlemen on my right who are familiar with the proceedings of the caucus which took place in my absence that there was no stenographer slated by the caucus at all. That that was left open. Now I think it is a very proper subject to go to a committee and I state one or two reasons why. Everything else being equal the person who will do the work for the least money, who is equally efficient, ought to have the work to do. We do not know—gentlemen who happened to be at the caucus may know who will do this work as well as anybody else for the least money, but I am not ready to vote upon that question. As has been suggested here, this is an officer that probably will cost four or five times as much as the other officers that we have been choosing here by our vote. It is a matter, therefore, of greatest importance. Let us refer it to a committee appointed by the chair who will consider the qualifications of the stenographers, who will put their qualifications to the test, and consider something in relation to the compensation to be paid them. Let that committee report to this house what they find the facts to be and then when they have reported to the house, the house can act with intelligence. Therefore, I favor the motion. I think we are entitled to it. I think that many of us who voted in good faith in the belief that a stenographer would not be named by this meeting to-day ought now to have the opportunity to have that matter referred.

Mr. JAMES. Mr. President, I agree with what Mr. Varian has said, every word. We have proceeded now for the third day with our business with volunteer work, and, as Mr. Varian has said to you, you might as well try to proceed with this Convention without a chairman as without a stenographer.

Mr. THURMAN. We all agree to that.

Mr. JAMES. Mr. President, and to attempt to go ahead without a competent stenographer would be a very bad feature of it, and we must or should in justice to our own interests select a stenographer without delay, and therefore I am in favor of settling this question now. Bring it before this Convention and let it be settled, so that we will go on with our work.

Mr. CANNON. Mr. President and gentlemen of the Convention, I think

that in all fairness, it would be well to have a committee consider this matter. I believe that they can do so and report to us and that we will be better satisfied with their report than if we were to receive nominations without considering the qualifications of those who are applicants. And if a committee of competent men is appointed, I think that in the end we will all be better satisfied with it. For this reason I favor the motion of Mr. Roberts.

Mr. IVINS. Mr. President, I move the previous question.

The previous question was ordered.

The motion of Mr. Roberts was then carried.

Mr. MALONEY. Mr. President, the committee on site and furniture is ready to report.

Mr. VARIAN. We are in the midst of another order of business, Mr. President.

The PRESIDENT. I will appoint Messrs. Wells, Roberts, Eldredge, James, and Evans, of Weber, as the committee on stenographer.

Mr. EVANS (Weber). Mr. President, I will ask to be excused from that on account of business I have out of the Convention. Otherwise I should be pleased to act.

Mr. GOODWIN. Mr. President, Mr. Evans is not in the house, he was excused this morning.

The PRESIDENT. Thank you; I will appoint in his place Mr. Thurman.

Mr. SYMONS. Mr. President, I arise to place in nomination for page, Mr. John H. Thorne.

Mr. SQUIRES. Mr. President, I nominate L. C. Camp, of Salt Lake, as page, and I move that the rules be suspended and that these two candidates be elected by acclamation.

Mr. KIESEL. Mr. President, I nominate Charles R. Pratt, of Salt Lake City.

Mr. SQUIRES. Mr. President, I withdraw my motion.

Mr. BOWDLE. Mr. President, I move that the nominations do now close.

Carried.

Mr. CANNON. Mr. President, I would ask to be excused by consent of the house for a couple of hours. I have an appointment.

Excused.

Mr. RICKS. Mr. President, I move that we proceed to vote upon these candidates by a rising vote, the two receiving the largest number of votes to be declared elected.

Mr. VAN HORNE. Mr. President, I move that we proceed to vote one at a time on these pages.

Mr. RICKS. I will withdraw my motion.

Mr. JOLLEY. Mr. President, I second the motion of Mr. Van Horne.

Carried.

On a rising vote, Messrs. Thorne and Camp were declared as pages by a vote of 70 and 61 respectively.

Mr. SQUIRES. Mr. President, I move that the officers-elect be brought to the bar of the house and sworn.

Mr. EICHNOR. And take their seats.

Carried.

Minute clerk, Rapp, sergeant-at-arms, Clawson, watchman, Johnson, messenger, Watson, and pages, Thorne and Camp, were thereupon sworn in by the president.

Mr. CRANE. Mr. President, the permanent organization being perfected, I desire to offer the following resolution:

Resolved by the Constitutional Convention of the Territory of Utah, now assembled that we do hereby adopt the Constitution of the United States.

Mr. EICHNOR. Mr. President, I move as a substitute the following:

Whereas, the organization of the Constitutional Convention, duly assembled for the purpose of framing a Constitution for the proposed State of Utah is now perfected; therefore, be it

Resolved, that we, the delegates of the Convention, for and on behalf of the people of said proposed State of Utah, do hereby declare that we hereby adopt the Constitution of the United States.

Mr. CRANE. I accept the amend ment, Mr. President.

Mr. MALONEY. Mr. President, I move to amend by saying: "And all the amendments of the United States."

Mr. EICHNOR. It is not necessary.

The PRESIDENT. That covers the ground.

The resolution of Mr. Eichnor was unanimously adopted by a rising vote. [Applause.]

Mr. RALEIGH. Mr. President, I move we adjourn until half past three.

Mr. GOODWIN. Mr. President, if the gentleman will withhold for a moment, I wish to explain that there was a committee sent out yesterday to investigate and suggest upon site and furniture for this house. If they might report then we might adjourn until to-morrow morning.

Mr. PIERCE. Mr. President, that committee is ready to report.

Mr. GOODWIN. There is one little matter; we haven't fixed about the chaplain.

Mr. VAN HORNE. Mr. President, I move you that the president of this Convention be authorized by the Convention to invite in daily some reverend gentleman to act as our chaplain.

Mr. KEARNS. Mr. President, I second the motion of Mr. Van Horne.

Mr. VARIAN. Mr. President, perhaps the gentleman will take a suggestion and add, "of the different denominations."

Mr. VAN HORNE. That was the purpose of the resolution, but I think we can safely leave that to our presiding officer.

Carried.

The committee on standing committees then presented the following report, which was read by the secretary:

March 6, 1895.

Mr. PRESIDENT:

Your special committee on standing committees recommend that this Convention have the following standing committees:

1. Rules and methods of procedure, consisting of five, with president of the Convention as chairman.
2. Federal relation and compact, seven members.
3. Preamble and declaration of rights, eleven members.
4. Legislative, fifteen members.
5. Judiciary, fifteen members.
6. Executive, fifteen members.
7. Election and rights of suffrage, fifteen members.
8. Apportionment and boundaries, one from each county.
9. Education and school lands, eleven members.
10. Public buildings and state institutions, not educational, eleven members.
11. Water rights, irrigation and agriculture, fifteen members.
12. Municipal corporations, nine members.
13. Corporations other than municipal, fifteen members.
14. Public lands, seven members.
15. Revenue, taxation, and public debts, fifteen members.
16. Salaries of public officers, nine members.
17. Mines and mining, fifteen members.
18. Labor and arbitration, seven members.
19. Printing, three members.
20. Militia, five members.
21. Manufacture and commerce, seven members.
22. Ordinances, seven members.
23. Schedule, future amendments, and miscellaneous, nine members.
24. Accounts and expenses, three members.
25. Engrossing and enrollment, five members.
26. Compilation and arrangements, five members.

Respectfully submitted,
PIERCE,
Chairman.

MINORITY REPORT.

March 6, 1895.

The undersigned members recommend that the committee on apportionment and boundaries consist of fifteen members instead of one from each county.

PIERCE, Salt Lake.
B. H. ROBERTS.
J. N. PETERS.
AQUILA NEBEKER.
W. J. KERR.
W. E. ROBISON.
J. F. CHIDESTER.
D. B. STOVER.

Mr. VARIAN. Mr. President, I move the adoption of the report of the com-

mittee as modified by minority report.

Mr. VAN HORNE. Mr. President, I second the motion.

Mr. EICHNOR. Mr. President, I ask that they explain when they state a committee on compilation and arrangements, whether they mean a committee on revision.

Mr. VARIAN. Mr. President, I suggest there is a question before the house; I don't care to have this interjected in this manner.

By request, the secretary re-read the minority report.

Mr. VARIAN. Now, Mr. President, the majority report offers a committee of twenty-six on apportionment and boundaries. A committee of twenty-six would be unnecessarily large and unwieldy. Fifteen is certainly large enough. if we expect to have executive work done and for that reason, it seems to me that the suggestion of the minority of the committee is a very proper one. And there is another reason, the counties differ in population, and material wealth.

The proposition of the majority would allow my county, representing fifty or sixty odd thousand people with over a third if not half of the material wealth of the Territory, the same voice in the districting as the small counties with a few hundred people.

It is not fair on the face of it. This thing ought to be taken into consideration in a matter of so much importance as that. It goes down to the very right of representation and next to that of self government.

It seems to me that the house can see that in a moment. It is not fair to take a great county like Salt Lake, (let others speak for their own counties, I speak for mine), and put her upon an equality with San Juan or Sevier or any of those counties with a comparatively, and as to her, insignificant population, and I do not think the gentlemen ought to ask it.

Mr. JAMES. Mr. President, I am in favor of the minority report. As Mr Varian has well said, I think it should be considered.

Mr. KEARNS. Mr. President, I do not agree with the gentleman from Salt Lake who has spoken on the question. As Mr. Varian has said he is speaking for Salt Lake; I am speaking for the Territory at large. I think my county should have a voice in this matter and I think it is fair to give every county in this Territory a voice on it. I think this question should be discussed fully in the committee room and not here and that Salt Lake will get as fair a deal as anybody. I am in favor of each county being represented on that committee.

Mr. SNOW. Mr. President, I can not understand the position of the members in the committee who voted for the majority report, turning around and signing the minority report.

I was not the mover of the question or the motion that finally prevailed in the committee, but I seconded it, and I have waited for the mover of that motion to support his motion, but to my surprise I find that he has signed the minority report.

Mr. VARIAN. He was the chairman of the committee, he had to sign the report.

Mr. SNOW. Mr. President, usually the chairman of the committee signs the majority report.

Mr. PIERCE. Mr. President, the chairman signed the minority report for himself.

Mr. SNOW. Mr. President, I wish to say, that I do not understand that committees are appointed for taking advantage in favor of their constituents, and I do not think that they would necessarily do so, in this committee on apportionment and boundaries.

I think it is only fair that if this Constitutional Convention contemplates an apportionment and representation in senatorial and representative districts, it is nothing more than right that each

county should be represented in that committee. This Convention may delegate to the Legislature this apportionment or they may not.

They may incorporate in the Constitution the apportionment or representation itself; if so, I think it eminently proper that every county be represented on that committee.

I do not think that twenty-six is much more unwieldy than fifteen, and I do not think the cow counties will endeavor to take any advantage of Salt Lake or any other of these larger counties, because they might outvote them and because they have a large constituency to represent, but I think when you come to apportion and create representative and senatorial districts that you ought at least to have some member from the county that can tell you where the trails are.

You are not supposed in Salt Lake to know the needs or the necessities or the lines in Washington County or Sevier County, and all that we would like to be upon that committee for is by way of suggestion, not to be unfair, and I respectfully represent to you that you have it in your power in this Convention, if we are unfair there to you, to outvote us. I think it nothing more than fair to allow this committee to be composed of at least one member from each county. [Applause.]

Mr. CREER. Mr. President, I am in favor of the majority report. But I am opposed, Mr. President, to starting out at the threshold of this Convention upon a basis of sectionalism. I take it that every member here has just as much the welfare of the people of this Territory—of this commonwealth at heart, as a whole, as Mr. Varian would indicate that they would not have.

Mr. VARIAN. I would like to ask the gentleman a question, Mr. President.

Mr. CREER. If the point made by the gentleman from Salt Lake be true, it would necessarily have to follow in every committee, because the amount of population, the amount of wealth, would be the same, and the same reason would follow that the greater representation from Salt Lake would have to be on each of those committees.

Now, this is an important question and it seems to me it would be proper and right to sustain and adopt the majority report in that respect, because those members are thoroughly acquainted with the Territory and with the geography and boundary lines and all this; and it seems to me they would be the proper ones to constitute that kind of a committee.

The Convention would then have the power to rectify it, if it is unfair, but I am opposed to starting out on sectional basis.

Mr. CHIDESTER. Mr. President, in the committee room, I voted for the majority report, but in considering this matter, I found that the committee was composed of one from each county. Therefore we outvoted these members who represented a large number of citizens.

In order that I might not appear unfair, I signed the minority report. Now, I do not understand that this Convention will change any county lines or anything of that kind and I believe that justice would be done in the matter.

That is why I favor the minority report in the last instance, and I am willing not to support that in order that we may give to them who represent more than we do a fair chance to be represented.

Mr. IVINS. Mr. President, I move an amendment to Mr. Varian's motion, to the effect that the report of the majority be accepted and adopted.

Seconded.

Mr. MURDOCK (Beaver). Mr. President, I object to the outside counties being called cow counties.

A division being called for on the

motion of Mr. Ivins to amend, it was carried by the following vote:

Ayes, 63. Noes, 23.

On motion the Convention then adjourned until to-morrow afternoon at 2 o'clock.

FOURTH DAY.

THURSDAY, 2 p. m., March 7, 1895.

The Convention was called to order by President Smith.

The roll was called.

The PRESIDENT. I will say that Mr. Thatcher asked to be excused on account of sickness in his family and was sent for.

I will state to the Convention that Bishop Scanlan was invited to be here in attendance and offer prayer but I have just within a moment received his letter of declination on account of sickness and I would ask Honorable Francis A. Hammond of San Juan County to perform that duty.

Mr. Hammond thereupon offered prayer in compliance with the request.

Mr. HOWARD. Mr. Robertson of Emery County is present and has not been sworn in yet, I would suggest that he be sworn in.

Mr. MURDOCK (Beaver). Mr. President, Mr. Preston also is present and has not been sworn in. I would suggest that he be sworn in.

The oath was then administered to Messrs. Preston and Robertson by the President.

The minutes of the session of March 5, 1895, were then read.

SECRETARY. Mr. President, the following communication has been handed to me:

To the President and Members of the Constitutional Convention:

GENTLEMEN:

We, your committee on site, most respectfully report that we have carefully examined different locations and are unable to find anything more suitable than the quarters we now occupy. We, therefore, recommend that we accept the generous proposition of the county court of Salt Lake County, which is attached to and made a part of this report. We will state that the county court has kindly agreed to drape the alcove behind the speaker's chair to shut off the strong light. We therefore recommend that we engage the services of the chief janitor of the county's part of this building as the janitor of this Convention. All of which is respectfully submitted.

JACOB MORITZ,
Chairman.

The following is the attached communication:

The following is an extract from the minutes of the county court, held on February 28, 1895:

Resolved, that the use of the civil court room in the joint county and city building and such other rooms as may be necessary be tendered the members of the Convention to be held in Salt Lake City, commencing March 4, 1895, for the purpose of framing a Constitution for the State of Utah, provided that the county be at no expense of making any changes that may be necessary in said room, and that no charge be made for the use thereof, unless there be funds remaining in the hands of the territorial secretary, after all other expenses of said Convention are paid, of the money apportioned by Congress for the expenses of said Convention, and that the members of the county court and the county attorney associated be appointed a committee to wait upon the secretary of the Territory for the purpose of making such arrangements for the use of such rooms by said Convention as may be necessary. The resolution was seconded and adopted, all voting aye.

Mr. GOODWIN. Mr. Chairman, I move that action on that report be suspended for one day, and that the committee be asked to continue their investigations and my reason is this: There are two or three gentlemen in this assembly that are old and feeble. It is hard to come up these stairs. I am not referring particularly to myself, but to some of the older ones. Again there is no room here for spectators, and there is wonderful desire on the part of the people to listen to and watch these proceedings and the reason for my motion is that I believe the Christensen hall—

that is the old Continental market, could be obtained cheaply. It is a fine building. It will give us ample room and give ample room for five hundred or six hundred or perhaps a thousand spectators. It is on the ground floor. There is no special haste about this. We won't be any more uncomfortable for one more day than we have been and hence I make the motion that the action on this report be suspended for one day and that the committee be asked to see if the Christensen hall cannot be obtained and if it can, if it will not answer the purpose better. I speak of that particularly.

Mr. RALEIGH. I second the motion.

The PRESIDENT. Has there been a second to that motion?

Mr. RICKS. Second the motion.

Mr. GOODWIN. I hate to make my speech for fear no one will second it. There will not be a great many social entertainments in that house and we might just as well do penance there as to do it in this hall. I speak particularly on account of the outside public that they may have a place to see and hear.

Mr. JAMES. Mr. President, I arise to second that motion. I have a further reason; I have been called upon by a number of Salt Lake citizens, notifying me that they are going to send a petition to this body, asking them to secure some suitable place, where they may have some little opportunity at least to come and hear the debates of this assembly, and I have had it mentioned to me that there is a possibility of obtaining quarters not very far distant from this room; that I don't care to say anything about, as it comes to me privately; and I wish that that committee should continue their work, and I will second the motion to postpone action until to-morrow, with the notice that I may then move, if they have not settled upon some place in that time, to postpone it until still another day.

Mr. NEBEKER. Mr. President, as one of that committee, I would like more specific instruction on the part of this Convention, whether it is desirable by the Convention to secure quarters for spectators, or whether it would be more desirable to secure quarters with a view of having convenient committee rooms. Now, the committee has, in the short time that they have been given or that we have taken to report, considered that the committee rooms would be a subject that ought to receive consideration on our part. We have felt that by having convenient committee rooms, the work of the Convention could be expedited—if the rooms were convenient to the assembly room. So I would like the Convention to give specific instructions as to whether it is desirable to look more to the committee rooms, or whether it is more desirable to accommodate the spectators.

Mr. HOWARD. Mr. President, I understood the resolution of the County Court was that the civil court room of this building be tendered for the use of this Convention. Perhaps that room would be better adapted to the use of this Convention than this, without they meant that the wording over these doors should be typical of the crowd that is gathered here.

Mr. WHITNEY. Mr. President, I would like to ask if the Continental Market, which has been suggested as a proper place for meeting, is supplied with desks and seats? I think it is not, and to use that place would necessitate the fitting of it up, and it would be a somewhat heavy expense, which, I suppose, would fall upon the Convention and not upon the citizens who desire to attend in the capacity of spectators.

Mr. CANNON. Mr. President, and gentlemen of the Convention, I would like to ask if the committee desires more time. If they do, it will make a difference as to how I shall vote.

Mr. NEBEKER. Well, Mr. President, I can say for myself, that unless there is a sense of this Convention, I need not

have more time to report on this subject, because at present I don't know whether it is more desirable for the members to have the committee rooms in the same building or whether to have more room for spectators and more convenience for the members themselves in the assembly room.

Mr. JAMES. Mr. Chairman, I would like to say to the gentleman this: Simply that we would like to have a report and investigation of the premises spoken of as to the desirability of the place for meeting. I think you will find that there are rooms there sufficient for committee purposes—as much so probably as you have here. It may not be in the judgment of this Convention a proper place at all, or even of the committee, but simply postpone this until to-morrow or some other day and in the meantime look a little further and let us know what you think about it.

Mr. NEBEKER. I have no objection whatever to that.

Mr. ANDERSON (Beaver). Mr. President, I would like to ask for information; does the report just made by the committee make any provision in regard to desks? It was my understanding that this committee was on furniture and desks as well as site.

Mr. MORITZ. Being the chairman of the committee, Mr. President, I would state that there is another report to be read regarding the desks.

The motion of Mr. Goodwin was unanimously carried.

The secretary then read the remainder of the report of the committee as follows:

To the President and Members of the Constitutional Convention:

GENTLEMEN:

Your committee on furniture most respectfully beg to report that we are unable to find sufficient suitable desks for the use of the Convention, but we can obtain thirty-six from the secretary of the Territory gratis, and also thirty more for a reasonable rental. The balance, forty-one, we can get made for the sum of six dollars each and ready for us by Tuesday, March 12. Respectfully submitted.

JACOB MORITZ,
Chairman.

Mr. PIERCE. I move to refer this also back to the same committee to act in conjunction with the other report.

The motion being seconded was unanimously carried.

The PRESIDENT. I desire to state to the Convention that it will be impossible for me to bring in my report of the list of committees, to-day. I had completed it in part, but had suggested so far as I could to members that I would like to know the committees that they would prefer to be on and if we can adjust them to their satisfaction, would like to do so; and I find there must be some re-arrangement but in order that we may have some rules for the government of this body, I will report upon rule one, and that was, "Rules and method of procedure." Under the rule, the president of this Convention is made the chairman of that committee. That committee is to consist of the President, C. S. Varian, W. H. Gibbs, Charles H. Hart, and David Evans.

Mr. PETERS. Mr. Chairman, I would like to ask the president how long a time he would desire to have in order that he can make out this report.

The PRESIDENT. Well that is impossible for me to say. I have been working at it night and day nearly since we started. It is a big list of names and it is rather difficult to adjust them and get them properly and fairly distributed among the members, but I think by to-morrow, without any trouble, I can finish it.

Mr. PIERCE. What time to-morrow?

The PRESIDENT. 2 o'clock.

Mr. PIERCE. Mr. President, I move that we do now adjourn until to-morrow at 2 o'clock.

Mr. NEBEKER. Before the adjournment is taken as a member of the committee on site and furniture——

The PRESIDENT. With the permission of the gentleman.

Mr. PIERCE. I will withhold my motion, Mr. Nebeker, for you.

Mr. NEBEKER. The report does not carry any suggestions with it and I think that it would be well on the part of the Convention to decide to-day whether or not it will be necessary to have these desks, so that we can have them made and have the members seated as soon as possible. One day would be lost unless we took action to-day on that subject.

The PRESIDENT. Are there any instructions to be given to this committee in regard to desks?

Mr. C. P. LARSEN. Mr. President, I think that would be premature, until we know whether we will need the desks or not. It is possible that we will remain here.

Mr. IVINS. Mr. President, I move that this committee be authorized to provide suitable accommodations for the members of the Convention in the way of furniture.

Mr. VAN HORNE. I second the motion.

Mr. JAMES. Mr. Chairman, before that motion is put, I want to say this, that if the motion is carried, it may somewhat interfere with our final location, and may provide us with some things that we do not want, and I hope that the motion will go over and the matter be referred back to the committee until to-morrow.

Mr. IVINS. Mr. President, as the mover of that motion, it seems to me that there is no reason why it should not carry. It does not matter whether we meet here or somewhere else. We have got to have some furniture provided, and I simply wish to empower this committee, whether we meet in this room or some other room, to provide necessary furniture for the use of the members.

Mr. JAMES. Mr. Ivins, will you allow me——

Mr. IVINS. Yes, sir.

Mr. JAMES. Suppose we find a place where we will not need the furniture.

Mr. IVINS. Well, I guess if the committee find a place where they won't need the furniture they won't provide any.

The motion was thereupon put and carried unanimously.

Mr. Hart offered the following resolution which was read by the secretary:

Resolved, that until otherwise fixed or changed, the regular sessions of this Convention shall begin at 10.30 a. m. each day, Sundays and holidays excepted.

Mr. HART. I move the adoption of the resolution, Mr. President.

Motion seconded by Mr. Ricks.

Mr. PIERCE. I now renew my motion to adjourn until to-morrow at 2 o'clock.

Mr. GOODWIN. I second the motion.

Mr. ROBERTS. I wish you would withdraw that just a moment.

Mr. PIERCE. What is the matter?

Mr. HART. Mr. Chairman, I rise to a point of order. This is in the nature of a motion to fix the time of adjournment, and the gentleman's motion, although in the same nature, would have to take the shape of this motion.

The PRESIDENT. The motion to fix a time takes precedence.

Mr. PIERCE. Mr. President, this is a motion to fix the time of holding our sessions for all the Convention, and mine is a motion simply to adjourn. If we want to fix the time to adjourn until to-morrow, whether it be ten or half past ten or eleven or two o'clock, it might be in order, but the motion of the gentleman from Cache County is wider and contemplates much more than a motion to adjourn to some particular time.

The PRESIDENT. You make an amendment to that motion, do you?

Mr. PIERCE. No; my motion is simply a motion to adjourn, which is always in order—until to-morrow at 2 o'clock.

Mr. GOODWIN. Mr. Chairman, that motion, if passed, becomes a rule. It does not come under the head of an adjournment and an adjournment does not interfere with it, and until the committee on rules report that part ought to be laid on the table, The motion to adjourn is in order and should be submitted.

Mr. CANNON. Mr. Chairman, I know the motion to adjourn is not debatable, but that I may vote intelligently I would like to hear read the resolution introduced by Mr. Hart.

The resolution was read again by the secretary.

Mr. RALEIGH. Mr. President, I beg leave to make a motion amending the motion of Mr. Pierce, to adjourn until to-morrow at half-past ten.

Mr. WELLS. I desire to ask, Mr. President, if we vote in favor of Mr. Pierce's motion, when will we reassemble?

The PRESIDENT. 2 o'clock.

Mr. WELLS. Has that been determined?

The PRESIDENT. That was the motion, to adjourn until 2 o'clock.

Mr. FARR. Mr. President, I would like to have this matter settled. For my part I would rather begin our regular sessions at 10. It would meet my mind nearer. I think we had better get to work in time. If we want to change the time until 2 o'clock that is all right, we can change it until 2 o'clock for to-morrow.

The PRESIDENT. The chair thought it would be ready to make its report upon committees by to-morrow at 2 o'clock.

Mr. THURMAN. Mr. Chairman, I realize this question is not debatable and I do not want to debate it, but I want to ask for information—what the gentleman wants to adjourn for at this hour, when there seem to be men who want to have a hearing on the floor on some matters of business?

The PRESIDENT. The only thing to do is to vote him down, as I see.

Mr. THURMAN. Well, that is what I want them to do.

The motion of Mr. Pierce was lost by a vote of 34 ayes to 62 noes.

The PRESIDENT. The question is now on the motion on the resolution of Mr. Hart.

Mr. PIERCE. Mr. President, I move you that the resolution of Mr. Hart be referred to the committee on rules.

Motion seconded.

Mr. VAN HORNE. I would ask for information, having been away at the beginning of the session. Has the committee on rules been appointed?

The PRESIDENT. Yes, sir.

Mr. VAN HORNE. I second the motion, Mr. President.

The motion was put and unanimously carried.

Mr. ROBERTS. Mr. President, I would call for the reading of the resolution, presented by Mr. Eichnor, I think on yesterday, for the reason that I am of the opinion that in that very important matter to this Convention, there has been an omission, and I would like also to see or have read that part of the day's proceedings immediately following that, as I think I can point out the fact to the gentlemen of the Convention, that they will not be satisfied with that record, and of course have an amendment to move on that subject.

The resolution referred to was read by the secretary. Also minutes immediately following.

Mr. ROBERTS. That is the important point. Mr. President, I wish to amend the record of yesterday by inserting the following immediately after the resolution offered by Mr. Eichnor:

The Convention was declared to have conformed to that part of the Enabling Act requiring the adoption of the Constitution on behalf of their constituents, and the Convention was now competent to proceed to the formation of a Con-

stitution and State government for the Territory of Utah.

If I can obtain a second to such an amendment, I have a remark to make.

Mr. THURMAN. I second it.

Mr. ROBERTS. Mr. President, it seems to me that we ought to be careful in making up the record of the Convention's proceedings, and in so important a matter as the adoption of the Constitution on behalf of our constituents, that we ought to round out the record, and make it complete, by a declaration that it was done.

The third section of the Enabling Act reads: (See page 4).

I would accept a suggestion as to my amendment and have it part of the amendment, that preceding this amendment that I propose, there be a statement that the Constitution of the United States was unanimously adopted, and then proceed with the words that I have written out. It seems to me, Mr. President, to be a matter of such importance that we ought to complete our record on that subject.

Mr. EICHNOR. Mr. President, I would like to ask the gentleman from Davis County a question. Do you offer it as an amendment to the resolution introduced by me, or simply as explanatory after the resolution?

Mr. ROBERTS. As explanatory matter after the resolution; my motion is to amend yesterday's record so as to have this amendment of mine follow the resolution and to show that it was unanimously adopted.

Mr. EICHNOR. Mr. President, I think that is very proper. We ought to vote for that and the vote should be unanimous.

Mr. WHITNEY. Mr. Chairman, I would like to hear Mr. Eichnor's resolution read again in connection with this matter.

The same was read by the secretary.

Mr. VAN HORNE. I would suggest there and move as an amendment to Mr. Roberts' resolution, that the words, "and the Convention" or "the Convention was now competent to proceed," be changed to read, "and to be competent to proceed"—correlating it with "to have conformed."

Mr. RALEIGH. Mr. President, I think it would be well to put in the term that we adopt the Federal Constitution.

The PRESIDENT. The Constitution of the United States, it reads.

Mr. ROBERTS. Mr. President, I would ask leave just for a few moments to copy this out more carefully. It was prepared in the confusion of the house.

The PRESIDENT. If there is no objection, the gentleman may withdraw it for a few moments to do so.

Mr. Hart offered the following resolution:

Resolved, that the sergeant-at-arms be instructed to call upon the territorial librarian, J. P. Bache, for such books of reference and useful pamphlets as he may have to place at the disposal of this Convention during its session.

MR. HART. Mr, Chairman, I move the adoption of that resolution, and in explanation, I will state that Mr. Bache has some state constitutions and other matter that he can send up here for use during our session.

Motion seconded by Mr. James.

Mr. VARIAN. Mr. President, there is a law on the statute governing the powers and duties of the territorial librarian, and under that law, the library and he are under the control of the judges of the supreme court. That law, with the rules under it, prohibit the taking of books from the library or pamphlets, except upon an order of some justice of the court. While I apprehend that this order would not have the force of a law, still it might serve to place the librarian in an embarrassing position. I would suggest to the gentleman that he withdraw the resolution and remodel it in the shape of a request to the justices of the supreme court o the Territory.

Mr. HART. Mr. President, I will say in reference to that matter, and you will notice from the form of the resolution, that there is nothing mandatory about it. It simply says, such as he may have to place at our disposal. I am aware of the regulation of the library, that it is not a circulating library, but that is a matter with the clerk himself, and he certainly will not violate his duties as a librarian.

It may be private property for aught I know, or it may not be connected with the law library proper. At any rate, he has the books that he is willing to turn over to the sergeant, if we so desire.

The resolution was adopted.

Mr. WELLS. Mr. President, I desire in behalf of the committee appointed to investigate the subject of a stenographer to report progress and ask for further time.

The PRESIDENT. If there is no objection, further time will be granted.

Mr. ROBERTS. Mr. President, I am now prepared to present the amendment to yesterday's record as redrafted; following the resolution introduced by the gentleman from Salt Lake, that these words be inserted in yesterday's record:

The resolution was unanimously adopted. The delegates were thereupon declared to have conformed to that part of the Enabling Act requiring the adoption of the Constitution of the United States, on behalf of the people of Utah, and the Convention was declared authorized to form a Constitution and State government for said proposed State.

The motion was agreed to.

On motion of Mr. Ricks, the Convention adjourned until 2 o'clock to-morrow afternoon.

FIFTH DAY.

FRIDAY, 2 p. m., March 8, 1895.

The Convention was called to order by President Smith.

Mr. KEARNS. Mr. President, I ask that Mr. Keith be excused, he was called away to San Francisco.

The PRESIDENT. The gentleman will be excused.

The roll was called showing a quorum present.

Prayer was offered by Reverend James F. Beates of the Lutheran Church.

The secretary read the minutes of the previous day's session, which, after being corrected, were approved.

Engrossing and enrolling clerk, Joseph A. Smith, was sworn in by the president.

The PRESIDENT. Gentlemen of the Convention, I have my list of committees. They are not as satisfactory to myself as I would like.

The secretary then read the list as follows:

STANDING COMMITTEES.

COMMITTEE 1—RULES AND METHODS OF PROCEDURE.—5.

John Henry Smith, Chairman.
C. S. Varian, W. H. Gibbs,
Charles H. Hart, David Evans.

COMMITTEE 2—FEDERAL RELATIONS.—7.

J. D. Page, L. L. Coray,
James D. Murdock, Mons Peterson,
Henry Hughes, John S. Boyer,
William Buys.

COMMITTEE 3—PREAMBLE AND DECLARATION OF RIGHTS.—11.

Heber M. Wells, Joel Ricks,
C. P. Larsen, R. W. Heyborne,
Daniel Thompson, William Driver,
O. F. Whitney, Moses Thatcher,
William Creer, T. B. Lewis,
Andrew Kimball.

COMMITTEE 4—LEGISLATIVE.—15.

W. G. Van Horne, R. G. Lambert,
Frank Pierce, George B. Squires,
J. N. Kimball, David Keith,
Lauritz Larsen, Theo. Brandley,
Lorin Farr, F. S. Richards,
B. H. Roberts, W. J. Kerr,

Charles H. Hart, Ed. Partridge,
Ed. H. Snow.

COMMITTEE 5—JUDICIARY.—15.

C. C. Goodwin, W. G. Van Horne,
Frank Pierce, Alma Eldredge,
G. P. Miller, J. A. Hyde,
Elias Morris, C. W. Symons,
Noble Warrum, Jr., Aquila Nebeker,
Thomas Maloney, David Evans,
S. R. Thurman, Joseph R. Murdock,
S. H. Hill.

COMMITTEE 6—EXECUTIVE.—15.

C. S. Varian, W. G. Van Horne,
George R. Emery, Richard Mackintosh
Thomas Kearns, A. C. Lund,
Daniel Thompson, J. L. Jolley,
W. G. Sharp, Samuel Francis,
J. R. Barnes, J. D. Halliday,
A. W. Ivins, J. D. Peters,
W. B. Preston.

COMMITTEE 7—ELECTIONS AND RIGHT OF SUFFRAGE.—15.

J. F. Chidester, A. S. Anderson,
Jos. E. Robinson, R. Mackintosh,
P. Christianson, Robt. McFarland,
Peter Low, James D. Murdock,
Chester Call, Andreas Engberg,
Fred J. Kiesel, A. H. Raleigh,
William Howard, F. A. Hammond,
S. R. Thurman.

COMMITTEE 8—APPORTIONMENT AND BOUNDARIES.—26.

Alma Eldredge, Joseph R. Murdock,
Charles Crane, Wm H. Maughan,
John R. Barnes, Jasper Robertson,
John F. Chidester, Mons Peterson,
R. W. Heyborne, John R. Murdock,
J. A. Hyde, J. E. Robinson,
Samuel Francis, R. A. Allen,
Aquila Nebeker, F. A. Hammond,
C. P. Larsen, Harry Haynes,
Joel Ricks, T. H. Clark,
Lycurgus Johnson, Geo. Cunningham,
E. H. Snow, Willis E. Robison,
L. B. Adams, W. H. Gibbs.

COMMITTEE 9—EDUCATION AND SCHOOL LANDS.—11.

Frank Pierce, H. M. Wells,
A. C. Lund, C. N. Strevell,
John R. Bowdle, Elias Morris.
Karl G. Maeser, T. B. Lewis,
A. J. Evans, E. H. Snow,
W. J. Kerr.

COMMITTEE 10—PUBLIC BUILDINGS AND STATE INSTITUTIONS.—11.

Elias Morris, H. F. Shurtliff,
Daniel Thompson, A. J. Cushing,
George Ryan, James C. Peterson,
J. E. Thorne, J. P. Low,
H. H. Spencer, E. E. Corfman,
William Creer.

COMMITTEE 11—WATER RIGHTS, IRRIGATION, AND AGRICULTURE.—15.

John R. Murdock, L. B. Adams,
Theo. Brandley, Lauritz Larsen,
J. J. Williams, H. T. Shurtliff,
James F. Green, L. L. Coray,
W. H. Maughan, Henry Hughes,
Lycurgus Johnson, Hyrum Lemmon,
Lorin Farr, William Low,
Willis E. Robison.

COMMITTEE 12—MUNICIPAL CORPORATIONS.—9.

D. C. Eichnor, A. J. Cushing,
J. N. Kimball, J. D. Page,
John F. Bowdle, A. H. Raleigh,
Lorin Farr, Geo. Cunningham,
Noble Warrum, Jr.

COMMITTEE 13—CORPORATIONS OTHER THAN MUNICIPAL.—15.

W. F. James, G. M. Cannon,
William Driver, D. S. Stover,
David Keith, G. P. Miller,
J. L. Jolley, R. A. Allen,
C. H. Hart, Aquila Nebeker,
Thomas Maloney, Fred J. Kiesel,
S. R. Thurman, Ed. H. Snow,
William Buys.

COMMITTEE 14—PUBLIC LANDS.—7.

L. B. Adams, A. S. Anderson,
Samuel H. Hill, H. G. Button,
B. H. Roberts, J. P. Low,
William Creer.

COMMITTEE 15—REVENUE, TAXATION, AND PUBLIC DEBT.—15.

George M. Cannon, George B. Squires,

Harry Haynes, Jacob Moritz,
C. N. Strevell, Robt. McFarland,
James D. Murdock, Peter Low,
William J. Kerr, Chester Call,
A. W. Ivins, David Evans,
Abel J. Evans, Moses Thatcher,
Hyrum Lemmon.

COMMITTEE 16—SALARIES OF PUBLIC OFFICERS.—9.

R. Mackintosh, George R. Emery,
T. H. Clark, Thomas Kearns,
H. H. Spencer, William B. Preston,
John S. Boyer, I. C. Thoreson.

COMMITTEE 17—MINES AND MINING.—15.

Thomas Kearns, W. F. James,
R. Mackintosh, Samuel H. Hill,
George B. Squires, D. B. Stover,
George Ryan, James C. Peterson,
W. F. Sharp, J. D. Peters,
O. F. Whitney, F. S. Richards,
A. W. Ivins, E. E. Corfman,
William Howard.

COMMITTEE 18—LABOR AND ARBITRATION.—7.

C. N. Strevell, D. C. Eichnor,
Jacob Moritz, Lauritz Larsen,
Ed. Partridge, Andreas Engberg,
J. D. Peters.

COMMITTEE 19—PRINTING.—3.

R. G. Lambert, John R. Bowdle,
Charles H. Hart.

COMMITTEE 20—MILITIA.—5.

George Ryan, C. W. Symons,
D. B. Stover, Jasper Robertson,
Edward Partridge.

COMMITTEE 21—MANUFACTURES AND COMMERCE.—7.

J. A. Hyde, Jacob Moritz,
P. Christianson, William Driver,
Fred J. Kiesel, Andrew Kimball,
Joseph Thorne.

COMMITTEE 22—ORDINANCE.—7.

R. W. Heyborne, J. F. Chidester,
D. C. Eichnor, H. G. Sutton,
F. S. Richards, Moses Thatcher,
William Buys.

COMMITTEE 23—SCHEDULE AND FURNITURE, AMENDMENTS, AND MISCELLANEOUS.—9.

Joel Ricks, James F. Green,
Jos. E. Robinson, J. J. Williams,
G. P. Miller, B. H. Roberts,
Samuel Francis, Karl G. Maeser,
John D. Halliday.

COMMITTEE 24—ACCOUNTS AND EXPENSES.—3.

A. C. Lund, A. J. Cushing,
John R. Barnes.

COMMITTEE 25—ENGROSSMENT AND ENROLLMENT.—5.

Mons Peterson, Heber M. Wells,
Theo. Brandley, William Low,
William J. Kerr.

COMMITTEE 26—COMPILATION AND ARRANGEMENT.—5.

Charles Crane, C. C. Goodwin,
R. G. Lambert, O. F. Whitney,
Moses Thatcher.

Mr. GOODWIN. Mr. President, in what I am going to say I hope the President will not think for one moment that I lack appreciation of the very high honor he has conferred upon me in making me chairman of the judiciary committee, but in my little experience, I have never seen people reach places which they did not deserve and have any comfort in them; and then there is a principle of justice connected with this matter.

While I earned all my legal titles honestly, it is more than twenty years since I engaged in the legal profession and all around me on both sides of the house are eminent attorneys who have devoted their whole lives to that business.

I have no doubt but what if I should hold the place assigned that all the attorneys on the committee would treat me with due consideration and with perfect kindness, but it would only be natural if in their hearts they felt an injustice had been done; perhaps not to

them individually, but to their profession.

In my judgment the man who is chairman of the judiciary committee ought to be a man eminent in the legal profession, and hence, thanking you kindly for the honor you intended to confer, I ask you to release me from that position.

Mr. MALONEY. Mr. President, we all know that the gentleman has earned the legal titles which he bears, and having been a long time a lawyer of high standing, he is eminently fitted for the chairmanship of the committee of which he is the head. And I think he is perfectly capable to serve in the capacity for which he has been named.

Mr. GOODWIN. You will readily see, Mr. President, that no gentleman on that committee would make an objection, not through any particular fear of consequences.

I might look like perfection, but for instance, if there were a committee on journalism to be appointed and if appointed to the chairmanship of that committee should be some gentleman who had been a journalist twenty years ago, but who ever since had been engaged in ranching and mining or something else and there happened to be a journalist on that committee he would think a mistake had been made.

Mr. RICKS. I move that it be the sense of this Convention that the Judge stay as chairman of that committee.

Seconded.

Mr. ELDREDGE. Mr. President, I would be pleased as a member to vote to sustain Judge Goodwin as chairman of that committee, but inasmuch as he has expressed himself in the way that he has, I am somewhat in favor of allowing a man to enjoy his own wishes in regard to a position before he serves in that capacity.

Mr. BUTTON. Mr. President, I move as an amendment that it be left with the president and with Judge Goodwin to decide the matter.

Seconded.

Mr. PIERCE. Mr. President, I arise to a point of order; I believe all these motions are out of order. It is a rule of all legislative bodies or at least of this legislative body that the president has the right to arrange his own committees. If Judge Goodwin and the president can agree upon allowing him to remain or not to remain, it is a matter between the two gentlemen and I do not think it is a matter that the Convention ought to take any cognizance of at all, and I think the motions are entirely out of order. I therefore raise the point of order.

The PRESIDENT. I sustain the point of order. I will say that the first named on these lists are chairmen of the committees,

The committee on site and furniture then presented the following report:

To the President and Members of the Constitutional Convention:

Your committee on site and furniture most respectfully beg to submit the same report as yesterday, as we are unable to find anything more suitable.

By request, the secretary read the report from the same committee presented yesterday. (See page 61).

Mr. EVANS (Weber). Mr. President, are there two reports there?

The PRESIDENT. They seem to be combined.

Mr. EVANS (Weber). I move, Mr. President, that we adopt the report of the committee on site.

Seconded.

Mr. BUTTON. Mr. President, I want to ask a question before that is put. I want to ask if that motion carries with it the hiring of Mr. Scott, the janitor of this building, to take care of the room?

Mr. EVANS (Weber). As I understand it, Mr. President, it simply settles the question as to where we will hold this Convention—that is, that we will hold it in this room.

Mr. VAN HORNE. Mr. President, I move as an amendment that so much

of that report as refers to the engaging of the janitor be stricken out and that the rest be adopted.

Seconded.

Mr. ROBERTS. Mr. President, I certainly would raise an objection to the striking out of that part of the report relating to the janitor of the county part of this building. The county court, as I understand it, has generously proffered the use of this hall, practically free of rental, and for this Convention now to push aside the county janitor, it seems to me, sirs, is a piece of ingratitude that I sincerely hope will not be resorted to by the gentlemen of this Convention. I, of course, don't know anything about the caucus arrangements—whether there is a man for this particular place or not arranged for, but I do certainly object, sirs, to this narrow piece of business of rejecting the county janitor when the county has tendered the use of this hall to the Convention.

Mr. SQUIRES. Mr. President, I want to call the attention of the Convention to a fact in relation to this matter. This question goes not only to the janitorship of this hall, but to twenty-six other rooms, more or less in this building. The keys of those rooms are in the custody of the janitor of the county court; the county court in its wisdom did not consider that it would be good policy to turn the keys of so many rooms over to an outsider.

The county court would undoubtedly want those rooms secured after this Convention has adjourned, and if the keys have been left indiscriminately where duplicates can be made, there would be no safety in one of those rooms after this Convention has adjourned, and as a matter of safety for the county court who naturally have the custody of this building, I should object to this amendment and I believe that we should adopt the entire recommendation of the county court.

Mr. SNOW. Mr. President, I move as an amendment to the amendment that we accept the report of the committee and adopt their recommendation.

Seconded.

Mr. EICHNOR. Mr. President, I arise for information. If we adopt that report, is that to displace our watchman and janitor that we elected the other day—that is just what I want to know?

The PRESIDENT. The committee may be enabled to answer that question.

Mr. SQUIRES. Mr. President, I should suppose that we needed the services of a watchman and doorkeeper; that I understood to be the motion under which Mr. Johnson was elected, but I found later that he was elected watchman and janitor; certainly one man will not be able to take care of the twenty-six rooms in this building besides this——

Mr. EICHNOR. I inform the gentleman from Davis County, Mr. Roberts, that there is no caucus arrangement as to the janitor. We elected a doorkeeper and janitor in the caucus and that carried.

Mr. EVANS (Weber). What is the politics of the man mentioned in the report—Republican or Democrat?

Mr. EICHNOR. He is a Republican.

Mr. VAN HORNE. My object in making the motion was simply that we had elected a janitor and watchman. If this Convention wants to elect an assistant janitor I have no objection whatever to electing the janitor of the county's part of this building, but it was simply the question of privilege of an officer elected by this Convention—whether we would elect some one else in his place or not.

Mr. MORITZ. Mr. President, if you will allow me, as chairman of this committee, we will take the responsibility and insert "assistant janitor."

Mr. BUTTON. Mr. President, I am going to support the amendment of Mr. Van Horne's and the reason is if we have got any more jobs for janitors, we

have got any amount of men walking the streets that want them and I do not believe in giving a man a job who has already got one.

If we have a job, I want to support a man that hasn't got a job.

Mr. EVANS (Weber.) I desire to support the original motion, that the report of the committee be adopted.

It does seem to me that we ought to be grateful enough to the county court for the generous offer it has made to at least permit the county court to have some officer here paid from the funds that are appropriated for the expenses of this Convention, to look after that property which it has extended to us without compensation.

It seems to me there can be no objection to this upon the other side of the house, since it is known that that officer who is now in the employ of the county court is of the same political faith as they are.

It will not disarrange any of the arrangements which they have previously made and it will keep them entirely consistent with themselves, and I might remark further that it is about the first time I ever heard of any objection made on the part of these gentlemen to a multiplicity of offices.

(I only speak that jocularly, because I mean no offense.)

It would seem to me that the county did intend when they extended to us this generous offer of this magnificent building to hold our Convention in, that they ought to have some one paid out of the funds appropriated for the expense of this Convention to look after their property.

Gentlemen, let us give it to them. They have made us a generous offer, let us accept it in the same generous feeling in which they have extended it to us.

Mr. VAN HORNE. Would you object then to Mr. Moritz's proposed amendment to the report of the committee and have him known as assistant janitor?

Mr. EVANS (Weber.) As I understand it, it does not displace any officer. Some action would have to be taken in order to displace those officers already selected.

This is creating another officer and I would object to it on general principles, but not in view of the fact that the county court asks it, when it is asking us no compensation at all for the building which we are now holding our Convention in.

Mr. ROBERTS. Mr. President, I would like to ask a question and that is, wasn't the office of doorkeeper and janitor combined in the person that was elected here the other day?

Mr. VAN HORNE. Watchman and janitor.

Mr. ROBERTS. Would it not then be consistent to let that gentleman who was elected to that position spend his time as watchman and the other fellow as janitor of the house?

The PRESIDENT. Gentlemen. Mr. Evans made a motion to adopt this report.

Mr. Van Horne moved to amend by striking out that portion referring to the janitor.

Mr. SNOW. I didn't understand the scope of Mr. Evans' motion. I see it has the same scope as mine, so, with the consent of my second I will withdraw it.

Mr. VAN HORNE. I will withdraw the amendment.

Mr. FARR. Mr. President, does this report contain the recommendation that forty new desks be made?

The PRESIDENT. No, sir.

Mr. FARR. Mr. President, if it does I object to spending the money. [Laughter.]

Mr. RICKS. Mr. President, I want to ask a question. Does this motion contemplate this janitor employing all of his time in behalf of this Convention, or does he have charge of the rest of the building?

If so, he ought to be paid proportionately.

[Calls for the question].

The motion to adopt the report of the committee was then carried.

The secretary then read another report from the committee on site and furniture as follows:

To the President and Members of the Constitutional Convention:

Gentlemen:

Your committee on furniture most respectfully beg to report that we are unable to find suitable desks for the use of this Convention, but we can obtain thirty-six from the secretary of the Territory gratis, and also thirty more at a reasonable rental. The balance, forty-one, we can get made for the sum of six dollars each and ready for use by Tuesday, March 12.

Respectfully,
MORITZ, of Salt Lake.
Chairman.

Mr. MORITZ. Mr. President, since that came here this afternoon, I got another bid from another gentleman for desks. I would like to hear it read.

The secretary then read the following:

Salt Lake City, Utah, March 7, 1895.

To the Chairman of Committee on Sites and Furniture:

Sir:

I will make you an all redwood desk, two feet square, with inclined top, including drawer, 22 inches square, locked with a suitable mortised lock, and give the same one coat of oil, also deliver the same in Salt Lake City, at the ratio of sixteen to one a day from the time of order for the same, five dollars each.

Reference, Morrison, Merrill & Co.

Respectfully,
RICHARD STUART.
Telephone No. 501.

Mr. MORITZ. Mr. President, I would state that we have been offered thirty desks for a nominal sum, as rent, but since the gentleman who owns the desks found out that we were not in favor of renting his hall, he has refused either to rent them or sell them to us. All we can get is the territorial desks of 36 in number and to get new desks made for five dollars sufficient for our use it will cost $355.

Mr. SQUIRES. Mr. President, in a conversation with Mr. Moritz yesterday, he assured me that figures had been made as to the possibility of seating 107 men with desks in this room.

I wish he would state to the Convention the result of the examination on that subject.

Mr. MORITZ. Mr. President, and gentlemen, I didn't make the measurement myself, but I got it from the governor of this Territory, that the governor and the secretary had employed competent gentlemen, who understood their business. They have measured this room and state that 107 desks in here wouldn't give us as much space to walk in as we have now with these tables.

Mr. SQUIRES. In view of that fact, Mr. President, I move that instead of securing any desks, we use the furniture which we now have in this room.

Seconded.

Mr. CANNON. Mr. President, I would like to ask whether it is possible to have drawers made in the desks that we now have and whether that would be permissible or if it would be objected to by the county court?

Mr. SQUIRES. Mr. President, the committee can confer with the county court and find out whether they object to our improving their furniture by putting drawers in. I don't believe they would.

Mr. BUTTON. Mr. President, if the Convention desire, there can be made something that will set on these tables with drawers in right on the top, that will not mar the furniture in any way, shape or manner, and contain drawers enough for all the members.

Mr. ROBERTS. Besides we could hide behind them.

Mr. MORRIS. Mr. President, in view of accepting the furniture as it is, would it not be wise to get the desks that the secretary has? It would cost nothing and have them in the ante-room or committee rooms so that we could keep under lock our papers and books.

Mr. MORITZ. Mr. President, I would state for the information of the gentleman who has just spoken that the county court will furnish us with enough desks of their own and give each of the committees at least two drawers to lock their papers in. I believe the sergeant-at-arms has already arranged for those desks for the committees.

The PRESIDENT. Mr. Squires moved that we retain the furniture that we now have.

The question is now on that motion.

Carried.

Mr. Evans of Weber offered the following:

Resolved, that in the selection of seats for delegates all members of the age of sixty years and upwards be first permitted to take their choice of seats, after which the seats of the remaining members shall be ascertained by placing on a slip of paper the names of such members in a box and thoroughly mixed, and separately drawing therefrom by the chief clerk, and when called by such clerk, the member, whose name is thus called, may select his seat, and that such method be continued until all the delegates are seated.

Mr. EVANS (Weber). Mr. President, I move the adoption of that resolution.

Seconded.

Mr. THURMAN. Mr. President, I have no serious objection to that resolution. I would prefer, however, to strike out the number "sixty," and insert "forty-three."

Mr. CREER. Mr. President, I move to amend that resolution by inserting that we draw our seats by counties, after thus selecting them by those who are over sixty years of age.

Mr. EICHNOR. I second the amendment.

Mr. CORAY. Mr. President, I will offer an amendment to that amendment that we first seat the country members and then the Salt Lake delegation get their seats afterwards.

Mr. SQUIRES. Mr. President, that will be practically the effect of the motion, as Salt Lake is pretty low down on the list.

Mr. EVANS (Weber). I am not at all captious about that amendment, but my idea, I would say, in offering the resolution as it was drawn, was to thoroughly mix up the city and country members and also the Democrats and Republicans, that we might be mixed up and consult with each other and perhaps a more harmonious feeling might result from it.

If we get to concentration as counties or as Democrats or as Republicans, the tendency might be to precipitate a political feeling which I hope will be kept down during our deliberations.

Mr. MORITZ. Mr. President, I move to amend, that we all keep our seats as we now occupy them.

Mr. GOODWIN. Mr. President, I arise for information; suppose these seats are decided upon to-day, how will any one distinguish his seat when he comes here to-morrow? There are no numbers on them. The tables are not designated.

The PRESIDENT. He will have to put his mark on it, I guess.

Mr. GOODWIN. There are a great many here that will never make their mark. [Laughter.]

Mr. LOW (Cache.) Mr. President, did the second amendment receive a second?

The PRESIDENT. No; Mr. Coray's amendment did not receive a second.

Mr. LOW (Cache.) Mr. President, I have an amendment to the amendment, that they be called off by counties and that the members thereof select their seats as the counties are drawn.

Seconded.

Mr. BUTTON. Mr. President, I move to lay the motion and all amendments on the table.

I haven't been here to any meeting yet, that I haven't got a chair and haven't crowded a man over sixty years out of a chair yet.

When we come in here I believe the gentlemen on the other side are afraid

we will get out by ourselves and there will be some feeling. Now we are all mixed up just as much as we could be by drawing.

I move as a substitute to lay the motion and all amendments on the table.

Mr. KIESEL. I second the motion.

Mr. RICHARDS. Mr. President, I realize this is not debatable, but I would like to enter a protest if I may be permitted; I think the members of this Convention ought to be permitted to have the satisfaction of knowing that they will have a seat somewhere on the floor, and I for one would like to know where my seat is. I am not so particular about the location of it, but I should like to realize that when I come into this chamber I may find a seat unoccupied and the same seat each day. I think that is reasonable.

Mr. EVANS (Weber.) Mr. President, I hope Mr. Button's motion will not carry.

It seems to me that we would create confusion during the entire course of our deliberation. It seems to me we ought to know where our seats are when we come to this hall.

Mr. BUTTON. Mr. President, this motion is not debatable, this is not a convention of lotteries, it is a Constitutional Convention.

Mr. Button's motion was rejected.

Mr. VAN HORNE. I move as a substitute that we occupy permanently the seats we now occupy.

Mr. RICHARDS. I arise, Mr. President, to a point of order. This is an amendment to the amendment and the gentlemen's suggestion is out of order.

The PRESIDENT. It is out of order.

Mr. CANNON. Mr. President, and gentlemen of the Convention, I favor the original motion for the reason that I believe as stated by the mover thereof a better feeling will prevail if the members will take their seats without regard to county or political party.

I believe that it will be more satisfactory all around and for that reason I favor the original motion as put by Mr. Evans.

Mr. EVANS (Weber.) Mr. President, I would like to know just what we are voting on. I am free to admit I do not exactly understand the question that is before the house.

The PRESIDENT. Mr. Evans moved to adopt the resolution by which men over sixty years of age were to have their choice of seats and afterward for the rest of the gentlemen to draw their seats.

Mr. Creer moved to amend that they should draw seats by counties. Mr. Low moved to amend by providing that the roll be called by counties and that the members thereof select their seats as the counties are called.

Mr. EVANS (Weber). I arise to a point of order on that. There is no difference between the two motions.

Mr. LOW (Cache). Mr. President, I may be allowed to explain that the last amendment does not make any provision for gentlemen of any age, but contemplates all the members from the various counties.

The amendment of Mr. Low was rejected.

Mr. FARR. Mr. President, I voted a little while ago on the motion that all the other motions be dropped, he called the question on the motion; I supposed that was the motion. That is for every one to keep their seats that they have got now. They have got them about as they want them, and he made a motion that all others should be dropped and that was seconded, and that every one should keep their seats; that is what I voted on. Now, I would like to know what we are voting on.

The PRESIDENT. You are now voting upon the motion of Mr. Creer—an amendment to the principal motion.

Mr. VAN HORNE. I move you as an amendment to the amendment that we occupy the seats that we have already chosen.

Seconded.

Mr. ROBERTS. Mr. President, I look at these two gentlemen right in front of me and I never can vote for that kind of a proposition.

Mr. IVINS. Mr. President, for information, I would wish to ask, if this motion should prevail, if it is understood that as the list of counties is called the delegates from those counties are to choose their seats, is that the idea?

The PRESIDENT. That they draw by lot, is the understanding I have.

Mr. IVINS. That is what I want to know, whether they draw by lot as to which county selects its seats first—or do they do it by roll call?

Mr. CREER. My understanding, Mr. President, is that each county draw their seats by lot.

The PRESIDENT. Do you mean to exempt all these aged men?

Mr. CREER. Yes, sir.

Mr. RICHARDS. Mr. President, I desire a further explanation of this matter. Does that mean that the names of the counties shall be placed in a box and the ballot drawn for the county and then the members for that county take their seats, or does it mean we are to go through the roll?

The PRESIDENT. Yes, sir; after the elder men are seated.

Mr. RICHARDS. Mr. President, that is, the name of the county is drawn by lot?

Mr. CREER. Yes, sir.

The PRESIDENT. Now, gentlemen, have you got this in your heads?

[Laughter.]

Mr. PIERCE. The question on the amendment.

The amendment of Mr. Creer was rejected.

The PRESIDENT. The matter now recurs upon the original motion of Mr. Evans.

Mr. JAMES. I would like to make an inquiry, I would like to ask the gentlemen of sixty years of age in the room if they wish to change their seats from where they are now sitting.

Mr. CREER. They may do as they please.

Mr. JAMES. I would like to give them the privilege of remaining right where they are if they want to stay there.

Mr. IVINS. Mr. President, I am opposed to this motion, for this reason, that there are delegations here from different counties who might desire to be seated in the same immediate neighborhood, if not right together.

Now, if this motion shall prevail, I may draw a number and choose a seat on one side of the house and that may be entirely filled up before the other representative from Washington County got a seat at all and he would be over on this side of the house. I am opposed to the motion because of that.

It will scatter these county delegations all over the house where they can have no communication with each other.

The resolution of Mr. Evans of Weber was adopted.

Mr. SQUIRES. Mr. President, I move that we proceed at once to the choice of seats.

Carried.

The members thereupon selected their seats in the manner prescribed.

Mr. Wells offered the following:

Resolved, that the freedom and courtesy of the Convention be extended to the governor and secretary of the Territory, delegate to Congress, and judges of the supreme court, and that the secretary of the Convention be directed to notify them of this action.

Mr. VARIAN. Mr. President, I move that be referred to the committee on rules. There ought to be a standing rule upon that subject. It is interfering with the prerogative of that committee.

The motion of Mr. Varian was agreed to.

Mr. HART. Mr. President, there is a

matter I desire to present to the consideration of the Convention. It is of some importance. The committee on standing committees made no report empowering the president to appoint committees. Those committees were all appointed before the adoption of any special rule.

It is a very grave question in my mind whether the president under the present rules of the Convention would have the authority to appoint committees.

The only rules that we have upon the question are Roberts' Rules of Order, and I fail to find anything in there giving the president the power to appoint standing committees, and in order to make the thing clear, Mr. President, I offer this resolution:

That whereas, the appointment of standing committees of this Convention was made before the adoption of special rules giving the president the usual power of appointing standing committees, now, therefore,

Be it resolved, that the president of this Convention is empowered to appoint all the standing committees, and the appointments heretofore made by him are hereby ratified and confirmed.

I move the adoption of the resolution.

Seconded.

Mr. SQUIRES. Mr. President, I move that resolution be referred to the committee on rules.

Seconded.

Mr. VARIAN. Mr. President, I will state that the probabilities are that that will be the first rule under the usual precedent, that will be reported by the committee on rules and be a standing rule of the Convention. It is simply encumbering the record with unnecessary resolutions.

Mr. HART. I do not object to sending it to the committee on rules, if there is any question about the propriety of adopting it, but it seems to me that it is a matter that we might as well settle and determine now as any time, and that will cover the ground that is usually covered by the rules on that subject and the rules that will be reported by the committee on rules.

The motion to refer the resolution to the committee on rules was carried.

Mr. HART. Mr. President, as one of the members of the committee on printing, I think it would be well to have some instructions given by this Convention to us in regard to printing matters.

Of course, the minutes, I presume, should be ordered printed at once, and then there is a matter of bids, etc., for the permanent printing, and if there are any suggestions by members of the Convention in regard to this printing matter, I think it would be appropriate to make them so that we may get down to business as soon as possible.

Mr. EICHNOR. Mr. President, what we absolutely need is the report of the committee on rules. I suppose that committee will report as soon as possible; all these matters that have been referred to at the present time will be covered, no doubt, by the rules that this Convention will adopt.

Mr. HART. If there are no objections, Mr. President, I would like to have it understood that the committee on printing may have the minutes of the Convention printed without any further instructions.

The PRESIDENT. If there are no objections, the committee on printing will have the minutes that we have made heretofore printed.

Mr. James offered the following:

Resolved, that the committee on accounts and expenses report to the Convention the amount of the expense including per diem up to the present time, and any other information they may give us on the general expense of the Convention.

Seconded.

Mr. THORESON. Mr. President, I move that the word "mileage" be inserted in that resolution after the word "per diem."

Mr. JAMES. I accept the amendment.

The resolution was adopted.

Mr. Thurman offered the following:

Resolved, that the several standing committees of this Convention shall report the work assigned to them as speedily as may be consistent with efficiency and thoroughness and when the same is reported if any part thereof is copied from or modeled after the constitution of any state that it shall be stated in the report, together with the name of the state and the date of the adoption of the constitution or provision thereof.

Mr. THURMAN. Mr. President, I move the adoption of that resolution.

Seconded.

Mr. EICHNOR. Mr. President, I move as an amendment to refer it to the committee on rules.

Seconded.

Mr. THURMAN. Mr. President, I do not see any reason for referring this to the committee on rules. It is a matter, I think, that does not particularly belong to the committee on rules. The committee on rules are going to have enough work that will legitimately belong to them to keep them about the busiest committee of this Convention. Now, the purpose of this resolution should be patent to every member of this Convention. If the provision reported by any committee as a part of their work is drawn wholly or in part from the constitution of any state, if they will state the name of the state and the date of the constitution from which it is copied in their report, it will enable the members of this Convention who desire to thoroughly investigate the provisions reported to see how that provision of that state constitution has been construed and see what the legal effect of such a provision is as construed by the courts of the land. Now that is all there is to it, and certainly it is not a matter that the committee on rules need to desire to be troubled with. If there is a reason for it, however, I have no pet object in the resolution at all, but I think it is a resolution that ought to be adopted.

Mr. VARIAN. Mr. President, permit me to make this suggestion to the gentleman. It is quite important that the rules of this Convention should be embodied in compact form and printed as they will, so that they will be under the observation and open to the inspection of every member and particularly the committees.

Now, if the Convention in advance of the report of the committee on rules proposes a number of resolutions affecting the rules and the procedure, necessarily, we may become somewhat confused and may forget some of these things.

I haven't the slightest doubt that such a provision as suggested by Mr. Thurman will be incorporated in the standing rules presented to the Convention. I will suggest to him that if that is not done, or any other omission that is patent when the rules are adopted, the defect can be cured by amendment in the same way, but certainly the committee on rules cannot be expected to remember every resolution that has been adopted by this Convention prior to the action of the committee on rules. I should like Mr. Thurman if you would consent to that.

Mr. THURMAN. You desire it referred?

Mr. VARIAN. Yes, sir; so they will not omit anything and at the same time shall not conflict with any action of the Convention.

Mr. THURMAN. I ask that it be referred to the committee.

The motion to refer was agreed to.

Mr. WHITNEY. Mr. President, I move that the committee on printing be authorized and instructed to have printed at once for the use of the members of this Convention a sufficient number of slips containing the names and personnel of all the standing committees.

Seconded.

Mr. PIERCE. Mr. President, I move to amend by putting in that the Enabling Act and the standing committees. That will be a great advantage to us—and have it bound in leaflet

form so that the members can carry them.

Mr. WELLS. Mr. President, it seems to me this resolution ought to go to the committee on rules, the same as the other resolutions that have been introduced. If we have the standing committees printed now, then to-morrow we will have the rules printed and they will be in separate pamphlets; I think that little booklet that we will have printed ought to include the rules and the standing committees and they ought to be together in some compact form. I move that it be referred to the committee on rules.

Seconded.

Mr. WHITNEY. I merely wish to say that I have no objection to the disposition of the resolution, provided we can have this data at once to refer to. It is immaterial how we get it.

The motion of Mr. Wells was agreed to.

Mr. VARIAN. Mr. President, I would like to inquire whether we have an authenticated certified copy of the Enabling Act from the governmental department?

The PRESIDENT. We have not, to my knowledge.

Mr. VARIAN. We ought to have the distinct authorized act or a copy thereof here. Mr. President, I move that the secretary of this Convention be instructed to request the secretary of the Territory to procure such an authorized copy. The statute has not been published in book form as I understand it, under the authority of the United States.

Mr. MALONEY. Mr. President, yes, it has.

Mr. VARIAN. But at all events, this Convention ought to have in its possession the duly authenticated authority for its convening and acting and I believe the usual course will be to procure from the interior department an authenticated copy of the act.

Mr. ROBERTS. I wish to ask the mover of that motion if he contemplates that if the secretary of the Territory does not have such certified copy, that the Convention is to await the reception of one from the secretary of the interior? As I understand we were to apply to the interior department for such.

Mr. VARIAN. Not to wait, but I think as soon as possible, we ought to have it, in case any discrepancies might appear or some question might be made.

Mr. ROBERTS. But that does not delay the action of the Convention?

Mr. VARIAN. No, sir; but within a week we will have it here.

Mr. MALONEY. Mr. President, I wish to say that the Enabling Act is published in the acts of Congress of 1894, and is in the fourth district clerk's office, at Ogden, and I presume there is one here in the third district clerk's office.

Mr. VARIAN. Mr. President, that does not meet the want of this Convention. It is like the charter of a body. We want it here, and there will be no expense attached to it. It is simply a matter of requesting the secretary of the Territory to procure it from the interior department. It ought to be here in the possession of the president.

Mr. Varian's motion was agreed to.

Mr. Thompson, by request, was excused from attending to-morrow's session.

Mr. MORITZ. Mr. President, I move that the sergeant-at-arms be instructed to procure a telephone and place it in the cloak room for the use of the members.

Carried.

Mr. VARIAN. I move we adjourn until Monday next at 2 o'clock.

Mr. EVANS (Weber). Mr. President, I move to amend that motion by fixing the time at 2 o'clock to-morrow afternoon.

Seconded.

Mr. MORITZ. Mr. President, as there

is nothing before the house, I move that the committee on sites and furniture be discharged.

The PRESIDENT. There is the question of fixing the time for adjournment before the house.

Mr. CHIDESTER. Mr. President, I move we adjourn.

Mr. EVANS (Weber). Mr. President, I believe the committee on rules will be ready to report at 2 o'clock to-morrow. If so, that report can be disposed of and we will save one day.

The PRESIDENT. I doubt their ability to do it.

Mr. EVANS (Weber). I appreciate the fact that we cannot be here very long without exhaustfng the appropriation and I believe we ought to work every day in the week, Sundays excepted. As a member of that committee on rules, I am willing to go to work on that and I believe we can report at 2 o'clock to-morrow, and then we will be fully organized and ready for work and then the rules may be printed, in the meantime, as suggested to me, and we will have them in the hands of the members by Monday morning.

Mr. BARNES. I move to amend by making the time 12 o'clock to-morrow. That I think will give some of the folks who live north—particularly in Cache Valley—an opportunity of going home.

Mr. VARIAN. If we are going to adjourn until to-morrow, I hope the motion will be to adjourn to 2 o'clock. 12 o'clock is certainly an inconvenient hour to be here and have dinner or lunch, as the case may be, but I want to suggest to the Convention that nothing will be accomplished by simply coming here, sitting down, and going away again. These committees have got to be organized and after their organization there will be some time consumed in preparing work for the Convention in committee of the whole. Some of our friends here say they want to go away over Sunday; naturally I expect that. Why not adjourn right over until Monday, finishing now for the first week, and by next Monday, it is quite probable the Convention will be in working order.

Mr. PIERCE. Is it likely that the committee on rules will be able to report by to-morrow at 2 o'clock?

The PRESIDENT. I think not; I do not think it is possible for them to report before Monday.

Mr. PIERCE. If they are not able to report by 2 o'clock to-morrow, there is no need of our meeting until Monday.

The PRESIDENT. Gentlemen, the question is on the amendment to the amendment to adjourn until to-morrow at 12 o'clock.

Lost.

The PRESIDENT. The question is on the amendment to the original motion to adjourn until 2 o'clock to-morrow.

Lost.

The PRESIDENT. The question recurs on the original motion that we adjourn until next Monday at 2 o'clock p. m.

Carried.

The Convention then adjourned until next Monday at 2 o'clock p. m.

EIGHTH DAY.

MONDAY, 2 p. m., March 11, 1895.

The Convention met in regular session at 2 o'clock p. m.

President Smith in the chair.

Prayer was offered by Rev. B. F. Clay, pastor of the Central Christian Church.

Mr. Haynes was excused on account of sickness.

Mr. ROBINSON (Kane). Mr. President, I will state that I was snowed under and could not come the direct route, so that I had to go around and I traveled 428 miles to get here.

The roll was then called and the following named members answered to their names:

Adams	Larsen, C. P.
Allen	Lemmon
Anderson	Lewis
Barnes	Low, William
Bowdle	Low, Peter
Boyer	Low, Cache
Brandley	Lund
Button	Maeser
Buys	Mackintosh
Call	Maloney
Cannon	Maughan
Chidester	McFarland
Christianson	Miller
Clark	Morris
Coray	Moritz
Corfman	Murdock, Beaver
Crane	Murdock, Wasatch
Creer	Murdock, Summit
Cunningham	Nebeker
Cushing	Page
Driver	Partridge
Eichnor	Peters
Eldredge	Peterson, Grand
Emery	Peterson, Sanpete
Engberg	Pierce
Evans, Weber	Preston
Evans, Utah	Raleigh
Farr	Richards
Francis	Ricks
Gibbs	Roberts
Goodwin	Robertson
Green	Robinson, Kane
Hammond	Robison, Wayne
Hart	Ryan
Haynes	Sharp
Halliday	Shurtliff
Heyborne	Snow
Hill	Spencer
Howard	Squires
Hughes	Stover
Hyde	Strevell
Ivins	Symons
James	Thatcher
Johnson	Thompson
Jolley	Thoreson
Kiesel	Thorne
Keith	Thurman
Kearns	Van Horne
Kerr	Varian
Kimball, Salt Lake	Warrum
Kimball, Weber	Wells
Lambert	Whitney
Larsen, L.	Williams.

Mr. EVANS (Weber). Mr. President, Mr. Spencer requested ne to ask an excuse for him; he could not be here today, his distance of travel was 38 miles.

Mr. KIMBALL (Weber). Mr. President, I was not able to be here last Wednesday, Thursday, and Friday, and I would like to have the Convention enter an order now to excuse me for those days.

The PRESIDENT. My remembrance is, Mr. Kimball, that you were excused. It is so marked on the journal.

Mr. KIMBALL (Weber) Another thing, Mr. President, I answered 38 miles when my name was called and I desire to state to this Convention that I do not desire my mileage because it does not cost me anything to travel to and from my place, so that I ask that the mileage so far as I am concerned be stricken out.

Mr. VARIAN. Mr. President, I wish to present a report of the committee on rules.

Mr. KIMBALL (Weber.) Mr. Varian, the minutes have not been read yet.

Mr. VARIAN. I beg pardon, there was no rule requiring it.

The PRESIDENT. The minutes have not been read yet, gentlemen. We will have the minutes read.

The secretary then read the journal of the last previous session, which, after correction, was approved.

Mr. EVANS (Weber). Mr. President, I move that the name of chief clerk be changed to that of secretary.

The PRESIDENT. The report of the committee on rules will fix that.

Mr. EVANS (Weber). The report of the committee on rules will name him that officer all the way through, but an action has been taken, as I understand it, naming him the chief clerk, and as we find, it is very unusual in other conventions, and it is an office that is unusually attached to that of speaker.

Mr. VARIAN. Mr. President, I second the motion.

Mr. KIMBALL (Weber). Mr. President, I second the motion, and I would like to have you add to that that the minute clerk be known as assistant secretary.

Mr. EVANS (Weber). I accept the amendment.

Carried.

Mr. CHIDESTER. Mr. President, I think the law provides that it shall be chief clerk.

The PRESIDENT. The Enabling Act I think provides it.

Mr. KIMBALL (Weber). It makes no difference as to what he shall be called.

Mr. VARIAN. Mr. President, I call for the reading of the report of the committee on rules.

The report of the committee on rules was then read as follows:

Convention Hall Room,
Committee on Rules.

To the Convention:

The committee on rules herewith report certain standing rules, together with the report of the sub-committee accompanying the same, with a recommendation that said rules be adopted as the standing rules of the Convention, and that the sum of $14.00 be allowed and paid as per report of sub-committee.

And we further recommend that the appointment of committees hereby be ratified.

JOHN HENRY SMITH,
Chairman.

March 11th, 1895.

To the Committee on Rules:

The undersigned herewith report the annexed standing rules and recommend the same be reported to the Convention for adoption.

The sub-committee also report that owing to the necessity for immediate action, they were obliged to employ a stenographer, and that the expense of so doing is $14.00.

C. S. VARIAN,
D. EVANS,
CHARLES H. HART,
Sub-Committee.

The PRESIDENT. Gentlemen, what will you do with the committee's report?

Mr. VARIAN. Mr. President, I ask that the rules be read by sections and suggest that each section as read, if not objected to, be considered as passed; there are thirty-eight of them and by so doing time will be saved.

Mr. KIMBALL (Weber). Mr. President, I move the reading of the rules be dispensed with and be left over until the next meeting of the Convention, so that they can be printed and each member have a chance to read those rules and consider them.

Mr. BOWDLE. Mr. President, I second the motion.

Mr. KIMBALL (Weber). Mr. President, I make that motion as an amendment, that the reading be dispensed with so that we can have them printed. I move further that the expense of the stenographer, $14.00, be allowed at this time.

Mr. THURMAN. Mr. President, I do not thiuk this motion should prevail. Before the rules are printed I believe they ought to be read by sections. There may be some slight amendments proposed here and adopted by this Convention, and if that be true, they can then be printed as amended and we have not got so much to do this afternoon but what we can just as well consider these rules as anything else.

Hence, I am opposed to the amendment. I am not opposed to that part which appropriates the amount the sub-committee recommended as necessary expenses.

Mr. VARIAN. Mr. President, I didn't move to adopt these rules. I don't think such a motion should be made until they are read. I suggested that they be read and by way of suggestion only, that they be considered by sections.

These rules, as you will find, provide for amendments, and we supposed (and that was the occasion of our haste in the matter) that the Convention was waiting for the report of the committee on rules, in order that it might proceed with its business, and I hope this motion

of Mr. Kimball, the gentleman from Ogden, will not prevail. Let us determine at least that we have a basis this afternoon and adopt something. And we are just as ready to offer amendments now as we will be to-morrow.

Mr. KIMBALL (Weber). Mr. President, I made my motion for this reason; here are thirty-eight rules. No member of the Convention has seen those rules, and they have had no opportunity to consider them at all. And a mere casual reading of them will give the members of the Convention very little information in regard to them. Now, as I understand it, we have a public printer. By to-morrow morning the rules will be on the desk, where each member of this Convention will have a chance to read them over and consider them, so that he can intelligently suggest amendments, if there are any amendments; but to have them read over here casually by the secretary of the Convention, we must catch it as we can.

Mr. ROBERTS. Mr. President, I would ask if this committee on rules is a standing committee throughout the Convention?

The PRESIDENT. It will be, yes, sir; a standing committee.

Mr. ROBERTS. And if at any time any alteration could not be made either suggested by the committee or by the house?

Mr. EVANS (Weber). Mr. President, as a member of that committee, I desire to state that we thought it proper to make that report as early as possible, which we have done. It may be true, that there are inaccuracies in the rules, but thus far this Convention is like a ship in mid ocean, without a rudder; we have no rules to guide us at all, and it would seem to me to be the best thing to do—adopt some rules; the committee is a standing one. It can bring in a rule at any time, or any motion can be made at any time during the session of the Convention to the standing rules and be adopted; it would only mean a waste of five or six hundred dollars to wait until morning. I think we ought to move even though we may move somewhat imperfectly, and I am opposed to the motion of Mr. Kimball, although I appreciate his motive in making it.

Mr. MURDOCK (Beaver). Mr. President, I think it would not take many minutes to read it over; we might find some corrections that would be very important before going to print, and I should be in favor of having the rules read and see what they look like, and then we will be better able to judge whether we want to send it to the printer at once.

Mr. KIMBALL (Weber). Mr. President, with the consent of my second I will withdraw my motion until the rules are read.

The PRESIDENT. If there is no objection, the motion may be withdrawn. Did you intend to withdraw that part of the motion which referred to allowing $14.00 for the work?

Mr. KIMBALL (Weber). I withdraw the whole motion until the rules are read.

The PRESIDENT. The secretary will read the rules.

Mr. THATCHER. I would suggest that the secretary will be kind enough to read slowly and distinctly.

The secretary thereupon read the remainder of the report of the committee as follows:

STANDING RULES OF THE CONSTITUTIONAL CONVENTION OF THE TERRITORY OF UTAH.

POWERS AND DUTIES OF THE PRESIDENT.

RULE I. Unless otherwise ordered the Convention shall meet each day, except Sundays and holidays, at the hour of 10 o'clock a. m.

The President shall take the chair each day precisely at the hour to which the Convention shall have adjourned. He shall call to order and, except in the absence of a quorum, shall proceed to

business in the manner prescribed by these rules.

RULE II. He shall possess the powers and perform the duties herein prescribed, viz:

1. He shall preserve order and decorum, and in debate shall prevent personal reflections, and confine members to the question under discussion. When two or more members rise at the same time, he shall name the one entitled to the floor.

2. He shall decide all questions of order subject to appeal to the Convention. On every appeal he shall have the right in his place to assign his reasons for his decision. In case of such appeal no member shall speak more than once.

3. He shall appoint all committees except where the Convention shall otherwise order.

4. In case the president is absent or fails from any cause to take the chair at the appointed hour, the Convention shall appoint a president pro tempore.

5. When the Convention shall be ready to go into committee of the whole, he shall name a chairman to preside therein, subject to the right of committee to elect its own chairman.

6. He shall assign seats to authorised reporters of the press, who shall have the right to pass to and fro from such seats in entering or leaving the chamber. No reporter shall appear before any of the committees in advocacy of or in opposition to anything under discussion before such committees. A violation of this rule will be sufficient cause for the removal of such reporter. Removal for this cause shall be vested in the president.

7. He shall not be required to vote in ordinary proceedings, except where his vote could be decisive. In case of a tie vote, the question shall be lost. He shall have general control, except as provided by rule or law, of the chamber and of the corridors and passages in that part of the building assigned to the use of the Convention. In case of any disturbance or disorderly conduct in the galleries, corridors, or passages, he shall have the power to order the same to be cleared, and may cause any person guilty of such disturbance or disorderly conduct to be brought before the bar of the Convention. In all such cases the members present may take such measures as they deem necessary to prevent a repetition of such misconduct by excluding the offending person from admission to the chamber thereafter, or imposing other penalties.

8. He shall also be ex-officio member and chairman of the committee on rules.

ORDER OF BUSINESS.

RULE III. The first business of each day's session shall be the reading of the journal of the preceding day and the correction of the same. The order of business shall then be as follows:

1st. Presentation of petitions, memorials.

2nd. Reports of the standing committees.

3rd. Reports of select committees.

4th. Introduction of ordinance and propositions for insertion in the Constitution.

5th. Unfinished business.

6th. Special orders.

7th. Third reading of the ordinance and propositions to be inserted in the Constitution.

8th. Motions and resolutions.

All ordinances and propositions for insertion in the Constitution shall be read in full once, and a second time by title, which shall be considered the second reading, and referred to the appropriate committee without debate.

RIGHTS AND DUTIES OF MEMBERS.

RULE IV. Petitions, memorials, remonstrances and any other papers addressed to the Convention shall be presented by the president, or by any member in his place, read by their titles, unless otherwise ordered, and referred to the proper committee.

RULE V. Every member presenting a paper shall endorse the same; if a petition, memorial, remonstrance or communication in answer to a call for information, with a concise statement of its subject and his name; if a notice or resolution, with his name; if a proposition for insertion in the Constitution, with a statement of its title, his name, and, if taken from a constitution of any state, a reference thereto; if a proposition of any other kind for the consideration of the Convention, with a statement of its subject, the proposer's name, and the reference desired. A report of a committee must be endorsed with a statement of such report, together with the name of the committee making the same, and shall be signed by the chairman; a report by the minority of any committee shall be signed by the members rendering the same.

RULE VI. Every member who shall be within the bar of the Convention when a question is stated from the chair, shall vote thereon unless he is excused by the Convention, unless he be directly interested in the question; nor shall the roll of absentees be more than once called. The bar of the Convention shall be deemed to include the body of the Convention chamber.

RULE VII. Any member requesting to be excused from voting may make, when his name is called, a brief statement of the reasons for making such request, not exceeding two minutes in time; and the Convention, without debate, shall decide if it shall grant such request; but nothing in these rules contained shall abridge the right of any member to change his vote on any question previous to the announcement of the result. Any five members shall have the right to demand the yeas and nays upon any question before the result is announced. Any three members have the right to demand a call of the Convention, but if objection is made, the demand shall be sustained by one-fifth of the members present; and upon a call of the Convention the names of the members shall be called alphabetically, and the absentees noted upon the journal.

ORDER AND DECORUM.

RULE VIII. No member rising to debate, to give a notice, make a motion, or present a paper of any kind, shall proceed until he shall have addressed the president and been recognized by him as being entitled to the floor. While the president is putting a question or a count is being had, no member shall speak or leave his place; and while a member is speaking no member or person shall entertain any private discourse or pass between the member speaking and the chair.

RULE IX. When a motion to adjourn or for recess shall be carried, no member or officer shall leave his place until the adjournment or recess shall be declared by the president.

RULE X. No persons, except members of the Convention and the officers thereof shall be permitted within the secretary's desk, or the room set apart for the use of the secretary, during the session of the Convention, and no member or other person shall visit or remain by the secretary's table while the yeas and nays are being called, except officers of the Convention in the discharge of their duties.

RULE XI. No member shall speak more than once on the same question until every member desiring to speak on such question shall have spoken, nor more than twice on any question, without leave of the Convention; provided, the mover of any question, or the chairman of any committee reporting the matter under consideration, may, upon giving notice thereof, speak last.

RULE XII. If any member in speaking or otherwise transgress the rules of the Convention, the president shall, or any member may, call him to order, in which case the member so called to order

shall immediately sit down, and shall not rise unless to explain or proceed in order. The president shall decide all points of order, which decisions may be appealed from.

RULE XIII. All questions relating to the priority of one question or subject matter over another under the same order of business, or a postponement of any special order or the suspension of any rule, shall be decided without debate.

RULE XIV. All questions of order as they shall occur, with the decisions thereon, shall be entered in the journal.

STANDING COMMITTEES.

RULE XV. The president shall appoint the following standing committees, to report upon the subjects named, and such other matters as may be referred to them, viz:

1. Rules and methods of procedure, to consist of five members including the president, who shall be chairman.

2. Federal relations, to consist of seven members.

3. Preamble and declaration of rights, to consist of eleven members.

4. Legislative, to consist of fifteen members.

5. Judiciary, to consist of fifteen members.

6. Executive, to consist of fifteen members.

7. Elections and rights of suffrage, to consist of fifteen members.

8. Apportionment and boundaries, to consist of twenty-six members, one from each county.

9. Education and school lands, to consist of eleven members.

10. Public buildings and state institutions, to consist of eleven members.

11. Water rights, irrigation, agriculture, to consist of fifteen members.

12. Municipal corporations, to consist of nine members.

13. Corporations other than municipal, to consist of fifteen members.

14. Public lands, to consist of seven members.

15. Revenue, taxation, and public debt, to consist of fifteen members.

16. Salaries of public officers, to consist of nine members.

17. Mines and mining, to consist of fifteen members.

18. Labor and arbitration, to consist of seven members.

19. Printing, to consist of three members.

20. Militia, to consist of five members.

21. Manufactures and commerce, to consist of seven members.

22. Ordinances, to consist of seven members.

23. Schedule and future amendments, miscellaneous, to consist of nine members.

24. Accounts and expenses, to consist of three members.

25. Engrossment and enrollment, to consist of five members.

26. Compilation and arrangement, to consist of five members.

RULE XVI. The several committees shall consider and report without unnecessary delay upon the respective matters referred to them. All propositions for insertion in the Constitution shall be reported by the committees, cleanly engrossed, without rider, interlineation or defacement.

RULE XVII. It shall be the duty of the committee on printing to examine and report all questions of printing referred to them; to examine from time to time and ascertain whether the prices charged for printing and the quantities and qualities furnished are in conformity to the orders of the Convention and to the conditions fixed by it; to ascertain and report the number of copies to be printed and how distributed, and to report to the Convention from time to time any measures they may deem useful for the economical and proper management of the Convention printing.

RULE XVIII. It shall be the duty of

the committee on account and expenses to inquire into the expenditures of the Convention, and whether the same are being or have been made in conformity with the law and the orders of the Convention, and whether proper vouchers exist for the same; and whether the funds provided for the purpose are economically applied, and to report from time to time such regulations as may conduce to economy and secure the faithful disbursement of the moneys appropriated by law.

RULE XIX. Every ordinance, proposition, or other matter reported by any committee for insertion in the Constitution, shall, without further orders, be printed and referred to the committee of the whole.

COMMITTEE OF THE WHOLE.

RULE XX. The same rules shall be observed in committee of the whole as in the Convention, so far as the same are applicable, except that the previous question shall not apply, nor the yeas and nays be taken; nor a limit be made as to the number of times speaking. A motion to rise and report progress shall be in order at any stage, and shall be decided without debate, but a motion to rise is not in order until each section and the title have been considered, unless the limit of time has expired.

RULE XXI. There shall be a special calendar for the committee of the whole, on which shall be placed all propositions and other matters which by order of the Convention or under these rules are referred to such committee. Every proposition shall be considered and acted upon in the committee of the whole in its order upon the calendar. In committee of the whole propositions shall be read by the chairman and considered item by item, unless otherwise directed by the committee, leaving the preambles, if any, last to be considered. The body of the propositions shall not be defaced, or interlined, but amendments shall be noted by the chairman or secretary upon a separate piece of paper or rider, and so reported to the Convention. Every proposition or other matter reported from the committee of the whole for the third reading by the Convention, shall be placed upon the Convention calendar, and be considered and acted upon under that order of business.

COMPILATION AND ARRANGEMENT.

RULE XXII. As soon as any entire proposition for incorporation in the Constitution shall have been disposed of, such proposition, if agreed to by the Convention, shall be referred to the committee on compilation and arrangement, to be by that committee embodied in the Constitution. The committee shall have full power to revise the language used in the various propositions and to arrange the same so as to be clearly expressive of the sense of the Convention, and to make the instrument complete and consistent within itself. The committee having completed its revising, shall report all the articles of the Constitution to the Convention, when it shall be fully read, and when it is thus read the question shall be on the whole Constitution, so revised and amended, and if the same shall be decided in the affirmative the Constitution as a whole shall be carefully enrolled under the supervision of the committee on engrossment and enrollment, and signed by the president and members of the Convention.

GENERAL RULES.

RULE XXIII. The final vote agreeing to each proposition, and upon agreeing to the instrument as a whole, shall be taken by the yeas and nays, and no such proposition shall be considered as agreed to, nor the instrument as a whole, except a majority of the delegates elected vote therefor.

RULE XXIV. Equivalent motions, resolutions, or amendments thereto, shall not be entertained. If any ques-

tion contains several distinct propositions, it shall be divided by the chair at the request of any member; but a motion to strike out and insert, shall be indivisible. When a question is under debate, no motion shall be received but to adjourn, to lie on the table, for the previous question, to postpone to a day certain, to commit or amend, to postpone indefinitely; which several motions shall have precedence in the order in which they are arranged, and no motion to postpone to a certain time, to commit, or postpone indefinitely, being decided, shall be again allowed at the same stage of the proposition.

RULE XXV. When a blank is to be filled and different sums or times shall be proposed the question shall be first taken on the highest sum and longest time.

RULE XXVI. All proposed action touching the rules and order of business, shall be referred, as of course, to the committee on rules. Such committee may sit during the session of the Convention without special leave, and report at any time upon rules, or order of business, so referred to them. It will be in order to call up for consideration at any time a report from the committee on rules. No other committee shall sit during the session of the Convention without special leave.

RULE XXVII. A majority of the delegates elected to the Convention shall constitute a quorum. In all cases of absence of members during the sessions, the members present may take such measures as they may deem necessary to secure the presence of absentees, and may inflict such penalty as they may deem just upon those who, on being called on for that purpose, shall not render sufficient excuse for their absence. No proposition or other matter shall be inserted in the Constitution, unless by the assent of a majority of the members elected to the Convention.

RULE XXVIII. The previous question shall be as follows:

Shall the main question be now put? And until it is decided, shall preclude all amendments or debates. When the Convention shall decide that the main question shall not now be put, the main question shall be considered as still remaining under debate. The main question shall be on the passage of a proposition for insertion in the Constitution, resolution or other matter under consideration; but when amendments thereto are pending, the question shall first be taken upon such amendments in their order.

RULE XXIX. Except as otherwise by these rules specifically provided, Roberts' Rules of Order shall be the rule of decision of parliamentary questions.

OFFICERS OF THE CONVENTION.

RULE XXX. It shall be the duty of the secretary to keep the journals of each day's proceedings, which shall be printed and laid on the table of members on the succeeding day. He shall prepare and post on the bulletin board in the hall of the Convention, on the morning of each day, a calendar of the orders and business of the day, for the Convention, and a like calendar for the committee of the whole. All appointments of officers and employes shall be entered on the journal of the Convention with the date of appointment.

RULE XXXI. It shall be the duty of the stenographer of the Convention to be present at every session of the Convention. He shall take stenographic notes of the debates in the Convention and in committee of the whole, and with reasonable dispatch shall furnish copy of the debates written out in long hand, and file the same with the secretary.

RULE XXXII. At a reasonable time, to be determined by the Convention, at least five days before final adjournment, the committee on engrossment and en-

rollment shall be instructed to accurately engross and enroll the Constitution, and the same shall be reported by said committee to the Convention, and read through therein, and submitted to a final vote prior to its final adjournment. Upon such reading no amendments shall be permitted.

RULE XXXIII. The sergeant-at-arms shall, under the direction of the committee on printing, receive from the printer all matter printed for the use of the Convention, and cause the same to be distributed to the members immediately after reception by him; under the direction of the president, he shall enforce the rules of the Convention. He shall procure a bulletin board of suitable dimensions, to be placed by him under the direction of the president in some convenient place in the chamber.

CONVENTION CHAMBER AND PRIVILEGES OF ADMISSION TO THE FLOOR.

RULE XXXIV. The following classes of persons besides officers and members of the Convention shall be entitled to admission to the floor of the Convention, during the sessions thereof, viz:

1. The governor, secretary, auditor; treasurer, and ex-governors.
2. The justices of the supreme court, and ex-justices thereof:
3. The delegate to Congress and ex-delegates.
4. Members of the Utah commission.
5. Reporters for the press, as provided by these rules.
6. Ladies.

No other person shall be admitted to the floor during the sessions of the Convention unless the Convention shall otherwise order.

RULE XXXV. No reporter of a newspaper or other person who is interested in pending or contemplated constitutional enactment, or who is employed by or receives any compensation from any corporation except a newspaper, news, or press association, shall be admitted or entitled to the privileges of the floor of the Convention.

RULE XXXVI. The doors of the Convention shall be kept open to the public during all its sessions.

RULE XXXVII. The standing rules of the Convention and the regular orders of business shall not be suspended or interrupted unless by a vote of two-thirds of the delegates present.

RULE XXXVIII. Every proposition to change, alter, or add to the standing rules of the Convention shall be referred to the committee on rules without debate; and every report thereon, from said committee, shall lie over one day before action thereon.

Mr. KIMBALL (Weber). Mr. President, I offer the following amendment to rule No. 1:

I move that rule No. 1 be amended by striking out the words "10 o'clock a. m." and inserting in lieu thereof, "2 o'clock p. m."

The PRESIDENT. Gentlemen, you have heard the motion—was there a second?

Mr. VARIAN. I second the motion.

Mr. THURMAN. Mr. President, I ask that rule 1 be read.

Mr. VARIAN. Mr. President, on behalf of the committee on rules, I desire to present to the Convention the reason that moved the committee to fix that hour. It was considered that if the Convention met at ten o'clock, all the members, or at least a large number of them would be present, and it would be easy to gather them all into the committee rooms. For some time, possibly a week or more, there will be little work for the Convention, as such, to perform. It is very necessary that the several committees should be actively and constantly at work preparing work for the Convention during this time. Now, it was supposed that if the Convention would meet at some hour in the morning it would call together all the members. The chairmen of the

several committees would be here, and there would be no excuse for absentees or persons being lax. For that reason and none other, it was considered that hour would be a convenient hour for meeting; it was further thought, Mr. President, that if the Convention met in the afternoon at two o'clock it would break in upon the work of the committees. Some of these committees will have quite a strain upon them and it is probably better that they should be permitted to have continuous working hours without interruption.

Mr. KIMBALL (Weber). Mr. President, the very reason that I made the motion that I did to amend the rule was for the accommodation of the committees. Now, I assumed that most of the work of this Convention was going to be done by the committees. The only opportunity they will have for meeting is in the evenings before the Convention meets in the morning, and it is for that very reason, that I desire to change the hour from ten o'clock to two o'clock, to give these committees ample opportunity to perform their work and bring it into the Convention.

Now, if we can meet at ten o'clock, the Convention will probably be prolonged through the whole day, or up until three or four o'clock in the afternoon, and leave no opportunity for the committees to meet or do their work. Now, take for example a legislative assembly, their hour of meeting is almost invariably two o'clock in the afternoon, for the very reason that they give all the committees of the convention or of the legislature an opportunity to work from the time of adjournment in the afternoon until two o'clock the next afternoon. Now, I take it if we meet at ten o'clock, then the only opportunity the committee will have to meet will be in the evening. My observation has been and my experience has been that it is almost impossible to get a full committee meeting in the evening after dinner, and the work of the committees is delayed for that very reason. And that is why I make this motion.

Mr. MURDOCK (Beaver). Mr. President, I believe the motive is good in him who has amended the time of meeting, but I do not know what kind of a body of men has come together, but it has been my experience that committees are a little dilatory upon this ground; members of committees will say to themselves, "Well, perhaps there will be enough without my attendance." I think it would facilitate the matter better to have the Convention convene, if they should only convene for the purpose of bringing the members together, and then they could be discharged—take an adjournment—and the committees then could meet in the rooms that are prepared. If we undertake to depend upon the committees, I am afraid there will be a lack of their attendance, and I think they will be much better prepared to go into their committee room from this body than they will to leave it to various committees. I think the motive is all right, but I don't think it will effect the matter so thoroughly as to have the Convention meet in the morning.

Mr. THURMAN. Mr. President, I favor the motion to amend. I think if we meet here at ten o'clock we will take up the time of the forenoon with something, whether it is profitable or not. We will run to the hour for lunch, then separate, the committees will have the same difficulty, if they are reluctant about meeting, in getting back here in the afternoon that they have now in the forenoon.

For my part, I see but very little work to be done, at least at the present time, except by committee. I agree with the gentleman from Weber in that respect. I think as it is, the most important work that we have to do at present (work by committee) that we should take that part of the day when men feel most like work, that is, in the morning

and come here and meet. Now, it seems, when we meet together in a body it is very difficult for us to separate—to tear ourselves away from one another; there seems to be sort of a fellow feeling, of brotherly love—or something, we stay together whether we have anything to do or not—I mean anything important.

Mr. EVANS (Weber). Mr. President, that would apply to the afternoon as well as the morning.

Mr. THURMAN. Very well, when we have got our committee work done—that portion which is important, if we want to meet together in the afternoon, I don't care if we stay together all night, whether we have anything to do or not, but I believe the committee meetings ought to be in the forenoon; I believe that is the time to get down to solid work, such as our committees have to do, and I don't see why the excuse should be raised here, that men will not come together. Why will not they come together as well in the committees as in the Convention? What is the reason for not coming together in committees? I think the reason is that we have not yet established times for holding our committee meetings so that committee members understand it. It is true that no one committee will be able to get all its members together, hardly, at any time, for the reason that other committees are meeting and some of the members of one committee will be members also of another. That will be the case, however, whenever we meet.

The PRESIDENT. Gentlemen, are there any further remarks upon this?

The motion is to amend by striking out from the report of the committee, the words, "ten o'clock a. m." and inserting the words, "two o'clock p.m."

Carried.

Mr. GOODWIN. Mr. President, to save time, I move that these rules as they have been read be adopted for one day.

Mr. KIMBALL (Weber). Mr. President, I second the motion.

Mr. HOWARD. Mr. President, I would like to hear rule 22 read.

Mr. IVINS. Mr. President, as an amendment to Judge Goodwin's motion, I move that these rules now be passed upon separately; that each rule be read and passed upon separately, as it is read.

Mr. EVANS (Weber). Mr. President, as an amendment to that motion, I would move that each rule be read and if no objection be made, that it be considered adopted.

The PRESIDENT. There has been a request to have rule 22 read. If the gentlemen will give attention it will be read.

The secretary then read rule 22.

Mr. HOWARD. Mr. President, that provides that whenever this matter is referred to that committee that they have the power to revise it and correct the language. I would make a motion that we add to that, "provided that if any serious blunder has been made in the wording of the article so referred, it be sent back to be corrected by the Convention, while in session."

Mr. KIMBALL (Weber). Mr. President, I raise the point of order.

The PRESIDENT. There is a motion before the house. The motion is out of order.

Mr. RICHARDS. Mr. President, I am in favor of the motion made by the gentleman from Salt Lake, to adopt these rules for one day. There are several things in the rules that seem to me need a little change. If I understand them right as they were read, they are not altogether harmonious one with the other. It is impossible to offer an intelligent amendment at the present time, and if the gentleman will include in his motion the printing of the rules that we may have them before the next meeting, I should certainly favor that motion.

Mr. EVANS (Weber). Make it two days.

Mr. IVINS. Mr. President, I would like to ask what benefit can be derived from adopting these rules for one day. If the gentlemen want the rules printed, so that we will have them before the house, let us continue with the rules that we now have and let a motion prevail to have these rules printed and laid on the desks of the members. I can see no necessity for adopting them for one day.

Mr. GOODWIN. Mr. President, the rules probably will only have slight amendments at best; they will be the guide of the Convention; to adopt them to-day puts the committee in the right line and one day gives every member a chance to read the rules in the morning and to come here with an intelligent opinion upon them. It was simply to save time that I made the motion.

Mr. RICHARDS. Mr. President, I would like to offer a suggestion and ask the gentleman if he will accept as an amendment two days. It may be that the rules will not be ready in time to-morrow to enable us to examine them properly.

Mr. GOODWIN. Yes, sir; I will accept that.

The PRESIDENT. There was an amendment, if I recollect correctly, to Judge Goodwin's motion.

Mr. GOODWIN. It wasn't seconded.

The PRESIDENT. It wasn't seconded, all right. Gentlemen, you have heard the motion that the rules be adopted for two days, and that they be printed.

Mr. JAMES. I only want to say, Mr. President, that I hope that the motion will prevail.

The motion was carried.

Mr. WELLS. Mr. President, are reports of committees in order?

The PRESIDENT. Yes, if there are any committee reports, they should be sent to the table.

Mr. WELLS. I have a report of the committee on official stenographer.

Mr. EVANS (Weber). Mr. President, these rules are now in force; I would suggest that the chair take up the order announced by the rules.

Mr. RALEIGH. Mr. President, I noticed in the rules as read a rule in relation to precluding members from speaking twice on a question until all the rest had spoken. I presume there may be some who would not desire to speak on a question, hence I would suggest that these words read, "after the speaking of all who desire to."

The PRESIDENT. Yes, sir; they so state. Do you know the number of the rule?

Mr. RALEIGH. I do not. It says that no member shall speak twice until all others had spoken.

By request the secretary read rule 11.

Mr. RALEIGH. All right; I did not hear that part of it.

The PRESIDENT. Gentlemen, the presentation of petitions and memorials is now in order.

Reports of standing committees are now in order.

The secretary then read the following report from the committee on printing:

Constitutional Convention,
Committee Room, March 11, 1895.

MR. PRESIDENT:

Your committee on printing beg leave to report as follows:

We requested bids from the printers of Salt Lake City on the temporary printing of 350 copies of each day's minutes of this Convention, said minutes to be printed in small pica or 11-point type, solid, type page 4 x 7 inches; 25 x 38 book paper, fifty pounds to the ream; folded and stitched. That in pursuance of said request your committee received bids from the following publishing houses:

The Salt Lake Lithographing Company, the Star Printing Company, the Tribune Job Printing Company, and the Deseret News Printing Company; that the latter company being the lowest bidder we awarded the printing of minutes, until otherwise ordered by this Convention, to the said company at the rate of $1.87½ per page for the 350 copies.

The bids of said publishing houses are herewith attached and made a part of this report.

Respectfully submitted,
RICHARD G. LAMBERT,
Chairman.

Mr. HART. Mr. President, I suggest it is not necessary to read the bids from the various houses, unless it is desired. It will simply take time.

The PRESIDENT. Does anybody desire to hear these bids read?

Mr. HART. I move, Mr. President, the report be accepted and adopted.

Carried.

The PRESIDENT. Any other reports of the committees?

The committee on official stenographer presented a report, which was read by the secretary, as follows:

MR. PRESIDENT:

Your committee on official stenographer respectfully report that we have given the subject attention and recommend the appointment of Mr. Frank E. McGurrin, of Salt Lake City, to be the official stenographic reporter of this Convention; that he be required to take the oath of office and that it shall be his duty to furnish a long-hand typewritten verbatim report of the proceedings of this Convention.

That his compensation be fixed as follows:

Ten dollars for each day the Convention is actually in session and 15 cents per folio for transcribing his notes into long-hand; provided, that the entire cost for both per diem and transcribing shall not exceed thirty dollars per day on the average.

That he be required to give bonds in the penal sum of $2,000 with good and sufficient sureties, to the acceptance of the secretary of the Territory, conditioned for the efficient and faithful performance of his duty and guaranteeing the Convention against recovery of any compensation for services in this connection exceeding thirty dollars per day for the days actually in session, and also for the delivery into the hands of the secretary of the Territory, within ten days after the final adjournment of this Convention, a complete long-hand typewritten verbatim report of the entire proceedings of this Convention.

WELLS,
Chairman.

Mr. KEARNS. Mr. President, I move its adoption.

Mr. VARIAN. Mr. President, I second the motion.

Mr. HART. Mr. President, I would like to inquire of the committee if they have received any terms from any stenographers except Mr. McGurrin. It would seem to me that the charges for the gentleman for transcribing are rather high—15 cents per folio, as I remember the report to be. I think perhaps we could get this work done for five cents per folio. In fact, I am informed that we can get the minutes transcribed at that rate. Ten cents, Mr. President, is the rate fixed by law for the transcribing of the notes of the official stenographer of the court, as I remember it. It seems to me to go above that and give fifteen cents per folio—fifteen cents for each hundred words that are transcribed, we are giving more than it is worth.

Mr. KEARNS. Mr. President, this committee was empowered to employ Mr. McGurrin or whoever they saw fit, and they have done so and reported to us. They were entrusted to do this by the Convention. It is a very responsible position and I trust we will adopt the report of the committee.

Mr. EVANS (Weber). Mr. President, I want to inquire whether the report of the committee is unanimous?

The secretary can inform us.

The SECRETARY. It is signed by Wells, chairman.

Mr. EVANS (Weber). It is a unanimous report?

Mr. WELLS. Yes, sir.

Mr. SQUIRES. Mr. President, do I understand that the committee is adverse to giving the information called for by Mr. Hart? If we can get this work done just as well for a less figure, I should certainly be in favor of doing it.

Mr. KIMBALL (Weber). Mr. President, I understand the committee were authorized to——

Mr. WELLS. Mr. President, I will say in answer to the gentleman that we

did receive other bids, but the committee thought it prudent not to furnish that information in detail to this Convention out of delicacy to the bidders; we have decided the question as we think upon its merits. We think Mr. McGurrin is at least—we may say the best official stenographer here and we want the best. We decided that it is not a question that we can let to the lowest bidder the same as digging a ditch, and yet having received bids and having made tests we came to the conclusion that Mr. McGurrin at this price per day was not excessive, as compared with that paid to other stenographic reporters at other conventions.

Mr. THATCHER. Mr. President, for the information of the Convention, would it be in order to have the names of the committee to whom this extraordinary power was given?

Mr. BOYER. Mr. President, I apprehend that the best move that this Convention can make, is to endeavor to get the botto n facts of this transaction. We have seemingly a fair statement from Mr. Wells; however, I will state individually it is unsatisfactory to me. If there were other bids, this Convention is entitled to the bids—to a statement as to what the work was offered to be done for. If there is such a delicacy on the part of the committee that they cannot give the names, that may be a matter with themselves. And as to the question of letting this work upon the basis of letting a contract for the digging of a ditch—I apprehend that it would take a spade and some muscle to dig a ditch, and when the ditch was completed, if done in conformity with contract, this work is equally done whether it be a five dollar man or with a one dollar man, and if we have equal ability in this Convention, or if there have persons of equal ability offered to do this work it is not necessary that we must have the best and the highest priced individual. What we want is to have the work well and faithfully done. I apprehend that there are other persons that are capable of doing this work and if they have made bids and propositions to do this work, I think it is but fair that this Convention know the whole of it, and then they decide if they choose to the best financial interests, in connection with the interests of the best labor to be done for this Convention.

Mr. CHIDESTER. Mr. President, I do not know whether I am rightly informed in regard to this, but was this committee empowered to employ this stenographer without any further action on the part of this Convention?

Mr. WELLS. No.

Mr. THURMAN. We haven't done it.

Mr. CHIDESTER. Now as for one, I didn't understand that to be the case, and I apprehend that if we adopt this report, that the employing of this stenographer will cost us nearly three thousand dollars, and I deem that an excessive amount for that work; and if there is any one that can do that work—I believe that other conventions have done it very much cheaper than that, and that this can be done cheaper, and if that is the case, we should have it done cheaper, and I would like to know if there have been other bids put in at a less figure, and if they are competent to do the work; that is the question with me.

The PRESIDENT. The minutes show that Mr. Roberts moved that the appointment of an official stenographer be referred to a committee of five to decide upon the appointment and compensation of the same.

Mr. JAMES. Mr. President, I will state for the benefit of my friend who has just spoken and the other gentleman over here, that I didn't understand at the time that we were appointed, that this question would come up at all before this Convention. My understanding was that we were appointed a committee to make an examination and employ an official stenographer for this Convention. The

committee have proceeded upon that course so far as I understand it. Now, one gentleman says that it will cost about three thousand dollars. Another states to this Convention how impossible it is for those that are associated upon committees to understand the detail work of a committee. We have figured that matter out to the best of our ability and we think that it will cost anywhere from eight hundred to a thousand dollars at the rates we have agreed upon with Mr. McGurrin. Now, gentlemen, we had to proceed upon this line. These stenographers were put under contest, their work was submitted to us, and from their work we had to pass upon who in our judgment could do that work efficiently. Now, if the Convention had determined to proceed in the course that certain gentlemen think should be proper you should have had these contests made before you all where you could have judged for yourselves and not have sent out a special committee to have these contests, and make a report to you. Now, I don't care to go into the argument about how or what the mode of our procedure was, it is rather a delicate matter and all I have got to say is that my best judgment was that we should employ Mr. McGurrin at the rates that the committee have reported to you.

Mr. RICKS. Might I ask Mr. James a question? I understand there were several other applicants for this position and they were tested as to their ability to report the proceedings of this Convention. I would like to ask now, if any of them and all of them did not report the discussions of the day on which the contest was made?

Mr. JAMES. Yes, sir; that was the test of their ability.

Mr. RICKS. They all made a satisfactory report?

Mr. JAMES. Well, now I decline to answer that question, most emphatically.

Mr. RICKS. They all reported the speeches, do I understand you?

Mr. JAMES. They all reported, and I do say that is going a little too far.

Mr. RICKS. What I wish to arrive at is this; I believe that every gentleman upon the floor of this house acknowledges that Mr. McGurrin is probably the best reporter in the country, but I believe that there are other reporters in this city that can report the proceedings of this Convention satisfactorily, and I understand also——

Mr. THURMAN. Let me ask you a question, have you read them?

Mr. RICKS. Read what?

Mr. THURMAN. The reports.

Mr. RICKS. No, sir; I was not at the meeting, and do not know anything about the report.

Mr. THURMAN. You do not know anything about it then.

Mr. RICKS. But I understand there are other reporters in the city who can report satisfactorily the proceedings of this Convention, and for less than the rates the committee reports as charged by Mr. McGurrin. Now, if that is so, I believe that we ought to give preference to the lowest qualified bidder for this position.

Mr. THATCHER. Mr. President, the idea was thrown out that the power was given to this committee to employ a stenographer without any further action of this body. Am I to understand that that is the position taken now?

The PRESIDENT. From the character of this motion, it would seem to be the case; that would be the impression of the chair.

Mr. THATCHER. I understand Mr. James says they were not so empowered; is that so?

Mr. JAMES. I said that I thought we were so empowered.

Mr. ROBERTS. I did not catch the question of the gentleman a moment ago.

Mr. THATCHER. The gentleman on my left here claimed that the committee

when appointed were empowered to employ the stenographer without any reference to a future action of this body; is that correct?

Mr. ROBERTS. Mr. President, I do not so understand the powers of the committee.

Mr. THATCHER. If that is correct, of course that is the end of the matter; it is useless to discuss it.

Mr. ROBERTS. As a member of that committee, Mr. President I wish to disclaim any such pretensions to power. My understanding was that we were merely to investigate the abilities of the respective applicants and to make inquiries concerning the probable expense, and to report to this Convention, and that our powers extended no further than that.

Mr. THATCHER. It seems to me, Mr. President, and it must be very evident to those who have taken the matter under consideration, that there will be a large deficiency that will have to be supplied by the taxpayers of this Territory, that is to say, that the appropriation of Congress will not cover the expenses of this Convention; if the committee files a unanimous report and they are satisfied that the employment of the party named is the best that can be done, having of course, in view efficiency, that the reports may be correctly had, I desire to say but very little upon this question, but I must confess that it reminds me of a little bit of an anecdote that I once heard. A cougregation of religionists employed a new minister and one of the flock wanted to know why he did not preach in Latin; "Why," he says "do you understand Latin?" He says, "no, but then we pay for the best and we ought to have it." If we can get this reporting done—and it is is certainly very clear—must be to every gentleman on this floor that fifteen cents a folio is excessive, whatever may be said of the charge of fifteen dollars per day.

Mr. WELLS. Ten.

Mr. THATCHER. Ten, excuse me.

Mr. CANNON. Fifteen dollars was the price in Wyoming.

Mr. THATCHER. Everything in Wyoming is an expensive luxury. Utah is moving on an entirely different basis. I think we started out on the proposition that we would be economical. I am willing, however, in view of the unanimity of the report of the committee to vote for their report, but I think that in the future we should have things moved so that our constituents, the inhabitants of Utah, will be satisfied, and with respect to this honorable body of men, that they should keep the expenses of this Convention down as an example of what may follow, and that we don't pay excessively for labor when the market is full of competition.

Mr. VARIAN. Mr. President, I simply want to call the attention of the Convention to the fact that this kind of reporting is a very different sort of reporting than that usually done by reporters. This reporter is obliged to attend the sessions of the Convention and stay here if it be one hour or ten, when he gets through, he has to employ out of his compensation a corps of assistants in order to comply with the orders of the Convention, and will have to spend hours in dictating to persons employed by him. Unlike conventions of a similar kind of great and wealthier states, where large funds are at the disposal of the Convention, the debates are not prepared and written out so that the members can see them each day, as in New York for instance, and Kentucky and elsewhere. In those states upon occasions of this kind within a stated period, twenty-four hours or forty-eight hours, the rules require that the report shall be written out and placed on file with the secretary where every member can go and make his corrections, and revise his remarks. You will observe that these conditions do not exist here, and cannot exist. We

have not the money to pay for it, so that you will have to rely upon the reporter himself, his integrity and his capacity, which is most important, because, I presume the integrity part of it could be easily satisfied with any of the competitors. You will have to rely upon him absolutely. It is not as if you were able to go and see and make corrections if he makes mistakes. If you have got to get a man that won't make a mistake, and I undertake to say that so far as the observation of the bar of this Territory has gone and the knowledge we have from the courts elsewhere, that this gentleman who is named by this committee is one of the foremost men in the United States in his profession. My recollection is, there are none who excel him and but one or two in the great competitive contests of the last three or four years who have at all approached him. Now, that being so, the committee being your eyes and your ears, upon whom you have devolved the task of deciding this question, it seems to me we may safely leave it with the committee.

Mr. KIESEL. Mr. President, I move you sir, that we refer this report back again to the committee. I believe in view of what has transpired here on the floor they can drive a better bargain when they report again.

Seconded.

Mr. EICHNOR. Mr. President, the best is the cheapest; the gentlemen on that committee, Mr. Wells, Mr. Roberts, Mr. Thurman, Mr. Eldredge, and Mr. James, are a perfect guarantee to me that they have done the best for this Convention that they possibly could. We have spent nearly half an hour here and possibly wasted fifty dollars of this precious thirty thousand dollars on this question. We refer it back and before we reach a final conclusion, we will have spent a day in wrangling over this matter and six hundred dollars is gone. I state frankly that if I was to receive thirty thousand dollars for one day I couldn't do it. If the committee comes to the conclusion that no one else but Mr. McGurrin can do it, I am satisfied and am willing to vote for the report of the committee.

Mr. GOODWIN. Mr. President, in discussing the matter of economy we ought to consider it both ways. An error on the part of a stenographer will kick this whole Convention into a turmoil, and fussing for three hours is more than a stenographer's cost for a week. In the first place, a stenographer is just exactly as a famous man, that was here a few years ago, used to say about mines; he said, there were just two kinds, one was worth anything in the world, and the other wasn't worth anything in the world. A correct stenographer is just as absolutely necessary for the business of this Convention—very much more necessary than any other one officer or any other one duty performed in this Convention. Here is a committee of five gentlemen representing both parties, all of them shrewd business men, who have investigated this whole matter and have reported precisely as the Convention directed them to report. If the matter is referred back they will either simply come in to-morrow and make a duplicate report or will ask to be relieved. It seems to me that it is almost a discourtesy to this committee, considering its composition, for us to debate this matter at all.

Mr. SQUIRES. Mr. President, I would like to ask the committee whether this thirty dollars a day limit refers to the transcribing of the minutes or whether that means the total compensation for the day.

Mr. THURMAN. Total compensation.

Mr. SQUIRES. The total compensation is thirty dollars a day?

Mr. JAMES. It does not say that it shall be thirty dollars a day, but it shall not exceed thirty dollars a day on an average. We made that so as to

limit it and keep it within bounds. Now, it is possible that it may not exceed fifteen dollars but we put it in that way.

Mr. SQUIRES. Mr. President, I was trying to reconcile the figures with the statement made by Mr. James when he was on the floor before that the entire expenses would not exceed eight hundred dollars.

Mr. JAMES. No, I said eight hundred to a thousand dollars.

Mr. SQUIRES. I don't suppose that there is any gentleman in this Convention supposes that the labors of the Convention will cease in thirty days; thirty days at thirty dollars a day is nine hundred dollars; if we go sixty days, we will find that the limit given by the committee will be very much exceeded. Now, I find that at fifteen cents a folio that twenty dollars extra compensation will amount to 133 folios. We have, as the newspaper rumors give us (and I presume they were accurate upon this point), one candidate at least before this committee who has made an offer to transcribe for five cents a folio; that will make a saving on each day's work within the limit prescribed for Mr. McGurrin, of about fourteen dollars per day. That is the reason I ask this committee if they are averse to giving us the information in regard to this matter which they have. I don't suppose any candidate who was before that committee is at all afraid or ashamed to have the record made come before the Convention, and as the gentleman from Cache has said, I believe we should set an example in this Convention of a proper degree of economy in expenses. It will be considered, no doubt, as a precedent for future legislative bodies in this Territory. I am not in favor of employing a man that speaks Latin when we can get one that speaks plain English—when we can get the man that speaks English for a reasonable compensation. If there is question on the part of this committee as to the qualifications of these or other candidates, I have nothing further to say. If they will state to this Convention that the other applicants are not qualified for that work, I will withdraw my opposition which I may feel, but otherwise, I shall be in favor of employing the cheapest talent that is correct.

Mr. ROBERTS. Mr. President, I wish to ask the chair, in the first place, if the amendment offered by the gentleman on my right is before the house, to refer this report back to the committee?

The PRESIDENT. It is properly before the house, as I understand it.

Mr. EVANS (Weber). It was not seconded.

The PRESIDENT. It was seconded.

Mr. KIMBALL (Weber). Mr. President, Mr. Kiesel did not offer this motion as an amendment; it was an independent motion and out of order.

Mr. KIESEL. Mr. President, I move it as a substitute.

Mr. ROBERTS. If the motion is on the question of referring it to the committee I presume it is not debatable, but if it is, I have some remarks to make on that subject.

The PRESIDENT. It was moved to adopt the report of the committee. Mr. Hart made some remark—whether he made a motion in regard to the matter I am not clear, then followed some discussion and Mr. Kiesel moved as a substitute that it go back to the committee for consideration. The question is on that substitute and is not debatable although we have been debating.

Mr. THURMAN. I think it is debatable. What rule is there that shuts off debate on a proposition of this kind? We have a rule here that says certain things referred to the standing committees shall be referred without debate.

The PRESIDENT. It is debatable according to the rule.

Mr. ROBERTS. Then, upon that proposition, Mr. President, I have this to say, that in this question of employ-

ing a stenographer, I think I may claim the distinction of standing upon the question of economy, as in consequence of the expense attendant upon that work, I was scarcely favorable to employing a stenographer at all. When, however, the Convention voted down a motion of mine that the consideration of the whole question be referred to a committee and they decided they would have a stenographer, then I desired that the question of compensation and the ability of the one that should be employed be referred to a committee instead of undertaking to decide that question here in the Convention.

I went into the consideration of this question in that committee determined to do all that I could in behalf of economy, but we had tests made and after we got into the consideration of the subject it seemed to me that the one proposition above all others should be that the work be efficient, and that to have a report of the proceedings of this Convention which could in any manner be unsatisfactory or questionable, was a waste of the entire outlay. If there could be any doubt as to the efficiency of the work performed, upon that ground I think my fellow members on that committee will bear me out that I did all that I could in the way of standing for economy. We finally agreed to this report. That the committee, gentlemen, made such careful estimates as we could upon the amount of matter that would probably enter into each day's record, and guarding the expenses as we have done, by providing that the compensation both for the reporting and transcribing shall not exceed thirty dollars per day on the average, gentlemen will see that if this Convention shall sit forty days, the expense will not exceed twelve hundred dollars; if we shall sit for sixty days, then the compensation of the stenographer shall not exceed eighteen hundred dollars. Therefore, sir, when it came to the question whether we should pay this amount for a report of the proceedings of this Convention that could be absolutely trusted, I waived all opposition and would not cast any possible reflections upon the reports of these debates to take place on this floor by withholding some three or four hundred dollars in the way of economy, and therefore, I assent to this report of the committee upon the ground of economy. These are my reasons for action in this matter.

Mr. CREER. Mr. President, with perfect deference to the judgment of this committee, I believe that as they have expressed themselves, they had the deepest interests and welfare of this Convention at heart in coming to this conclusion. It seems that the point of the remarks would refer more especially to the taking down of the debate and proceedings of the Convention. One thing, however, that appeals to our judgment, that is the transcribing of the minutes by typewriting at the rate of fifteen cents per folio. Now, we are all able to judge upon that, as to whether that should be excessive or not. The proposition places itself upon this, that it will equal at least the compensation of eight members upon this floor—the compensation that will be given this officer. I find in reference to Wyoming—I may say that their proceedings were very creditably done—that just one-half was the compensation of the official stenographer of that convention. I may read from the minutes of that convention, if you will permit me:

Your special committee on ways and means to whom was referred the matter of employing an official stenographer—

Henry G. Hay, Chairman,
Cheyenne, Wyoming:

DEAR SIR—I beg to submit the following proposition for your final consideration: I will make a stenographic report of the proceedings of the convention and furnish a typewritten transcript of the same, at the rate of fifteen dollars per day for each day actually employed in making such stenographic reports,

the work to be completed within thirty days after the adjournment of the convention.

Yours respectfully,
MRS. LOUISE S. SMITH.

And that was adopted. Now I don't know why this delicacy—the matter of delicacy—economy it seems to me would precede that consideration, as to the competency of those men, of the parties who made the application. I am in favor of referring this matter or taking further action upon it. I think it is excessive and not in accordance with the principles of economy that we have desired to establish.

And this will be a precedent I think we cannot afford to follow during the remainder of the Convention. I am in favor that something be done, rather than accept this report at the present time.

Mr. THURMAN. Mr. President, as a member of that committee I desire to say a few words upon this question. So far as the Wyoming case is concerned, I take it that the lady in that case was to receive fifteen dollars a day for the time actually employed, both before and after the convention adjourned. That is not the meaning of this proposition. Not to exceed thirty dollars a day for the time actually occupied by this Convention; a contract to be entered into that the work be completed within ten days after the adjournment instead of within thirty days, as in that case. If we are in session thirty days, the compensation would be nine hundred dollars, although the reporter will probably be forty days actually engaged. He would have the ten days after the adjournment.

Mr. ELDREDGE. It would be not to exceed nine hundred dollars, Mr. Thurman.

Mr. THURMAN. Now, coming back to the question. Members seem to desire to know why this recommendation has been made, why the committee keeps back information. I don't blame members for that; if I were not a member of the committee I would be just that inquisitive; it is the right of every member to know particularly on questions involving the expenditure of money. There is no secret about the matter. It is true the bids were secret, it was simply a question of qualification—capacity to do the work to the satisfaction of the committee. Gentlemen, it may be that that committee were too hard to satisfy. So far as I am concerned, I felt like this, I didn't desire when the journals came into the hands of the members of this Convention one of these days and they looked over to see those nice little gems of oratory, and wit, and wisdom, that have dropped from their lips here, I wouldn't want them to be howling maledictions at this committee.

Mr. HALLIDAY. Mr. President, I am feeling very ill—very bad, I would like to be excused.

The PRESIDENT. The gentleman can be excused.

Mr. Thurman, you may proceed.

Mr. THURMAN. We proceeded in this manner with the utmost caution and deliberation and I believe every member of the committee proceeded with the most profound regard for economy. It seems to have been a case in which it wasn't a question of somebody having a pet; it was a question or a case in which members of the committee seemed all desirous and anxious to get the best service for the least money; and if the service was good enough, the least money for which it could be obtained was the guide by which the committee was governed. We made a test on the first day's proceedings, that wasn't satisfactory, explanations were made, we realized that it was possible that for the first day's proceedings parties hadn't acted with understanding of just exactly what would be required. And then we selected another day and let in various parties to take notes of the proceedings

to report to us in long hand the result of their work. Now, I wish to say, gentlemen of this Convention, that the committee make this recommendation after having examined the work and based their conclusions upon the work and the price thereof, and while I don't wish——

Mr. KIMBALL (Weber). Mr. President, I like to listen to Mr. Thurman all right; I don't desire to cut him off, but I insist that the gentleman is out of order. Mr. Kiesel's motion was equivalent to a motion to recommit. I submit that that is an undebatable motion. While I would like to hear the gentleman——

Mr. THURMAN. Seeing as you have allowed me to go this far, won't you just let me go on a little farther?

Mr. KIMBALL (Weber). I was speaking to the chair, not for your benefit particularly, but there may be some other long winded man here.

Mr. THURMAN. I wish to say this, Mr. President——

Mr. KIMBALL (Weber). I call for a ruling.

Mr. THURMAN. And I rise for a personal privilege on this question. The committee has been somewhat attacked by members on the floor, and the question has been raised as to whether they were governed by proper principles in this matter, and I speak as one of the committee and I think the committee ought to be heard from and understood. Now, I was going to finish in a minute, but if you want to shut me off all right.

Mr. CANNON. I believe that the chair ruled previously that the question was debatable.

Mr. THURMAN. I so understood it.

Mr. KIMBALL (Weber). I think the chair was laboring under a mistake at that time, and I raise the question again that it is not debatable.

Mr. THURMAN. I object now. The objection is out of order. The only way he can reach this is to reconsider the ruling of this Convention, and it takes a two-thirds vote to carry that.

Mr. HART. Mr. President, I wish to say that in view of the information received from the committee I desired on the matter, I am opposed now to referring it again to the committee.

Mr. KIMBALL (Weber). Will the chair rule on my point of order?

The PRESIDENT. I think the point of order is well taken if it is against the chair.

Mr. HART. Mr. President, that motion to commit is certainly debatable; it is an amendable motion and Mr. Roberts is against Mr. Kimball on this point. He says a motion to commit is debatable.

Mr. THURMAN. Of course it is.

Mr. HART. I just wish to say, Mr. President, that I have no question as to the qualification and ability of Mr. McGurrin, but not knowing at the time the members of this committee or what consideration had been given the question, the proposition in my mind was this, that if any other person could do the work to the satisfaction of this Convention and only charge one-third as much for the transcribing I was in favor of that person. I think it will be useless Mr. President, to refer this matter to this same committee; you will get no further report from them than we have now. I am in favor of adopting their report.

Mr. CANNON. Mr. President, I think that this matter was referred to a committee——

Mr. THURMAN. Mr. President, I believe that I am in order on this floor, I have waited for three speeches to be made since I was shut off by Mr. Kimball, and the question is whether I can proceed or not.

The PRESIDENT. We have a rule here if we can get our eye on it.

Mr. CANNON. I thought the gentleman was seated.

The PRESIDENT. Mr. Varian, can you turn to that rule?

Mr. VARIAN. The only rule about that is rule 24 I believe. It doesn't say whether it is debatable or not. It simply determines the precedence in which certain motions shall have place. It does not decide that question. It depends upon the general rule of parliamentary law.

Mr. PIERCE. Mr. President, we adopted Roberts' Rules of Order. On page 63, rule 22, it says that motions to recommit are debatable and also that it is permissible to debate the merits of the question it is proposed to commit.

The PRESIDENT. Then the ruling with regard to the debate going forward is correct.

Mr. THURMAN. Now, I will proceed with my peroration. [Laughter.]

I had reached that, however, and I desire to say this, Mr. President, in conclusion, that I don't want members of this Convention to vote against this report on the theory that it is too high, or that the committee have proceeded without proper deliberation. But don't refer it. If anything is done, I will recommend what to do, and that is, read the test by which the committee was governed, decide it for yourselves, upon the same theory that the committee decided it, and if you decide it against us, and you take the responsibility, all right. I will not be found fault with hereafter for having acted.

The PRESIDENT. The question before the house is on the adoption of the report of the committee. There is a substitute offered by Mr. Kiesel which is to recommit this matter to the committee.

Mr. HILL. Mr. President, I would like to know if this committee considered the question as to whether we needed a stenographic reporter or not at all.

The PRESIDENT. There is no question about that.

Mr. HILL. It seems to me if I can judge by what I have been listening to here for several days——

The PRESIDENT. I will say to the gentleman the Convention decided that they wanted one by vote here, if my memory serves me correctly.

[Calls for the question.]

Mr. CANNON. Mr. President, and gentlemen of the Convention, I think that when this matter was referred to the committee of five, that committee took the matter up without any bias whatever. I believe if there was a bias, it was against the gentleman who has been recommended by that committee. I believe that they have been conscientious in their examination of that which was presented to them, of the full matter, and I am satisfied that when they reported as they did report, that the whole Convention, had it had the whole matter before it, as this committee did, would have reported in the same manner. For this reason, I favor the original motion and shall vote against these substitutes.

Mr. KIESEL. Mr. President, in view of all that I have heard, I, with the consent of my second, withdraw my motion.

[Calls for the question.]

Mr. SQUIRES. Mr. President, I rather like the suggestion of Brother Thurman on that committee, that we should have the contest read to this Convention.

Mr. THURMAN. That is right.

Mr. MURDOCK (Beaver). Mr. President——

Mr. HART. I call for the previous question.

The PRESIDENT. All in favor of the adoption of the report of the committee will say aye.

The report was adopted.

Mr. VARIAN. Mr. President, I move that the reporter be sworn in.

Carried.

Frank E. McGurrin was then sworn in as official stenographer.

The PRESIDENT. Are there any other reports of committees?

Mr. STOVER. Mr. President, on Fri-

day last the following resolution was adopted:

That the committee on accounts and expenses report to the Convention the amount of expenses incurred per diem up to the present time and any other information they may give us on the general expenses of the Convention.

I now ask for the report of that committee.

The PRESIDENT. Is the committee ready to report?

Mr. LUND. Mr. President, as mileage was mentioned as a part to be reported upon, and we could not ascertain until to-day the number of miles that each had come, we were unable to report, but we will report to-morrow.

Mr. LEWIS. Mr. President, I would suggest that the reporter in being sworn, take the same oath we have all taken as members. It seems to me he should be sworn for a correct report of the proceedings of this Convention.

Mr. VARIAN. Mr. President, ordinarily the reporter takes an oath to correctly take down the evidence and arguments and correctly transcribe the same from shorthand into longhand, but I notice the reading of this oath is that he will correctly perform his duties as an officer of this Convention.

The rules adopted for two days include a rule specifying what his duties shall be. I should suppose that that would be sufficient.

The PRESIDENT. Is that satisfactory to you, Mr. Lewis?

Mr. LEWIS. Yes, sir.

The PRESIDENT. The introduction of ordinance and propositions for insertion in the Constitution is now in order.

Mr. EVANS (Weber). Mr. President, I desire to introduce a proposition for insertion in the Constitution and ask that it be read at length and read a second time by its title and referred to the committee on elections and suffrage.

The same was read by the secretary as follows:

Whereas, both political parties in this Territory have declared in favor of woman suffrage; now, therefore, be it

Resolved, that the rights of citizens of the State of Utah to vote and hold office shall not be denied or abridged on any account of sex. Both male and female citizens of this State shall equally enjoy all civil, political, and religious rights and privileges.

Mr. THURMAN. We settled that long ago in the committee.

Said proposition was read a second time by its title.

The PRESIDENT. If there is no objection this will go to the proper committee under the rules.

Mr. EICHNOR. Mr. President, in accordance with Mr. Evans' resolution, I offer a proposition for a method of voting otherwise than by ballot.

Same was read by the secretary as follows:

A proposition to provide for method of voting otherwise than by ballot.

The delegates of the Constitutional Convention of the Territory of Utah, in Convention assembled, do propose as follows:

Section 1. All elections shall be by ballot. Nothing in this section shall be construed to prevent the use of any machine or mechanical contrivance for the purpose of receiving and registering the votes cast at any election; provided, that secrecy in voting be preserved.

Mr. VARIAN. The standing rule is to read it a second time by its title and refer it as a matter of course without a motion.

The proposition was then read a second time by its title.

The PRESIDENT. It will go to the committee on elections and suffrage.

Mr. EVANS (Weber). Mr. President, I desire to offer for insertion in the Constitution a matter relating to the elective franchise and ask that the resolution be read at once at length and a second time by its title and under rule referred to the committee on elections and suffrage.

The secretary then read the same as follows:

Resolved, that in order to preserve the

purity of the ballot and to prevent the exercise of improper influences at elections, the following be inserted in the Constitution, namely:

No person who shall receive, accept or offer to accept, or pay, offer or promise to pay, contribute, or promise to contribute to another to be paid or used, any money or other valuable things as compensation or reward, for the giving or withholding any such vote or who shall make or become directly or indirectly interested in any bet or wager, depending upon the result of any election, shall vote at such election, and upon challenge for such cause the person so challenged before the officer authorized for that purpose, shall receive his vote, shall swear or affirm before such officer that he has not received or offered, or promised to pay, contribute, offered or promised to contribute to another to be paid or used any money or other valuable things as a compensation or reward for the giving or withholding of vote at such election and has not made any promise to influence the giving or withholding of any such vote nor made or become directly or indirectly interested in any bet or wager depending upon the result of such election.

The Legislature shall enact laws making a violation of any provisions of this section a crime and provide the punishment therefor, and the Legislature shall also enact laws excluding from the right of suffrage all persons convicted under the provisions of this section and also persons convicted of bribery or of any infamous crime.

The proposition was read a second time by its title and referred to the committee on elections and suffrage.

Mr. Eichnor offered for insertion in the Constitution an article on preamble and bill of rights.

Mr. THURMAN. How many sections are there, Mr. Secretary?

The SECRETARY. There are thirty-five in all.

Mr. THURMAN. I move we suspend the rules and refer that without further reading to the committee.

Seconded.

Mr. CREER. Mr. President, I would like to ask if it is stated there what that is copied from—that bill of rights?

Mr. EICHNOR. If any person desires a bill of particulars on the declaration of rights, I will furnish it. I will state that I consulted forty-four constitutions, in preparing that declaration of rights.

The PRESIDENT. Gentlemen, the question is on the motion to suspend the rules and refer this without reading.

Carried.

The PRESIDENT. It will go to the committee on preamble and declaration of rights.

The SECRETARY. There is a proposition offered by T. B. Lewis.

Mr. RICKS. I move that we suspend the rules and that this be referred to the proper committee.

Seconded.

Carried.

Mr. PETERS. Mr. President, I wish to offer a proposition on rights and I ask that the rules be suspended and that it go to the proper committee.

Carried.

Mr. Evans (Weber) offered a proposition for insertion in the Constitution relative to free passage.

Mr. VARIAN. It is not debatable.

The PRESIDENT. Is it not debatable? The question is on the motion to refer it to the committee named.

Carried.

The SECRETARY. Here is an article from Mr. Maloney of Weber.

The PRESIDENT. What will we do with it?

Mr. VARIAN. Mr. President, I ask leave to make a motion out of order in relation to the consideration of the rules. We omit that, do I have leave?

The PRESIDENT. Yes, sir.

Mr. VARIAN. Mr. President, I move that the consideration of the report of the committee on rules be made a special order for day after to-morrow at half past two o'clock.

Carried.

Mr. LEWIS. Mr. President, I move that the rules be suspended and that the document submitted by Mr. Maloney shall go to the proper committee.

Carried.

The PRESIDENT. It will be referred

to the committee on corporations other than municipal.

Any other documents?

The SECRETARY. Mr. Snow of Washington County in relation to salaries and fees.

Mr. THATCHER. Is it short?

The PRESIDENT. Read it.

The secretary read as follows:

Resolved, that no officer of the State, whether elective or appointive, executive, or judicial, of any county, city or town, shall receive for his own use for the performance of any official duties any fees, costs, perquisites, or compensation, other than his salary, and prescribed by law, and all fees payable by law for any official service shall be paid when received by such officers into the state, county, city or town treasury, respectively.

Said proposition was read a second time by its title.

The PRESIDENT. This goes to the proper committee.

Mr. EVANS (Weber). Mr. President, it goes to the committee by the rule without any order.

Mr. EICHNOR. Mr. President, I offer a proposition to enable cities to form their own charters. I would suggest that some gentleman make a motion to have the rule suspended and to have it referred without reading.

Mr. EVANS (Weber). Make the motion yourself.

Mr. EICHNOR. I move that the rules be suspended and that the proposition be read by title and referred to the committee on municipal corporations.

Carried.

Mr. EICHNOR. Mr. President, I would suggest to the secretary to mark on that Washington and California. It is taken from both.

Said proposition was read a first and second time by its title.

The PRESIDENT. Any other propositions that should go into the Constitution?

[No response.]

The PRESIDENT. Unfinished business is in order.

Mr. THURMAN. Mr. President, I desire before we adjourn, if there are any announcements to be made by chairmen of committees, that they be made before we adjourn, and while we are all together. We don't know how to get together after we adjourn. There have been unsuccessful attempts made by several committees to get together and they cannot do it.

Mr. MURDOCK (Beaver). Do you make that as a motion?

Mr. THURMAN. Yes, sir.

Mr. MURDOCK (Beaver). I second the motion.

Mr. THURMAN. I move that if the chairmen wish to call their committees together to-morrow that they make announcements before we adjourn this afternoon of the time and place the committee will meet.

Carried.

Mr. JAMES. Mr. President, before we proceed to anything further, I wish to make an inquiry.

The PRESIDENT. We haven't got through with the order of business.

Mr. BOWDLE. Mr. President, if I am in order, I wish to offer a resolution with reference to printing.

The secretary then read as follows:

Resolved, that there be printed in pamphlet form 600 copies of the Enabling Act, names of the officers and members of standing committees——

Mr. EVANS (Weber). I arise to a point of order. We are now upon the order of business of introducing propositions, as I understand it.

The PRESIDENT. The point of order is well taken.

Is there any unfinished business?

Special orders are next.

Mr. JAMES. Mr. President, I don't know whether I am in order or not, but I arise for information. I want to know if we are going to have any committee clerks, and if we are going to have them, when we are going to have them? If there is any time in the world when the committee should have their

clerks it is right now. My committee needs a clerk at once; we should have had it to-day; we could have kept a clerk at work all day.

Mr. EVANS (Weber). Mr. President, I dislike it very much, but I arise to a point of order and I insist that the chair be permitted to go through the order as the rules require.

The PRESIDENT. Motions and resolutions.

Mr. Bowdle's resolution is in order.

The secretary then read the following:

Resolved, that there be printed in pamphlet form 600 copies of the Enabling Act, names of members, and members of standing committees, and rules and order of business, for the use of the members of this Convention.

R. G. LAMBERT,
Salt Lake.

Mr. WELLS. Mr. President, I think something of this kind is incorporated in the rules. This resolution provides for the printing of the rules before they are adopted. I move that it be laid on the table.

Carried.

Mr. STREVELL. Mr. President, in view of the fact that we have already adopted the Constitution of the United States it seems to me that it would be appropriate if we had the United States flag draped in this hall, and I make a motion that the sergeant-at-arms—

Mr. EVANS (Weber). Mr. President, I am compelled to arise again to a point of order. We must proceed under the rules.

The PRESIDENT. Motions and resolutions are now in order.

Mr. EVANS (Weber). I beg pardon of the gentleman.

Mr. STREVELL. Mr. President. I make a motion that the sergeant-at-arms be instructed to procure proper United States flags and drape this hall with them.

Carried.

Mr. JAMES. Mr. President, if I am permitted, I move you now that we take up the question of committee clerks.

Seconded.

The PRESIDENT. All in favor of the motion of Mr. James that we proceed to the consideration of committee clerks will say aye. Those opposed will say no.

The noes seem to have it.

The noes have it.

Mr. JAMES. Division.

Mr. THATCHER. Too late. The chair has ruled.

The PRESIDENT. The chair has announced its decision.

Mr. Lambert offered the following resolution, which was read by the secretary:

Resolved, that the printing committee be authorized to obtain 5000 letter heads, 5000 6¼ envelopes, 1000 No. 10 envelopes, 2000 committee report headings, on legal cap paper, for the use of the members of the Convention.

The motion to adopt the resolution was lost.

Mr. ELDREDGE. Mr. President, I move that we now adjourn.

Seconded.

The PRESIDENT. With the consent of the gentleman who moved to adjourn, there will be a resolution here—a brief one—I think it ought to be read.

Mr. Ricks offered the following resolution which was read by the secretary:

Resolved, that the thanks of this Convention be extended to G. W. Heintz of the general passenger department of the Rio Grande Western Railway for the 500 maps of Utah furnished for the use of this Convention.

On motion the resolution was adopted.

Mr. ELDREDGE. I will now renew my motion to adjourn.

Carried.

The Convention then, at 5:15 p. m., adjourned.

NINTH DAY.

TUESDAY, March 12, 1895.

The Convention was called to order at 2 o'clock p. m. by President Smith.

The roll was called and the members found in attendance as follows:

Adams	Lemmon
Allen	Lewis
Anderson	Low, William
Barnes	Low, Peter
Bowdle	Low, Cache
Boyer	Lund
Brandley	Maeser
Button	Mackintosh
Buys	Maloney
Call	Maughan
Cannon	McFarland
Chidester	Miller
Christianson	Morris
Clark	Moritz
Coray	Murdock, Beaver
Corfman	Murdock, Wasatch
Crane	Murdock, Summit
Creer	Nebeker
Cunningham	Page
Cushing	Partridge
Driver	Peters
Eichnor	Peterson, Grand
Eldredge	Peterson, Sanpete
Emery	Pierce
Engberg	Preston
Evans, Weber	Raleigh
Evans, Utah	Richards
Farr	Ricks
Francis	Roberts
Gibbs	Robertson
Goodwin	Robinson, Kane
Green	Robison, Wayne
Hammond	Ryan
Hart	Sharp
Haynes	Shurtliff
Halliday	Snow
Heyborne	Spencer
Hill	Squires
Howard	Stover
Hughes	Strevell
Hyde	Symons
Ivins	Thatcher
James	Thompson
Johnson	Thoreson
Kiesel	Thorne
Keith	Thurman
Kearns	Van Horne
Kerr	Varian
Kimball, Salt Lake	Warrum
Kimball, Weber	Wells
Lambert	Whitney
Larsen, L.	Williams.
Larsen, C. P.	

Prayer was offered by Rev. Clarence T. Brown of the Congregational Church.

The secretary read the journal of the eighth day's session, which was corrected and approved.

Mr. CANNON. Mr. President, I move the name of the church of which the reverend gentleman offering prayer is a member be inserted after his name, and I would like to request that this be done in each case since the opening of the Convention. I find by reference to our minutes of the first day, the name of the gentleman who offered prayer and also the church with which he is associated was given, and I think this should be done in each case, the object of the mover of the motion having been to show to the public that a freedom of religious sentiment prevailed in the Convention.

Carried.

Mr. EVANS (Weber). Mr. President, there is one question that has been raised here that I think is proper to consider about these minutes and that is the number of days.

The minutes as we have them in our hand, say the sixth day.

We are of opinion, some of us, that the days should be numbered, Sundays included, from the day we began; that is the way it is in legislative sessions, and I think it is intended to be the same in this Convention.

We are actually entitled to more compensation than the minutes show that we are in fact, we are entitled to our compensation for Sundays and every day from the beginning of the session.

Now, we were in session all last week, I believe, commencing with Monday. This is the ninth day and yet the journal seems to show that it was the sixth day.

Mr. ANDERSON. It should be the eighth.

Mr. EVANS (Weber). Mr. President, I move that it be corrected to the eighth day.

Mr. BARNES. It should be the ninth day.

Mr. EVANS (Weber), These are yesterday's minutes.

Mr. BARNES. Yesterday should be the eighth day.

Mr. KIMBALL (Weber). Mr. President, in order to relieve the gentleman's mind, I move now that we only count secular days. I think that will relieve that gentleman's mind.

The PRESIDENT. The chair would like further light upon this matter.

Mr. EVANS (Weber). Mr. President, as I understand, we have the right as members of this Convention to claim our per diem for every day we are here after the beginning of this Convention. Members have to stay here on Sundays, some of them who live out a long distance at least, and they are entitled to their compensation. The law allows it to us and I see no reason why we should not have it.

Mr. JAMES. Mr. President, to expedite this matter, I move that the suggestion of Mr. Evans be referred to the committee on accounts and expenses and that they report to this Convention.

Mr. EVANS (Weber). Mr. President, I move that the journal be corrected so as to make it read the eighth day. I think the motion is out of order.

Mr. JAMES. Mr. President, I move to amend and to refer the matter to committee on accounts and expenses.

Mr. ROBERTS. Mr. President, is the question open for remarks?

The PRESIDENT. The question is on the motion of Mr. Evans. The question is open for remarks.

Mr. ROBERTS. Mr. President, I hope that motion will not carry. While I am quite willing that members should be paid for every day that they are here in attendance upon this Convention, whether the Convention meets or not, still I wouldn't be in favor of numbering the days of our session otherwise than by the actual number of days that the Convention is in session, because I apprehend it would be misleading to call it the eighth day, when there is nothing to show that we are in session on the seventh day, and while I would be willing to have the members have their compensation, I wouldn't like to see the proceedings of the days numbered other than by the days we were actually in session.

Mr. PIERCE. Mr. President, I am in favor of Mr. Evans' motion. As far as my experience and knowledge goes, in all legislative bodies—for instance, take in a state where they say the legislature shall continue for ninety days, they include the first day they sit and every day after that, holidays and everything, it is limited by the time the sun rises and the sun sets, and this is simply not for the purpose of determining the compensations, but for the purpose of determining the number of days we are in session, or the number of days of the session, and I think it eminently proper that Mr. Evans' motion should pass.

Mr. SQUIRES. Mr. President, do I understand Mr. Evans to desire to amend the minutes relating to the eighth day only, or to other days?

Mr. EVANS (Weber). The other days are all right. We adjourned over Saturday.

Mr. HILL. Mr. President, I believe it is usual in all legislative bodies to count from the day we begin until the close—each and every day consecutively.

Mr. EVANS (Weber). Mr. President, I desire to make this further remark, as I am the mover of the motion, that

if Brother Roberts' suggestion be adopted, we would have difficulty about getting our compensation. Our records will show one thing and our claims for compensation will show another, and as the gentleman from Salt Lake has properly remarked, we commenced on a certain day and continue until we close, and we count from the day after we are in session.

The other journals of constitutional conventions are counted this way, and all legislative bodies do it. It seems to me that we ought not to depart from the rule in this case.

Mr. JAMES. Mr. President, I still insist upon the motion being referred to the committee on accounts and expenses. I do not see why a matter that is so important as this should be settled without an opportunity for investigation. This Convention will cost between six and seven hundred dollars——

The PRESIDENT. Is there any second to the gentleman's motion?

Mr. JAMES.——for every day that we are in session and unless we take care of this six or seven hundred dollars for the days we are not in session I am of the opinion that we will create a great deal more expense than we did when we hired the stenographer yesterday and took up an hour and a half of time.

The PRESIDENT. There is no second.

Mr. CREER. Mr. President, unless we have a committee to change the universal rule, I would be opposed to this motion. I think there is no such committee.

The PRESIDENT. The motion before the house is that of Mr. Evans, that the records be changed from the sixth to the eighth day.

Mr. VARIAN. Mr. President, I understood the motion to commit was made.

The PRESIDENT. There was no second to it.

Mr. VARIAN. Well, I renew it; I make the motion to commit to the committee on accounts and expenses.

Mr. JAMES. Yes, sir; on accounts and expenses, I second it.

Mr. HILL. Mr. President, I cannot see what business that committee has with this question that is before the house. It is the keeping of the records straight. Yesterday was the eighth day since we commenced.

Mr. THURMAN. That is right; it has nothing to do with the money.

The PRESIDENT. The question now turns on reference to this committee.

Mr. VARIAN. Mr. President, I made the motion because I thought perhaps you might be under some misapprehension concerning it and it might be improperly decided.

The PRESIDENT. I think there can be no misapprehension from the fact that has been the rule in the Convention as far as the chair can remember.

Mr. VARIAN. From the remarks of members I thought there might be some misapprehension among ourselves. I didn't speak of the chair.

Mr. FARR. Mr. President, I hope that the motion will prevail, I have spent considerable time——

Mr. VARIAN. I yield to Mr. Farr.

Mr. FARR——and I move that we sustain it.

Mr. VARIAN. Mr. President, I am quite clear on it myself. From the remarks of some of the gentlemen I thought it might be decided hastily and without thought. There is nothing to prevent it being considered by the Convention, instead of by the committee.

Mr. THURMAN. Mr. President, I would like to ask the gentleman from Salt Lake what he understands the rule to be.

Mr. VARIAN. I understand the rule to be as stated by Mr. Evans and Mr. Pierce.

The PRESIDENT. The question is on the amendment to refer the matter to the committee on accounts and expenses.

Lost.

The PRESIDENT. The question recurs upon the motion of Mr. Evans.

Carried.

Mr. KIMBALL (Weber.) Mr. President, there is some question about the rule of printing here, I don't remember what the rules are, but I now move you that whenever any proposition comes before the house and is referred to the committee that it be referred to the committee on printing so that the members can have each morning the propositions that are submitted to the Convention before them in the minutes, so I move you that after a proposition is introduced and read the first and second times by the title, that it goes to the committee on printing.

The PRESIDENT. The gentleman is out of order. The order of business now calls for presentation of petitions and memorials.

Mr. KIMBALL (Weber). Under the ruling of the chair, I would like to know when I would be in order.

The PRESIDENT. Well, under motions and resolutions.

Mr. KIMBALL (Weber). I think, if the chair will pardon me, I am in order right now, whenever anything is introduced here that it go to the committee on printing. I don't think that is out of order.

Mr. STREVELL. Mr. President, if it is in order, I would like to ask the privilege of the floor for two members of the Idaho legislature, who are with us to-day, Mr. Crane and Mr. McCarthy.

The privilege was granted by a unanimous vote.

REPORTS OF STANDING COMMITTEES.

Mr. Low of Cache presented the following report which was read by the secretary:

Constitutional Convention,
Committee Room No. 10.

Salt Lake City, Utah, March 12, 1895.

MR. PRESIDENT:

Your committee No. 10 beg leave to report an apparent conflict in the resolution for standing committees, and your appointment of the same.

The report of the special committee recommended that the Convention have certain standing committees and designated the 10th as public buildings and state institutions not educational. While your report appointed eleven members as the committee on public buildings and state institutions; and that our duties might be properly prescribed, we refer the question to you for adjustment.

[Signed] ELIAS MORRIS,
Chairman.

Mr. VARIAN. Mr. President, I desire to call attention to the fact that that communication is not in order for presentation to the Convention. There is no such a thing as a committee by number, and if that is to go on the journal, I think it ought to be reformed.

The committee ought to state what committee it is. It won't do to say committee number 10 or 12, it carries no significance or knowledge with it when you look at the journal. I make the suggestion that the chairman of the committee reform that report. Let it go on your printed journals and it will be a singular thing that will appear there in that way.

Mr. LOW (Cache). Mr. President, I desire to withdraw it in order to make that correction.

The PRESIDENT. Leave will be granted if there is no objection to the gentleman to withdraw it. Any other reports of committees?

The committee on printing reports as follows:

Constitutional Convention Hall,
March 12th, 1895.

MR. PRESIDENT:

Your committee No. 19 on printing beg leave to report that we have requested and received sealed bids from the publishing houses of Salt Lake City on the printing of 600 pamphlets containing the Enabling Act, names of the members and of standing committees, and the rules of the Convention, and the Salt Lake Lithographing Company being the lowest bidder, your committee recommend that the printing of said pamphlets be awarded to said company at the rate of $2.16 per page.

Respectfully submitted,
R. G. LAMBERT,
Chairman.

Mr. VARIAN. What is the heading of that report?

The SECRETARY. Committee No. 19.

Mr. VARIAN. That is subject to the same objection.

The SECRETARY. On printing.

Mr. VARIAN. If there is no objection, I suggest to the chairman of that committee that the clerk be permitted to strike out the number.

Mr. HART. Mr. President, I would suggest that the numbers of the committees should be inserted with the names of the committee; that it would be convenient for reference to standing committees. It was a rule that was adopted in a number of conventions. I notice Wyoming adopted that provision and they referred to the number of committee as well as its name.

The PRESIDENT. What will you do with the report of the committee?

Mr. PIERCE. Mr. President, I move you that we adopt the report of the committee.

Seconded.

Mr. HILL. Mr. President, I can see no possible need of making No. 19, No. 10, No. 12, and so on there—I think the name of the committee is all that is sufficient. There is only one committee of that character, and that 19 should be stricken out.

The PRESIDENT. You have heard the motion, gentlemen, any remarks?

Mr. RICHARDS. Mr. President, I offer an amendment to the motion, that the words, "Number nineteen" be stricken out—that the report be so amended.

Seconded.

Mr. PIERCE. I understand that the chairman of the committee had consented to that change; is that so, Mr. Lambert?

Mr. LAMBERT. Yes.

Mr. PIERCE. Let the clerk strike it out, then.

Mr. RICHARDS. Then I will withdraw my motion.

Question on the adoption of the report.

The motion to adopt the report was carried.

Mr. LOW (Cache). This report is now corrected as suggested, and is respectfully submitted.

The PRESIDENT. What will you do, gentlemen, with the report of the committee on public buildings and state institutions?

Mr. SQUIRES. Mr. President, I move that the title of that committee be made to conform to the original report of the committee that reported to us standing committees for the Convention.

Seconded.

Mr. VARIAN. Mr. President, I would like to inquire whether there has been a change in the name?

Mr. LOW (Cache). Mr. President, there has been, apparently, the word, "not educational" left out in the title of the committee.

Mr. VARIAN. I call the attention of the chair to the fact that we are operating under rules now which declare the titles of committees.

Mr. LOW (Cache). Mr. President, the original report of the committee on committees specified that committee number ten should be composed of eleven members and should be "public buildings and state institutions not educational."

Mr. PIERCE. We have adopted these rules for two days—that is, they will be in force until to-morrow. We have made it a special order upon these rules to-morrow at half-past two. I, therefore, now move you that the report of this committee be made a special order to-morrow at three o'clock, then in debating the rules we can harmonize these little differences.

Seconded.

Mr. VARIAN. Mr. President, we have a special order under which this general subject is to be considered for half-past two; why not let it come up under the

consideration of the report of the rules committee.

Mr. PIERCE. I consent to change motion to half past two.

Mr. RICHARDS. Mr. President, I move as an amendment of that motion, that the further consideration of this matter be deferred until the adoption of the rules or the consideration of the rules.

Carried.

Mr. EVANS (Weber). I suggest, Mr. President, that only the amendments have been put. The question now recurs on the original motion.

Mr. PIERCE. I think that settles the point. We only want to get it out of the way. That is all.

The PRESIDENT. Gentlemen, the matter recurs on the original motion as amended.

Carried.

The committee on accounts and expenses reported as follows:

Convention Hall, March 12, 1895.

Mr. President and gentlemen of the Convention:

We, your committee on accounts and expenditures, respectfully report as follows:

1. Mileage of members as per schedule herewith submitted, 8607 miles at 20 cents		$1,721.40
2. Per diem of president and members of the Convention		430.00
3. Officers' salaries, per day—		
Secretary, P. T. Christensen	$6.00	
Assistant secretary, C. S. Rapp	5.00	
Sergeant-at-arms, R. Clawson	5.00	
Watchman, Bruce Johnson	4.00	
Janitor, J. N. Scott	4.00	
Messenger, L. C. Camp	4.00	
Messenger, J. H. Thorne	4.00	
Enrolling and Engrossing clerk, J. A. Smith	5.00	
Chief messenger, T. S. Watson	4.00	
Official stenographer	30.00	71.00

The total, $501.00 per day, does not not include printing, stationery, nor other incidental expenses.

Expenses including the5th day, Friday, March 8th, 1895—

Mileage	$1,721.40
Officers' salaries from and including day when sworn, except stenographer, whose service commenced with first day	273.00
Per diem of members	2,120.00
Total,	$4,144.40

A. C. LUND,
Chairman.

Mr. JAMES. Mr. President, I move that the report be received and filed.

Seconded.

Mr. SQUIRES. Mr. President, I desire a little information on this report, as to when the salaries of these clerks that are not fixed by law were fixed by this Convention. I don't remember that the salaries of these other clerks and employes have ever been fixed. I refer of course, only to those that are not fixed by law.

Mr. JAMES. That is the reason, Mr. President, I move that the report be received and filed, so that if there should be anything in the report that is not regular it can afterwards be amended.

Carried.

Mr. HILL. Mr. President, I arise for information as to whose business it is to fix these salaries of these officers. I am not informed on the subject.

The PRESIDENT. It will be the business of the house, I suppose, when they come up in order.

Mr. HILL. Because this question will come up by those who are officers later on, and it seems to me they ought to have some understanding as to how much they are getting per diem.

Introduction of ordinances and propositions for insertion in the Constitution:

Mr. PIERCE. Mr. President, I move you that the rules be suspended and that all propositions introduced to-day be read the first time by their title unless otherwise called for.

Seconded.

Mr. ROBERTS. Mr. President, I move as an amendment to that motion that they be read by their titles and re-

ferred to the appropriate committees, without being read at length.

Mr. PIERCE. My motion is to suspend the rules and that they be read the first time by their title. That is the only rule that I want suspended.

Mr. ROBERTS. Mr. President, I would move as an amendment, that on being read by their titles they then be referred to the appropriate committee under the suspension of the rules.

Seconded.

Mr. PIERCE. Mr. President, I am opposed to that amendment.

Mr. ROBERTS. Mr. President, I I take it that the principal thing in introducing resolutions and propositions and ordinances to be inserted in the Constitution, is not to take up the time of this Convention, in wading through what may be offered here, but to get the matter sent to the proper committees and I think that we can determine that upon the title being read and do this business in short order. It is in the interest of economy of time, Mr. President, that I make my suggestion.

Mr. PIERCE. Mr. President, my purpose is exactly what the gentleman from Davis County desires. Our rules require a bill to be read three times before it is put upon its passage, and the rule as it is at the present time requires it to be read the first time at length; the second time by its title and the third time at length. So that we accomplish just what we need, and save time when we suspend the rule that requires us to read it the first time at length.

The PRESIDENT. Mr. Pierce has made a motion to suspend the rules and that they be read by their titles.

Mr. Roberts moves to amend that by providing that we suspend the rules and that they be referred to the appropriate committees, upon the reading by their titles.

Lost.

The PRESIDENT. It recurs upon Mr. Pierce's motion.

Carried.

Mr. SQUIRES. Mr. President, I understand that motion to be except when otherwise called for.

Mr. Chidester introduced a proposition for insertion in the Constitution (file No. 11), relative to counties and county seats, which was read a first time by its title.

Mr. THURMAN. Mr. President, I desire to know now what becomes of that document.

Mr. PIERCE. Mr. President, it is now read under the rule a second time by its title and referred to the appropriate committee.

Mr. THURMAN. Mr. President, I move we suspend the rule which requires it to be read a second time, and that it be referred to the committee without. What is the use of reading that the second time by its title is a mystery to me.

Mr. EVANS (Weber). Mr. President, I arise to a point of order on that motion. That is the very motion that has been passed upon and voted down.

The PRESIDENT. To what committee is it designed this should go?

Mr. CHIDESTER. Municipal corporations.

The PRESIDENT. It will go to the committee on municipal corporations.

Mr. Anderson introduced a proposition for insertion in the Constitution (file No. 12) relative to the declaration of rights, which was read a first and second time by its title, and referred to the committee on preamble and declaration of rights.

Mr. EICHNOR. Mr. President, I offer a proposition to provide for pardoning power. (File No. 13.)

The PRESIDENT. What will you do with the resolution?

Mr. EICHNOR. I suggest that it be referred to the executive committee.

The PRESIDENT. It will go to the executive committee without there is objection.

Mr. THURMAN. Mr. President, let us keep our records straight in this

matter even if it isn't a very good one, but as the rules now stand these documents are to be read a first and second time by their titles. This is the condition of it. I think it is unnecessary to read it twice by its title before referring it to the committee, but that is what this house voted to do, and now let us either do it or undo what we have done.

Said proposition was read a first and second time by its title and referred to the executive committee.

Mr. Maloney introduced a proposition for insertion in the Constitution (file No. 14) relating to homesteads and exemptions, which was read a first and second time by its title and referred to the legislative committee.

Mr. Peters introduced a proposition for insertion in the Constitution (file No. 15) relative to labor and arbitration, which was read a first and second time by its title and referred to committee on labor and arbitration.

Mr. Maloney introduced a proposition (file No. 16) relating to insurance companies, which was read a first and second time by its title and referred to committee on corporations other than municipal.

Mr. Page introduced a proposition for insertion in the Constitution (file No. 17) relative to protecting the purity of elections.

Mr. SQUIRES. Mr. President, I call for the reading of it.

Mr. GOODWIN. Mr. President, if it is in order, I move that that be referred to the Utah commission.

Mr. SQUIRES. I call for the reading of that; I want to know what Sanpete has to say on the purity of elections.

The secretary then read said proposition as follows:

Section 1. Any person who shall be guilty of bribery, fraud, or wilful violation of any election laws, or who shall corruptly alter, erase, add to, or in any way change, corruptly, any election returns, shall be forever disqualified from holding any office of trust or profit in this State, and in addition to any penalties provided by law, shall be permanently deprived of the right of suffrage.

Said proposition was read by its title and referred to the committee on elections and right of suffrage.

Mr. Thoreson introduced a proposition for insertion in the Constitution (file No. 18) relative to public corporations, which was read a first time and second time by its title and referred to committee on municipal corporations.

Mr. Hart introduced a proposition for insertion in the Constitution (file No. 19) relative to distribution of powers in legislative departments, which was read a first and second time by its title and referred to the legislative committee.

Mr. Strevell introduced a proposition for insertion in the Constitution (file No. 20) regarding the adjustment of difficulties between labor and capital, which was read a first and second time by its title and referred to the committee on labor and arbitration.

Mr. MALONEY. I would like to have that read.

The secretary read as follows:

In order to facilitate the adjustment of such difficulties as may in future arise between labor and capital in this State, it is hereby made the duty of the first legislative assembly to provide by law for the appointment by the governor, of a board to be known as the board of labor and arbitration.

Such board shall consist of three reputable citizens of this State, not more than two of whom shall be of one political party, and shall be so constituted as to fairly represent the interests of both labor and capital. The duties of such board shall be such as the Legislature may prescribe by law, having at all times in view the object of properly adjusting such difficulties as may arise between labor and capital to the end that labor shall not on the one hand be unjustly opposed, and on the other that capital shall be protected in all lawful enterprises in this State.

The terms of office and compensation of such board shall be such as the Legislature may prescribe, conditioned that the term of office of not more than one of its members shall terminate in any one year.

Mr. Low (Cache) introduced a proposition, for insertion in the Constitution (file No. 21) relative to the executive department, which was read a first and second time by its title and referred to the executive committee.

Mr. Gibbs introduced a proposition for insertion in the Constitution (file No. 22) relative to the duties of probate judges, which, on request of Mr. Pierce, was read by the secretary as follows:

The probate courts shall be courts of record and shall have original jurisdiction in all matters of probate and settlement of estates of deceased persons, and appointment of guardians; also jurisdiction to hear and determine all civil cases wherein the death or damage claim does not exceed the sum of five hundred dollars exclusive of interest and concurrent with justice of the peace in criminal cases.

Said proposition was read a second time by its title and referred to the committee on judiciary.

Mr. Chidester introduced a proposition for insertion in the Constitution (file No. 23) relative to amending and revising the Constitution, which was read a first and second time by its title and referred to the committee on schedule and future amendments and miscellaneous.

Mr. Creer introduced a proposition for insertion in the Constitution (file No. 24) relative to public buildings, which was read a first and second time by its title and referred to the committee on public buildings and state institutions.

Mr. Evans (Weber) introduced a proposition for insertion in the Constitution (file No. 25) relative to preventing blacklisting, which was read a first and second time by its title and referred to the committee on corporations other than municipal.

Mr. Evans (Weber) introduced a proposition for insertion in the Constitution (file No. 26) relative to taxation for public purposes, which was read a first and second time by its title and referred to the committee on revenue, taxation and public debt.

Mr. Evans (Weber) introduced a proposition for insertion in the Constitution, relative to the apportionment of public moneys, which was read by the secretary as follows:

Resolved, that the following be made a part of the Constitution, to-wit:
No appropriation shall be made for charitable, industrial, educational or benevolent purposes to any person, corporation, or community, not under the absolute control of the State, nor to any denominational, or sectarian institution or association.

Said proposition was read a second time by its title and referred to the legislative committee.

Mr. Maloney introduced a proposition for insertion in the Constitution (file No. 28) relative to benefits of the infirm, sick, dependent poor, which was read a first and second time by its title and referred to the legislative committee.

Mr. Kerr introduced a proposition for insertion in the Constitution (file No. 29) on education, and asked that it be read at length.

Mr. EVANS (Utah). Mr. President, I move that the rules be suspended and that that be referred to the proper committee.

Seconded.

Mr. THURMAN. Move that they all be referred, while you are on your feet.

The motion of Mr. Evans, of Utah County, was carried.

Said proposition was read first and second time by its title and referred to the committee on education.

Mr. Eichnor introduced a proposition for insertion in the Constitution (file No. 30), relative to impeachment, which was read a first and second time by its title and referred to the committee on executive.

Mr. Eichnor introduced a proposition for insertion in the Constitution (file No. 31), relative to providing for the the executive department, which was

read a first and second time by its title and referred to the executive committee.

Mr. Eichnor introduced a proposition for insertion in the Constitution (file No. 32), to provide for distribution of powers, which was read first and second time by its title and referred to the committee on legislative.

Mr. Kearns introduced a proposition for insertion in the Constitution (file No. 33), relative to judiciary, which was read a first and second time by its title and referred to the committee on judiciary.

Mr. VARIAN. Mr. President, there is nothing before the house, I believe; pardon me for making the suggestion, it was called forth by the reading of some of the propositions that have been introduced. I notice that some of them are in the shape of resolution in very general language, not at all as they would likely be put into the Constitution, and I want to call attention to the fact that gentlemen introducing propositions in that way are imposing a great deal of labor on the different committees. If the proposition is considered at all, it will have to be revised and put in different language, and there is a great likelihood of many of them for those reasons being overlooked and not reported. I would suggest that every proposition for insertion in the Constitution be put in just the same shape and language that the mover desires, not by way of resolution, but by article and section.

Mr. Strevell introduced a proposition for insertion in the Constitution (file No. 35), regarding the right to recover damages for injuries resulting in death, which was read a first and second time by its title and referred to the committee on preamble and declaration of rights.

Mr. Thoreson introduced a proposition for insertion in the Constitution (file No. 36), relative to rights of suffrage, elections and qualifications, and oaths of office, which was read a first and second time by its title and referred to the committee on elections and rights of suffrage.

Mr. CANNON. Mr. President, I would like to ask for information, if advantage accrues to the Convention by the introduction of measures by gentlemen who are upon the committee to whom the measure is referred? It strikes me we are taking up the time of the Convention. I have noticed a great many of the propositions introduced to-day by members who are on the committee to whom the proposition is referred.

I do not understand what advantage that is to the Convention or to those engaged in trying to frame the proposition. I do not understand the object of it, unless it is to make a record of an introducer of a great many resolutions and propositions here in this Convention. If that is the object, certainly some of our members are achieving the distinction desired. If there is any advantage to the Convention, and to those engaged in the work, I would like to have it explained.

Mr. EVANS (Weber). Mr. President—

Mr. VARIAN. Mr. President, I am aware that a great portion of these resolutions and bills and papers that have been handed in this afternoon is something that belongs to the legislative department. It is all proper enough to have them read and referred to the appropriate committees, but those committees will see they are most provided for in our legislative departments. If there is anything that is not provided for, they can simply refer to that and qualify the Legislature to provide laws for that. That is all there is of it. While if we were to go to work and make laws and take in all these bills that are read to-day here, it would take a volume of four or five hundred pages; but we don't expect that. We expect the committees will take these things into consideration and if they are not embodied in the Constitution they are simply referred

to them, and confer the authority on the Legislature to look after that business.

Mr. EVANS (Weber). Mr. President, as I had the honor of introducing the first resolution on yesterday I think it is due me that I should reply to the gentleman from Salt Lake, who seems to desire to cast some aspersions upon gentlemen who have introduced propositions.

Mr. CANNON. No.

Mr. EVANS (Weber). And also the reflection that it is not done with a selfish desire to make a record.

The PRESIDENT. The gentleman certainly did not intend to do that, did you?

Mr. CANNON. I could not hear that gentleman's remark.

Mr. EVANS (Weber). I am only beginning. This Convention partakes of the character of a legislature. It has in its sphere the same functions to perform that a legislature has. It is supposed that something will be introduced for committees to work with. It is supposed that suggestions will be made by individuals to have them read to the members of the Convention in order that it may help them in looking up the particular subject matter. I presume the gentleman from Salt Lake knows all these things. He thinks everybody else does, but I am not one of those who believe that any of us does. I would like to have any suggestions about any matter about which I might have anything to do in a committee. It is nothing but a suggestion. It suggests to the minds of the members of the Convention what is in the mind of the particular person introducing the measure. We have proper rules governing this Convention, which are yet in force.

The fourth rule provides:

(Reads.)

The PRESIDENT. I would ask the gentleman what language in the gentleman's remarks was objectionable to you?

Mr. EVANS (Weber.) The gentleman rose for information, as I understood it. He wanted to know the purpose for introducing these things. I am proceeding to explain.

The PRESIDENT. I do not think there was anything objectional in the gentleman's remarks.

Mr. EVANS (Weber.) There was an aspersion, if I may be permitted to speak the word, or reflection upon the gentlemen who have introduced these propositions, because he stated he didn't know the purpose unless it was for the purpose of making a record. I can assure the gentleman from Salt Lake and the members of this Convention, that I had no such intention in the introduction of those propositions which I have introduced. I had simply desired to introduce them for consideration, just the same as a bill would be introduced in the Legislature and that it be referred to the appropriate committee.

Mr. CANNON. May I ask the gentleman a question?

Mr. EVANS (Weber). Certainly; I will be pleased to have you.

Mr. CANNON. I rose for information as I stated, and I should be pleased to receive the information now. My question is, is there any advantage to the Convention gained by a member upon a committee introducing a resolution which shall be referred to that committee that wouldn't be gained by that member referring it to the committee himself? I am sincere in asking for that information, and I would like to hear the gentleman's explanation. One resolution which went to our own committee, but that is the only one, and so far as that question alone is concerned, were it not upon the important question which I offered it, I don't think I would have offered it at all. This is a question which is important and one which ought to be determined one way or the other and will be determined by

this Convention sometime before we adjourn. At least it will be a question about which there will be honest difference of opinion, I may say in the Convention, and I desire the members of the Convention to reflect upon it.

Mr. CREER. Mr. President, I also, by referring to rule three, see that it is made imperative by that rule, that all propositions should be thus introduced to the Convention. (Reads rule three.) I think that applies to——

Mr. THURMAN. Do you think that makes it imperative?

Mr. CREER. Yes, sir.

The PRESIDENT. There is no question before the house.

Mr. VARIAN. Mr. President, I call for the order of business.

Mr. ANDERSON. Mr. President, if I am in order, I move that the chairmen of the different committees meet together for the purpose of deciding the time and place each committee shall meet, that they have the same placed upon the bulletin board in the hall, so each member will take notice accordingly.

The PRESIDENT. It is not in order.

The introduction of ordinances and propositions for insertion in the Constitution is in order.

Are there any more of them? If not, we will proceed to the unfinished business.

Mr. VAN HORNE. Mr. President, I arise to a question of information. I heard a motion and was not able to hear whether it was declared carried or not by the chair that these ordinances and resolutions should be referred to the committee on printing.

The PRESIDENT. It was ruled out of order at that time.

Motions and resolutions.

Mr. ROBERTS. Mr. President, I move that the committee on accounts and expenses be instructed to take steps to provide for temporary drawers or lockers or some other contrivance to put on these tables, or under them, for the convenience of members in securing their papers, books, etc.

Mr. THURMAN. I second the motion.

Mr. ROBERTS. Mr. President, I call attention of the Convention to the very inconvenient furniture that is here, unless something of this kind shall be done. At present, of course we don't feel this inconvenience, but when this Convention shall resolve itself into committee of the whole, and the important debates shall take place, it occurs to me that members will require some convenience for storing their papers and books of record. The Convention will not be in long sessions during this week perhaps, while the committees are shaping matters to be presented to the Convention, and it seems to me, sir, that the time is opportune for this committee or some one else that may be designated to take steps that will furnish members with these conveniences. Therefore, I have taken the opportunity of presenting this matter for the consideration of the Convention, and desire most earnestly that some steps be taken to provide the convenience contemplated.

Mr. JAMES. Mr. President, before the motion is put, I would like to have it qualified some little. Let it go to the committee on accounts and expenses and report back what the cost will be, and then adopt it, if we think it is worth the cost.

Mr. ROBERTS. Mr. President, I accept the gentleman's modification with the consent of my second.

Mr. MALONEY. Mr. President, I think the county authorities ought to be consulted on that.

The PRESIDENT. If it goes to this committee they will look after that.

Mr. BARNES. Mr. President, I move that it be referred to the committee on accounts and expenses, and as I understand it, this is the property of Salt Lake County, and will we not have to get permission from some party before anything can be done in that regard?

The PRESIDENT. The city officers are the men to call upon.

Mr. ROBERTS. Mr. President, I would suggest that the motion contemplates the committee taking steps looking towards the accomplishment of this, which would of course include consultation with the county officers in regard to this furniture. I will further say that as the motion looks to the temporary furnishing, it does not look to the marring of this furniture in any way.

The motion was carried.

Mr. Varian offered the following resolution:

Resolved, that the sergeant-at-arms be instructed under the supervision of the committee on accounts and expenses to procure a suitable clock for the Convention chamber.

Mr. VARIAN. Mr. President, as the question of expenses is involved in that, I move its reference to the committee on accounts and expenses.

Carried,

Mr. Kiesel offered the following resolution.

Resolved, that the mayor of Salt Lake be admitted to the floor of the Convention during its session.

Mr. VARIAN. Mr. President, I move that that go over and come up under the head of special orders to-morrow at half-past two. It involves the suspension of these rules and requires a two-thirds vote to accomplish it. The whole matter can be attended to to-morrow.

Carried.

Mr. Kiesel offered the following:

Resolved, that the chairmen of committees meet and formulate a schedule for the meeting of committees and have the same printed, thus making an end to the confusion at present existing.

Mr. KIESEL. Mr. President, I move the adoption of that.

Mr. EVANS (Weber). I second that.

Mr. GOODWIN. If Mr. Kiesel will designate some place and time when the chairmen can meet, it will help matters.

Mr. KIESEL. Mr. President, I would suggest that one of the chairmen would make a motion appointing a time to meet. Of course, I left that out on purpose, because that belongs to the chairmen themselves.

The motion to adopt the resolution was carried.

Mr. Lambert offered the following:

Resolved, that the printing committee be authorized to obtain bids for furnishing the Convention with letter heads and such other stationery as it is necessary.

Mr. LAMBERT. I move that it be adopted.

Seconded.

Mr. VARIAN. How much stationery and letter heads are required?

A great many of us here do not want any letter heads or stationery. That is very general. It seems to be very indefinite.

Mr. LAMBERT. That is simply so that when wanted it shall come in competitive bids.

Mr. VARIAN. Mr. President, I don't see any use of wasting much money on stationery; if these gentlemen do not require it, certainly we who live here do not require any.

Mr. CANNON. Mr. President, before the motion is put, I would like to know how much stationery, as Mr. Varian has said, this committee thinks will be needed. It strikes me there should be very few letter heads and very few envelopes. The main part of the work will be done in committees, and the main part of the stationery needed by the committees or in the Convention.

Mr. JAMES. Mr. President, I think the motion explains itself. It does not order any paper or authorize the order of any paper; it simply asks for bids, and when we get the bids we can order one quire or a hundred by those bids.

Mr. VARIAN. I want to ask the gen-

tleman how he can get an intelligent bid unless the trader has some intelligent data to put his bids in upon?

Mr. JAMES. I suppose he would make a bid on certain quantities, and in proportion to what the quantity is, it will decrease the price; that is the way that bids come in, as a rule.

Mr. VARIAN. I think it had better be left to a requisition from the chairmen of the committees.

Mr. LAMBERT. Mr. President, this thing is very plain. It is a business proposition. What we purchase here—we know what we are paying for, instead of going and buying it at random; it is in the interests of the Convention that we may not be overcharged in things we purchase.

Mr. CANNON. I would like to ask the gentleman a question. What quantity of paper would you like, Mr. Chairman?

Mr. LAMBERT. Get bids on any quantity; we are buying so that we know the price.

Mr. CANNON. I am opposed to the motion until the gentleman knows what he does want.

Mr. RICHARDS. It seems to me entirely unnecessary to pass this motion. If the committee on printing deem it necessary to obtain bids on this subject, they certainly have the right to do it. Then they can submit those bids to the Convention, if they contemplate the purchase of stationery, and the Convention can authorize the purchase if it desires. It seems to me this is all the power that is necessary to do this preliminary work without a special motion. It might be that some other material may be desired and it should not be necessary that every time we meet the committee on printing should come here and ask this Convention if they receive bids. Let them receive their bids, and then if they desire to make purchases, let them ask leave of the Convention to make the purchases.

Mr. SQUIRES. Mr. President, I just want to call the attention of the Convention to the fact that this committee has already submitted one estimate to the Convention of stationery needed, and recommended its purchase, and that the Convention declined to accept that matter from the committee and voted it down. I don't know why they come back and want to get bids on the same proposition.

Mr. THORESON. Mr. President, it seems to be thought that this is a provision for members from the outside. Still I don't hear anything from the people of Salt Lake about the proposition.

Mr. GIBBS. Mr. President, I notice there is considerable stationery already—letter heads that have been bought and distributed here on the tables for the use of the Convention, and therefore, I think the motion is in order and it should prevail. As I understood the resolution yesterday, it stated a certain number of quantities that should be bought and probably some thought that it was a little excessive. Now, I think it should be open for bids, so that we may have the benefit of the lowest bidders in the market.

The PRESIDENT. The question is on the adoption of the resolution. All in favor of the motion say aye.

Opposed, no.

The chair is in doubt.

By a rising vote the motion was adopted, ayes 54, noes 52.

Mr. PIERCE. Mr. President, I move you that the matter of fixing the compensation of the officers of this Convention, whose compensation is not fixed by law, be referred to the committee on accounts and expenses.

Carried.

Mr. VARIAN. Mr. President, didn't I hear a report read that was adopted this afternoon, covering that matter? I certainly heard the names of the officers read.

Mr. RICHARDS. I remind the gentle-

man from Salt Lake that the report was simply filed.

Mr. VARIAN. Mr. President, we adopted a resolution that the chairmen of the several committees provide a schedule for the meeting of the committees. I presume we might as well bring it up in open Convention for the purpose of testing the sense of the several chairmen on that subject. I move that the chairman of each committee meet to-morrow at eleven o'clock in this hall, for the purpose of carrying out the direction of the Convention.

Seconded.

Mr. ROBERTS. Mr. President, I would offer an amendment to that, that they meet immediately after the adjournment of this meeting.

Mr. VARIAN. Unless there is some special reason for it, it would be a convenience to one or two of us to let it go over until to-morrow morning.

Mr. ROBERTS. The only thing about it is, it seems to me we ought to begin to get this committee work going as soon as possible, and if it is not impossible to accomplish the thing, I would like to see the committees at once make their appointments.

Motion to amend seconded.

Mr. CANNON. Mr. President and gentlemen of the Convention, I think that this is a matter that should be referred more to the chairmen of those respective committees. I will state in answer to the gentleman from Davis County that several of the committees have appointments—I don't know how it is in all the cases, but all the committees that I am connected with or upon have appointments already.

Mr. ROBERTS. Immediately after this meeting closes?

Mr. CANNON. At different hours. I know the hour fixed by Mr. Varian would suit most of the gentlemen or at least a number of them.

Mr. SQUIRES. Mr. President, I suggest that the vote on this motion of Mr. Varian, be taken by the chairman of the committees.

The PRESIDENT. Then they had better hold their own meeting.

Mr. VARIAN. I made the motion in order that the several chairmen present might express their views on the subject. That is the purpose only. I don't care to interfere with the other chairmen.

Mr. PIERCE. Mr. President, I am on several committees and have appointments with those committees to-day and to-morrow forenoon. It seems to me that this is a matter that would take perhaps only a short time, and it would seem to me that if we were to meet to-morrow say at half past one, half an hour before the Convention convened, that it would be a good time to meet and confer about the matter.

Mr. VAN HORNE. Mr. President, I am in favor of a meeting of the chairmen of those committees to-morrow just preceding the meeting of the Convention. We will then be able to make our appointments in the Convention for the committees. I move the amendment that to-morrow at half past one o'clock be the time that the committee chairmen meet for the purpose of arranging a schedule of committees.

Mr. VARIAN. I accept that if there is no objection to it.

The PRESIDENT. Gentlemen you have heard the motion, that the chairmen of committees meet to-morrow at half past one o'clock—the amendment of Mr. Roberts that it be directly after this meeting.

Mr. KIESEL. Mr. President, I move that the the chairmen only be allowed to vote.

The PRESIDENT. That is out of order. I think that we cannot do that.

Mr. CANNON. Mr. President, I move as a substitute for the whole question, that unless there be some objection, by any chairman present, it be understood that the chairmen meet to-morrow at half past one o'clock.

Carried.

Mr. GOODWIN. Mr. President, I notice that the papers that were handed up were mostly in the handwriting of gentlemen, a great many in the handwriting of lawyers; they are invariably bad penmen; I am afraid a great many of them will never be read. It seems to me for the convenience of this Convention and for expediting business in the committees that those papers ought to be prepared with some care and typewritten. Hence I venture on the dangerous ground of moving that one committee clerk who is a stenographer and typewriter, be appointed by this Convention.

Seconded.

Mr. EVANS (Utah). Mr. President, is that intended to be in addition to the two that were spoken of here before?

Mr. GOODWIN. There have been none elected or appointed yet, it was voted down yesterday.

Mr. CANNON. Mr. President, I would like to call the gentleman's attention to the fact that it was decided we should have three committee clerks, the only thing is we haven't named them yet. It seemed to be the sense of the Convention that they should not be named yet.

Mr. GOODWIN. Mr. President, it was the sense of the Convention that they should be named as soon as necessary. I want to name one now.

The motion of Mr. Goodwin was carried by a vote of 48 ayes to 43 noes.

The PRESIDENT. I suppose nominations are now in order in regard to this?

Mr. SQUIRES. Mr. President, I was going to place in nomination one of the candidates that was presented for the official stenographer of the Convention, Miss MacMasters, who I believe is thoroughly and duly qualified for such position.

Mr. HILL. Mr. President, I place in nomination Mr. E. M. Ashton, of Salt Lake.

Mr. CRANE. I place in nomination for committee clerk, Mr. Ben Bachman of Utah County.

Mr. THURMAN. He is not a stenographer.

Mr. LAMBERT. Yes, sir.

Mr. THURMAN. Who is?

Mr. LAMBERT. Ben Bachman, so he claims to be.

Mr. THURMAN. Well, he is not.

Mr. STOVER. Mr. President, I will name L. C. Johnson, who is thoroughly qualified in every respect; he is a typewriter and did the duties for twenty-one committees in the Legislature last winter. There is no more capable clerk in this city than L. C. Johnson. [Applause.]

Mr. EICHNOR. Mr. President, I move as a substitute that the selection of a committee clerk be referred to the committee that hired our stenographer. Mr. Wells is chairman, Mr. Roberts is on that committee, Mr. James, Mr. Eldredge, and Mr. Thurman. I move that as a substitute.

Mr. SQUIRES. Mr. President, after the report of that committee on stenographers, in which the cause of my candidate was severely handled or let alone, I shall not favor the reference of this matter to that committee.

Mr. IVINS. Mr. President, I am opposed to referring this question to this committee from the fact that after the report of that committee had been made in regard to stenographer we devoted as much time to discussing it as we will devote right here this afternoon to the appointment of a committee clerk and probably, we would have to go all over it again to-morrow; we might just as well do the work now, and be done with it.

Mr. CANNON. Mr. President, I favor the nomination of Miss MacMasters for the reason that I believe she is perfectly capable of doing the work required, and that we will by this means give representation to the fair sex.

Mr. EVANS (Weber). Mr. President, I desire to place in nomination the

name of a lady who has been present here during all of our deliberation; that of Miss Henrietta Clark. She is thoroughly competent, I understand, and that will recognize the sex, as she is willing to work cheap. She is an honest lady devoted to her work and does not seem to be very much devoted to the gentlemen around her.

Mr. COREY. Mr. President, I move that the nominations be now closed.

Carried.

Mr. IVINS. Mr. President, I move that the roll be called, and that each man as his name be called announce the name of his candidate, hoping that a majority of the members of this Convention will vote for Miss Clark.

Seconded.

Mr. BUTTON. Mr. President, will it take a majority of the members present to nominate?

The PRESIDENT. It will take a majority of the members present to elect.

Mr. KIESEL. Mr. President, I move that Miss Clark be nominated by acclamation.

Mr. EVANS (Weber). I second that motion.

The PRESIDENT. You have heard the motion, gentlemen, of Mr. Kiesel, of Ogden, that Miss Clark be elected by acclamation.

Mr. SQUIRES. Mr. President, that cannot be done, except by unanimous consent, and I object.

Mr. KIESEL. I ask unanimous consent.

Mr. SQUIRES. I object.

Mr. EVANS (Utah). Mr. President, I move you as an amendment to Mr. Ivins' motion that when the roll be called, that after the first calling all candidates be dropped except the two receiving the highest number.

Mr. HART. Mr. President, I arise to a point of order. This motion of Mr. Kiesel to elect by acclamation is out of order. The question is now on the motion to commit and the motion to elect by acclamation would be out of order anyway, where there is more than one candidate. That simply means that we vote orally; that is all that means.

Mr. EICHNOR. Mr. President, with the consent of my second I will withdraw the motion to commit this matter to the committee.

Mr. HILL. Mr. President, I respectfully withdraw the name of E. M. Ashton, as a nominee.

Mr. BUTTON. I move that we proceed with the roll call.

Mr. IVINS. My motion was that the roll be called and that each man as his name is called announce the name of his candidate.

Carried.

Mr. HART. Mr. President, the motion of Judge Goodwin contemplated the election of a stenographer and typewriter. Before we vote, I would like to ask as to the qualifications of the two gentlemen candidates, as to whether they were stenographers and typewriters. I know them both to be typewriters but I don't know whether they are stenographers or not.

Mr. EVANS (Weber). Mr. Bachman is not a stenographer as I understand it.

The PRESIDENT. His name then does not properly come on the roll.

Mr. EVANS (Weber). I have known him a long time, and if he is, he has recently acquired the art.

Mr. CRANE. Such being the case. Mr. President, I will, with the permission of the chair, withdraw Mr. Bachman's name.

Mr. SQUIRES. Mr. President, I will ask if anybody can vouch for Mr. Johnson as a stenographer. I am told that although he handled seventeen committees in the last legislative council, he did it without being a stenographer; I believe that is a fact.

Mr. STOVER. Mr. President, he is a first class typewriter and capable of doing the duties of twenty-five committees.

Mr. SQUIRES. I understand that, but it seems under the circumstances we are narrowed down to the two ladies in the case, which is a very proper condition of things, I appeal to this Convention.

Mr. THURMAN. I understand they are partners.

The PRESIDENT. Can anybody answer positively in regard to Mr. Johnson being a stenographer?

Mr. EVANS (Weber). Mr. President, probably this whole question could be solved in a moment, I understand there are three committee clerks to be appointed. I ask unanimous consent that Miss MacMasters and Miss Clark be two of those clerks and that the rules be suspended and they be elected by acclamation.

Seconded.

Mr. VAN HORNE. Mr. President, we are already considering a motion that we appoint one committee clerk who shall be a stenographer and typewriter; the other motion or suggestion is out of order.

The PRESIDENT. That is correct.

Mr. EVANS (Weber). It is if there is any objection.

Mr. VAN HORNE. I certainly do object. Roll call.

Mr. EVANS (Weber). Mr. President, I move then as a substitute, that Miss MacMasters and Miss Clark be appointed committee clerks for the committees of this Convention.

The PRESIDENT. There was provision made for but one.

Mr. KIESEL. Mr. President, I now move for a substitute to all, that the question of appointing clerks—stenographers and typewriters be referred to the same committee that had the McGurrin matter in charge.

Seconded.

The PRESIDENT. We have adopted here the motion of Judge Goodwin, that we proceed to the selection of one stenographer; the secretary informs me that we adopted a motion here to select three sometime ago.

Mr. EVANS (Weber). Mr. President, that is what I had in mind. I understood Judge Goodwin's motion went to the immediate selection of one in order that the committee might use it, but if that has been passed upon, why not select two of them now?

Mr. GOODWIN. Mr. President, it was agreed that there should be three committee clerks appointed or elected. The proposition was made yesterday to appoint those clerks and it was voted down. I didn't dare to propose the three, so I proposed one to-day and if two could be included I should be glad.

Mr. THURMAN. Mr. President, there is a difference in the motions, however. The motion to-day includes a stenographer, the three clerks were to be typewriters only. Now they are different propositions altogether.

Mr. SQUIRES. Mr. President, I want to assure my friend from Weber County that just as soon as we have succeeded in electing Miss MacMasters on the first ballot I shall cheerfully vote for a motion to elect another committee clerk, and allow his friend Miss Clark to be elected.

Mr. GOODWIN. Mr. President, that is a shameful exhibition of partisanship. [Laughter.]

Mr. IVINS. Mr. President, I submit that this whole discussion is out of order. We were proceeding to the election of one committee clerk. The motion prevailed that nominations close. The roll call was called for and the clerk had already begun to call the roll, before this latter discussion ever begun. I submit that the only thing for this body to do is to go on with the roll call and elect one committee clerk.

The PRESIDENT. The point is well taken.

Mr. BUTTON. Mr. President, I want to know if Mr. L. C. Johnson is in this.

The PRESIDENT. No, sir; he is not a stenographer.

Mr. BUTTON. I want to know if it is decided whether he was a stenographer; it would make a difference in my vote whether he could qualify or not.

Mr. MURDOCK (Beaver). His name was withdrawn.

Mr. STOVER. Mr. President, I said he was a typewriter and had performed the duties for twenty-one committees last winter in the Legislature, but he is not a stenographer.

Miss B. T. MacMasters was then elected to the position of committee clerk.

Mr. CANNON. Mr. President, I move that we now proceed to elect the other two committee clerks.

Mr. VAN HORNE. I move that this Convention do now adjourn.

Seconded.

The PRESIDENT. Gentlemen, you have heard the motion to adjourn, all in favor of the motion will say aye. Opposed no.

The chair is in doubt.

All in favor of the motion will rise to their feet.

The motion to adjourn was lost by a vote of 39 yeas to 51 noes.

Mr. IVINS. Mr. President, I now move that Miss Henrietta Clark be chosen as committee clerk of this Convention.

Mr. CANNON. Mr. President, the gentleman is out of order. The motion to now appoint committee clerks is before the house.

Mr. IVINS. Wasn't there such a motion as that before the house since the motion to adjourn—was there such a motion made?

The PRESIDENT. No. It was pending when the motion to adjourn was made.

Mr. IVINS. What was the motion?

The PRESIDENT. The motion was that we proceed to elect two more committee clerks.

Mr. IVINS. Well, we don't want two, we can probably get along with one. As an amendment to that motion, I move that we now proceed—or I nominate Miss Henrietta Clark to be committee clerk for the Convention.

Seconded.

Mr. KEARNS. Mr. President, I move that she be elected by acclamation.

Mr. VAN HORNE. I object; if they want to vote we will vote.

The PRESIDENT. It seems to me the question should properly be before us as to whether we will elect another clerk or not.

Mr. IVINS. Mr. President, I move that under a suspension of the rules Miss Henrietta Clark be chosen as committee clerk for this Convention by acclamation.

Seconded.

Mr. BUTTON. Mr. President, I move to amend that motion that we elect two committee clerks, Miss Clark and Mr. L. C. Johnson.

Seconded.

Mr. IVINS. That is precisely what the original motion was which I amended; I submit that the amendment to the amendment is entirely out of order from the fact that it brings it right back to the original motion in so many words.

The PRESIDENT. The objection is well taken, I think.

Mr. CANNON. Mr. President, I arise to a point of order. The gentleman from Washington County makes a motion which is in opposition to the motion before the house and which is in order. It was decided that the committee clerks be not at this time named and we cannot take up the matter until we reconsider that action. I am in favor of the gentleman's motion if he limits it until such time as we can get it before the house.

Mr. BUTTON. Mr. President, I named two committee clerks that were not named in the previous motion.

Mr. EICHNOR. Mr. President, I move as a substitute for all previous mo-

tions that we now proceed to elect one committee clerk.

Seconded.

Mr. HART. Mr. President, I arise to a point of order for the reason that one motion cannot be displaced and another motion of a different kind be given place on the same subject by simply calling it a substitute.

The rule is one thing at a time. I also arise to a point of order, that the amendment of Mr. Ivins is out of order and that the original question now should come on Mr. Cannon's motion. He simply tries to amend the motion by nominating one individual for that place; I submit that is not a proper amendment. If Mr. Cannon's motion carries then the question will come on nominations.

Mr. EVANS (Weber). Mr. President, I move that the chair rule everything out of order except the substitute, and that that be put without further debate.

Mr. EVANS (Utah). Mr. President, I move as an amendment to Mr. Cannon's motion that we proceed to elect one committee clerk.

Carried.

Mr. IVINS. Mr. President, I now renew my motion that Miss Henrietta Clark be elected committee clerk.

Mr. KEARNS. Mr. President, I move that it be done by acclamation.

DELEGATE. I call for the roll call.

Mr. EVANS (Utah). Mr. President, I ask the gentleman if he has had the consent of five members.

Mr. VAN HORNE. Mr. President, I wish to put in nomination as committee clerk of this Convention, Mr. L. C. Johnson, whom I know to be perfectly competent to perform the duties required in every way, and I know that he is at present doing work for the chairmen of some of our committees and I think that this Convention would do wrong to him and would do wrong to the Convention itself if they do not select him as one of their clerks.

Mr. CRANE. Mr. President, I desire to place in nomination a gentleman who I think is perfectly competent. He has been committee clerk during the session of the Legislature and gave good satisfaction to all the committees. I place in nomination Mr. Ben Bachman from Utah County.

Mr. ELDREDGE. Mr. President, I second the nomination of Mr. Ben Bachman.

Mr. HILL. Mr. President, I wish to renew my nomination of Mr. E. M. Ashton.

Mr. MURDOCK (Summit). Mr. President, I nominate Miss Snyder of Park City.

Mr. EICHNOR. Mr. President, I arise for information. It was stated here that Mr. Bachman of Utah County was no stenographer. I know nothing about it—I am so informed by the gentleman from Utah County.

The PRESIDENT. As I understand this motion, it does not require a stenographer.

Mr. CANNON. Mr. President, the requirement was made at the time the officers were named as I understand it.

Mr. LOWE (Box Elder). Mr. President, I arise to place in nomination the name of Miss Eastman of Box Elder County as committee clerk.

Mr. CREER. I move that the nominations be now closed.

Carried.

Mr. IVINS. Mr. President, I desire before the roll is called to say just a word in regard to the qualifications of these different candidates. It is very true that under the motion which is before us now, it is not necessary that this committee clerk should be a stenographer, but I believe it is just as patent to every member of this Convention that a great advantage will be derived if a person can be selected who is a stenographer, and in all respects qualified as though that had been embraced in the motion. Now, gentlemen, there is no one of these candidates, with the

exception of Miss Clark, who has been recommended to be a stenographer at all. She is a lady and we have every reasonable cause to believe that her services can be procured for as little money and perhaps less than we would have to pay to some of these men who are not qualified to do the same amount of work, as creditably as this lady can do it. This being the case, it seems to me there should be but one side to this question. The lady because of her qualification is entitled to this place in preference to any other person who has been nominated, and because of her qualification I ask, gentlemen, that she be elected.

Mr. EVANS (Weber). Mr. President, a good many inquiries have been made as to whether this lady is a Democrat. My Republican friends think that she is because some of us are urging it. As a matter of fact she is a Republican; now, there ought not to be any objections on that ground. [Applause.]

Mr. EICHNOR. Mr. President, I told Mr. Evans before he made that remark that I would support and did not care what she was.

Mr. CANNON. Mr. President, the gentleman's explanation was entirely uncalled for; we knew from the appearance of the lady that she was a Republican, and, therefore, I second the nomination. [Laughter and applause.]

Miss Henrietta Clark was then elected a committee clerk.

Mr. Squires then took the chair during a temporary absence of the president.

Mr. EVANS (Utah). Mr. President, I move we do now adjourn.

Seconded.

Mr. PIERCE. There is a committee announcement.

Mr. EVANS (Utah). I will withhold it one moment for that announcement.

Then followed the announcement of several committee meetings.

The PRESIDENT. Gentlemen, with your permission, the secretary will read a communication.

The secretary then read as follows:

Salt Lake City, Utah,
March 12, 1895.

To the Hon. John H. Smith and Members of the Constitutional Convention:

GENTLEMEN: We have studied the lighting to photos of your honorable body on these steps of the city and county building and that 3 p. m. is the best hour, and would consider it a great favor if you would oblige us with sitting at that hour to-morrow, Wednesday, March 13. Should to-morrow be not convenient to your honorable body, please advise by stating a date that would meet your convenience and oblige,

Most respectfully yours,
SAINSBURY & JOHNSON,
JAS. H. CROCKWELL,
WILL. M. OTTINGER.

Salt Lake City, Utah,
March 11, 1895.

To the Hon. John Henry Smith, President, Constitutional Convention, Salt Lake City, Utah.

GENTLEMEN: Through your sergeant-at-arms the matter has been brought to our attention of the desire of the Convention for a telephone; permit me in behalf of this company to tender you an instrument available to the members in Salt Lake exchange without charge.

We attach a coin controlled apparatus, which will enable parties desiring to use our long line to make payment at the instrument.

Hoping your labors will result to the good of the whole Territory, which I feel assured they will, I remain,

Yours respectfully,
GEORGE Y. WALLACE,
President.

Mr. STOVER. I move we accept it with the thanks of this Convention.

Carried.

Mr. HART. Mr. President, some action should be taken on the invitation of the photographers.

For the purpose of bringing it before the Convention, I move you that we accept the invitation for to-morrow at three o'clock.

Mr. IVINS. Mr. President, I wish to offer an amendment to that motion, that we accept his offer and sit for a picture after the adjournment of this

Convention to-morrow or some other day. It seems to me it would look very bad for us to get up in the midst of our deliberations and go down to the east door in order to have our pictures taken.

Mr. EICHNOR. Future generations want it.

The PRESIDENT. I call attention to the fact that they have experience there, and they say that three o'clock is the best hour.

The motion of Mr. Hart was carried.

The Convention then at 4:55 p. m. adjourned.

TENTH DAY.

WEDNESDAY, March 13, 1895.

The Convention was called to order at 2 p. m. by President Smith.

Prayer was offered by Right Rev. A. B. Leonard, of the Episcopal Church.

The roll was called by the secretary and the following members found to be in attendance:

Adams	Low, Peter
Allen	Low, Cache
Anderson	Lund
Barnes	Maeser
Bowdle	Mackintosh
Brandley	Maloney
Button	Maughan
Buys	McFarland
Call	Miller
Chidester	Morris
Christianson	Moritz
Clark	Murdock, Beaver
Coray	Murdock, Wasatch
Corfman	Murdock, Summit
Crane	Nebeker
Creer	Page
Cunningham	Partridge
Cushing	Peters
Eichnor	Peterson, Grand
Eldredge	Peterson, Sanpete
Emery	Pierce
Evans, Utah	Raleigh
Evans, Weber	Ricks
Farr	Roberts
Francis	Robertson
Gibbs	Robinson, Kane
Goodwin	Robison, Wayne
Green	Ryan
Haynes	Sharp
Halliday	Shurtliff
Heyborne	Snow
Howard	Spencer
Hughes	Squires
Hyde	Stover
Ivins	Strevell
James	Symons
Johnson	Thompson
Jolley	Thatcher
Kiesel	Thorne
Keith	Thoreson
Kearns	Thurman
Kimball, Salt Lake	Van Horne
Lambert	Varian
Larsen, L.	Warrum
Larsen, C. P.	Wells
Lemmon	Whitney
Lewis	Williams.
Low, William	

The journal of the ninth day's session was read by the secretary, and approved.

Mr. VARIAN. Mr. President, I call for the special orders.

The PRESIDENT. The consideration of the rules will come up now as the special order for 2:30.

What is the pleasure of the Convention?

Mr. PIERCE. Mr. President, I move you that rule fifteen, the list of standing committees, subdivision ten, be made to read:

"Public buildings and state institutions not educational."

That was according to the report of the standing committee, which you will find on page 4 of the journal, committee ten. The purpose of this is that other state institutions will be handled by the committee on education and school lands.

Mr. VARIAN. Mr. President, I move, inasmuch as by ordinary rules of busi-

ness of this kind, the committee on rules ought to have this matter in charge, that the Convention proceed to read these rules, by sections or by rules, seriatim, and that amendments if they are offered be received as each section is read and the Convention in that way pass upon the rules in their order.

Carried.

The secretary then read rule one.

Mr. VARIAN. If there are no amendments, Mr. President, I suggest that we proceed to the next rule.

The PRESIDENT. If there is no objection the secretary will read the next rule.

The secretary then read rule two.

Mr. VARIAN. I move that rule be adopted.

The PRESIDENT. If there is no objection the rule will be adopted.

The secretary then read rule three.

Mr. VARIAN. Mr. President, I move that rule be adopted and in explanation of the fifth paragraph, I will say that it is contemplated in under that head the Convention will go into the committee of the whole if it shall be necessary, there being no special order of business designated for that head.

Mr. THURMAN. Before putting that rule for adoption, I offer an amendment in line three, after the word same, "When the journal is corrected the same shall be deemed approved." Unless it be taken as the sense of this Convention that the president must put the question every day as to whether the minutes are corrected or not, I think when corrections cease, the minutes should be deemed approved.

Mr. VARIAN. Will the gentleman permit me to make a suggestion, while he is on the floor? Isn't that the proper thing for the presiding officer to say, "If there is no objection, the minutes will stand approved." Is it necessary to incorporate it in a standing rule?

Mr. THURMAN. If that is understood. all right.

Mr. VARIAN. I certainly so understand it. That is usually proper for the presiding officer to say, "If there are no further corrections, the minutes will stand approved as read."

Mr. THURMAN. That accomplishes my purpose, if that is understood.

Mr. RICKS. Mr. President, Roberts' rules of order settle the question as stated by Mr. Varian.

Mr. COREY. Mr. President, I will ask for information, if the roll is called part of the order of business?

Mr. VARIAN. No, Mr. President, the roll call precedes the organizing as it were. We must call the roll to ascertain whether there is a quorum present. I move the adoption of that rule.

The PRESIDENT. If there is no objection, gentlemen, the rule will be adopted as read.

The secretary then read rule four.

Mr. VARIAN. I move to insert at the end of that rule after the word committee, in the last line, the following:

"Every proposition for insertion in the Constitution shall be plain pen or type written on one side only of the sheet and without interlineation or erasure."

Seconded.

Mr. VARIAN. Mr. President, it will be observed that that amendment does not propose to limit members in this particular as to other matters of less importance. It is conceived, however, that a matter that is to be proposed to the Convention and go through the various parliamentary stages and through the committees for insertion in the Constitution, ought to be prepared with care, at least as indicated by this amendment, and the members ought to be willing to take time enough to present a clean, clear proposition, without erasure or interlineation, so that those who have to read them—the clerks and the committees, will not have their difficulties increased in any event.

I move the adoption of that amendment and the adoption of the rule as amended.

The PRESIDENT. If there is no objection, it will be adopted.

The secretary then read rule five.

Mr. VARIAN. Mr. President, I move to adopt this rule.

The PRESIDENT. If there is no objection we will adopt this rule as read by the secretary.

The secretary then read rule six.

Mr. VARIAN. I move the adoption of the rule as read.

The PRESIDENT. The rule will be adopted if there is no objection.

The secretary then read rule seven.

Mr. VARIAN. I move the adoption of the rule.

Mr. VAN HORNE. Mr. President, I suggest that "shall," the last word in the fourth line of the rule, should be changed to "will."

Mr. VARIAN. I think that would make it more awkward. I move the adoption of the rule as read.

The PRESIDENT. If there is no objection, the rule will be adopted as read. I would state to the Convention that the hour has arrived at which you consented yesterday to meet the photographer below here. You can act your pleasure, however.

Mr. VARIAN. Mr. President, I hope we will go on and let the photographer wait. Let's get through with these rules.

Mr. HILL. I favor that proposition, Mr. President.

The secretary then read rule eight.

Mr. VARIAN. Mr. President, I move the adoption of that rule as read.

The PRESIDENT. If there is no objection the rule will be adopted as read.

Mr. ROBERTS. Mr. President, I propose the following amendment, by inserting the following words after "discourse" in the last line but one from the bottom, that it shall read as follows: "And while a member is speaking no member or other person shall entertain any private discourse to the disturbance of the speaker or pass between the member speaking and the chair."

I think that as the rule stands, it is extremely strict; a gentleman might say a word or two.

Mr. VARIAN. Mr. President, I would like to suggest to the gentleman that that rule is not adopted simply for the convenience and comfort of the speaker because he happens to be addressing the house. The presumption is, that members want to listen to him. If they do not want to listen to him there is not much purpose in his speaking, and I presume these rules will be construed with reason, not literally. It is not intended to prevent whispering if it does not disturb others. I find it in the rules of other conventions.

The PRESIDENT. There was no second to the motion to amend, I believe. We had passed upon it anyhow.

The secretary then read rule nine.

Mr. VARIAN. I move its adoption.

The PRESIDENT. The rule will be adopted if there is no objection.

The secretary then read rule ten.

Mr. VARIAN. I move the adoption of that rule.

The PRESIDENT. If there is no objection the rule will be adopted.

The secretary then read rule eleven.

Mr. VARIAN. I move the adoption of the rule.

The PRESIDENT. If there is no objection the rule will be adopted.

The secretary then read rule twelve.

Mr. VARIAN. I move its adoption.

The PRESIDENT. It will be adopted if there is no objection.

The secretary then read rule thirteen.

Mr. VARIAN. I move its adoption as read.

The PRESIDENT. If there is no objection the rule will be adopted as read.

The secretary then read rule fourteen.

Mr. VARIAN. The same motion as to that rule.

The PRESIDENT. If there is no objection the rule will be adopted.

The secretary then read rule fifteen as follows:

RULE XV. The president shall ap-

point the following standing committees, to report upon the subjects named and such other matters as may be referred to them, viz:

1. Rules and method of procedure, to consist of five members, including the president, who shall be chairman.

2. Federal relations, to consist of seven members.

3. Preamble and declaration of rights, to consist of eleven members.

4. Legislative, to consist of fifteen members.

5. Judiciary, to consist of fifteen members.

6. Executive, to consist of fifteen members.

7. Elections and rights of suffrage, to consist of fifteen members.

8. Apportionment and boundaries, to consist of twenty-six members, one from each county.

9. Education and school land, to consist of eleven members.

10. Public buildings, and state institutions, to consist of eleven members.

11. Water rights, irrigation, and agriculture, to consist of fifteen members.

12. Municipal corporations, to consist of nine members.

13. Corporations other than municipal, to consist of fifteen members.

14. Public lands, seven members.

15. Revenue, taxation, and public debt, fifteen members.

16. Salaries of public officers, to consist of nine members.

17. Mines and mining, to consist of fifteen members.

18. Labor and arbitration, to consist of seven members.

19. Printing, to consist of three members.

20. Militia, to consist of five members.

21. Manufactures and commerce, to consist of seven members.

22. Ordinance, to consist of seven members.

23. Schedule and future amendments, and miscellaneous, to consist of nine members.

24. Accounts and expenses, to consist of three members.

25. Engrossment and enrollment, to consist of five members.

26. Compilation and arrangement, to consist of five members.

Mr. VARIAN. Mr. President, I move to insert in subdivisions 14 and 15, in the proper place, the words, "to consist of" and make it conform throughout the rule, and also to strike out the numerals as they shall appear anywhere in the rule, concerning the number of persons and insert the appropriate word.

Mr. WHITNEY. I second the motion.

Mr. PIERCE. Mr. President, committee ten in the report of the committee on standing committees, the name of the committee should be "public buildings and state institutions not educational;" and in rule two the committee provided for by the committee on standing committees, "federal relations and compact."

Mr. VARIAN. Why, Mr. President, is it necessary to encumber that name in that way? Does not "federal relations" cover the whole ground?

Mr. PIERCE. Mr. President, I have forgotten what the argument made was. There was an argument made before the committee to report on standing committees. There was an argument made for it; I don't know what it was, I didn't see the reason for it at the time.

Mr. VARIAN. Mr. President, I suggest that "federal relations" is very comprehensive.

Mr. MALONEY. Mr. President, it was done to conform with the requirements of the Enabling Act.

The PRESIDENT. As the chair understands it, the Convention adopted that committee report, and those were the names that were actually given to those various committees.

Mr. VARIAN. This is the subsequent

action of the Convention. If they adopt this rule, that name will be changed. Now, it is important to have the names of the committees as concise as they may be without being misleading, and I am sure the words, "federal relations" carry with them impliedly everything connected with and concerning the relations of the Convention and the State with the general government.

Mr. EICHNOR. Mr. President, the Enabling Act does not use the words, "compact."

(Reads from the Enabling Act.)

The PRESIDENT. The rule will be adopted as amended if there is no objection.

Mr. SQUIRES. Mr. President, I want to ask a question, if we make rule ten to read "public buildings and state institutions not educational," in order to leave those institutions in charge of the commitee on education, why not specify in the committee on education, on page nine, that they shall have charge of public buildings of education? It only provides that they shall have charge of education and school lands. There is nothing said about buildings.

Mr. VARIAN. I don't understand that either of these amendments have been adopted, except those in relation to the numerals.

The PRESIDENT. Just in relation to the numerals, and "to consist of."

Mr. VARIAN. I move the rule now be adopted as its stands.

Mr. PIERCE. Mr. President, I am opposed to that. It ought to be clearly defined in these committees what will be the duty of the committee on public buildings and state institutions and also what is the duty of the committee on education and public lands. It would seem to the committee that had that in charge that the committee on education and school lands should have the charge also of the subject of the educational institutions which are a part of the school system, and if our committees were left in this shape, that the title of rule ten, "public buildings and state institutions," it might include in it all educational institutions, and therefore lead to confusion, and I think that ought to be corrected as it was formerly reported in the report of the committee on standing committees.

Mr. VARIAN. Mr. President, these names of the committees don't necessarily carry with them anything connected with that particular committee. That depends upon the Convention. If anything arises concerning educational institutions, and the Convention are desirous, they will send it to the committee on militia or corporations. Ordinarily without objection, it would go to the committee on education. The title does not affect it in any way, but it is not worth while to challenge if the gentlemen insist upon it——

Mr. PIERCE. Yes, sir; I insist upon it and will take a vote on it when we come to it.

Mr. SQUIRES. Mr. President, I think the words "educational institutions" should then be added to the title of the committee on education and school lands.

The PRESIDENT. The question is on Mr. Pierce's motion to amend.

The motion was agreed to.

Mr. ROBERTS. Mr. President, is the question now on the adoption of this rule?

The PRESIDENT. Yes, sir.

Mr. ROBERTS. I wish to offer an amendment combining subdivisions 22 and 23, uniting those committees and also the members of those two committees, and under the discussion on the adoption of this rule, will state the reasons for wanting to make that kind of an amendment. I will also consider this other suggestion a few moments ago in regard to having "compact" added to subdivision 2. "Federal relations and compact."

You will find, Mr. President, that the Enabling Act, as read by the gentleman from Salt Lake a moment ago, provides

that said Convention shall provide by ordinance, irrevocable without the consent of the United States and the people of said State, first, that perfect toleration of religious sentiment, etc., and enumerates a number of things that are to be stipulated as a compact between this State and the United States. Then it also provides later on that the Convention by ordinance may provide for the election of a full set of state officers. Now, what I want to say on the subject is this, that, having observed with some care the matter that is usually put into a schedule, is the provision for the election of state officers, or officers for the state, and it seems to me that there will be, as it now stands, some conflict between the committee on schedule and future amendments and miscellaneous and this committee, as it now stands, on ordinance. But if the amendment is to make subdivision two read "federal relations and compact," it will be understood that this matter that is provided for in the Enabling Act that shall be provided by ordinance irrevocable, etc., that that committee on compact and federal relations will have full charge of that matter, while if we unite subdivisions 22 and 23, making it read: 22. Schedule, ordinance, and future amendments, and miscellaneous," and have the members of those two committees united, it would straighten out all this matter and leave no ground for conflict as to the prerogatives of these respective committees. Therefore, Mr. President, I move you that subdivisions 22 and 23 be made simply 22 and to read as follows: "22. Schedule, ordinance, and future amendments and miscellaneous, 16 members."

Mr. VARIAN. Mr. President, I call for the first motion, the motion to amend is not seconded. I move the adoption of the rule as originally read.

The PRESIDENT. If there is no objection, the rule will be adopted as amended.

The secretary then read rule sixteen.

Mr. VARIAN. Mr. President, I move the adoption of the rule.

The PRESIDENT. If there is no objection the rule will be adopted as read.

The secretary then read rule seventeen.

Mr. VARIAN. I move its adoption.

The PRESIDENT. If there is no objection the rule will be adopted as read.

The secretary then read rule eighteen.

Mr. VARIAN. I move the adoption of the rule.

The PRESIDENT. If there is no objection it will be adopted as read.

The secretary then read rule nineteen as follows:

RULE XIX. Every ordinance, proposition, or other matter reported by any committee for insertion in the Constitution shall, without further orders, be printed and referred to the committee of the whole.

Mr. VARIAN. Mr. President, by this rule, it was intended that all matter coming from a committee of this character, whether it was supported by two reports or by one, should at once go to the committee of the whole, so that the Convention could take its choice, as it were. It occurred to me in thinking it over and looking it over yesterday, that perhaps it is not so clearly put as it might be, and I move to amend it by striking out and inserting in this wise. Strike out in the second line, the words, "for insertion in the Constitution," and insert after the word "shall" the word "with," and before the word reported at the beginning of the line, "for insertion in the Constitution when," so that the rule will read, if the amendment is carried, "every ordinance, proposition, and other matter for insertion in the Constitution, when reported by any committee shall, with all reports thereon, without further orders, be printed and referred to the committee of the whole."

Mr. EVANS (Weber). Mr. President, would not that include a minority?

Mr. VARIAN. Yes, I stated that. That is my purpose for this amendment, to make it clear that the intention of the rule is, that when a minority report comes in—a minority report—it is entitled to the consideration of the Convention. They might adopt it, so that the question will come up: "I move to adopt the report," but that both reports shall, by this rule, immediately go upon the committee of the whole calendar, to be taken up by the Convention when in the committee of the whole at the proper time, and then in that time the Convention will determine which of the two propositions or reports or matters submitted will be adopted by the Convention.

Mr. EVANS (Weber). Mr. Varian, may I ask you a question? Would your amendment permit a minority of the report of the committee to be published?

Mr. VARIAN, Yes, sir. I move the adoption of that rule as amended.

The PRESIDENT. If there is no objection the rule will be adopted as amended.

The secretary then read rule twenty.

Mr. VARIAN. I move its adoption.

The PRESIDENT. If there is no objection this rule will be adopted as read.

The secretary then read rule twenty-one.

Mr. VARIAN. I move the adoption of the rule.

The PRESIDENT. If there is no objection the rule will be adopted as read.

The secretary than read rule twenty-two as follows:

RULE XXII. So soon as any entire proposition for incorporation in the Constitution shall have been disposed of, such proposition, if agreed to by the Convention, shall be referred to the committee on compilation and arrangement, to be by that committee embodied in the Constitution. The committee shall have full power to revise the language used in the various propositions, and to arrange the same so as to be clearly expressive of the sense of the Convention, and make the instrument complete and consistent within itself. The committee having completed its revision, shall report all the articles of the Constitution to the Convention, when it shall be fully read, and when it is thus read the question shall be on the whole Constitution so received and amended, and if the same shall be decided in the affirmative, the Constitution, as a whole, shall be carefully enrolled under the supervision of the committee on enrollment and engrossment and signed by the president and members of the Convention.

Mr. VARIAN. Mr. President, that rule does not seem to me to be quite as clearly expressive of its intention as the committee on rules thought it was. The intention of the rule is not to give the committee on compilation and arrangement any authority whatever to make any substantial amendment or to do anything more than to harmonize the entire instrument as to its construction and phraseology. The further intention was that its supervising work was to be considered by the Convention when it was reported back. In that view, I desire to offer an amendment, after the word "read" in the third line on page twenty of the printed minutes, "when amendments as to arrangement and phraseology only may be made."

Seconded.

Mr. VARIAN. Now, the Convention will observe that up to this period of time, when the several articles of the Constitution as a whole come back to the Convention, from the supervision of the committee on arrangements and compilation, the committee has had three separate opportunities to offer amendments. First in the committee of the whole, which is an open field, without limit to debate or time. Second, when it comes back on its third reading from the committee to which it was referred.

It is presumed at that stage of the proposition the several views of the members were embodied by a majority vote, at least, which must be decisive in the proposition under discussion. That in substance it is arranged and constructed as the Convention desires to have it, so that nothing remains but the dressing of it up. For that reason it is committed to the committee on arrangement and compilation. Its functions are as I have stated. When it comes back from that committee, the design is not to permit any amendments of substance. The question then is on the Constitution as a whole.

All these several propositions, which have been considered in detail from time to time by the Convention in committee of the whole and in Convention and in the several committees, have been passed upon, and they have passed into judgment, but that it shall be open to amendments as to the phraseology and the harmony—the situation of one section or article with reference to the other, but no other. And now, with the gentleman's suggestion, I will read the amendment again. (Reads).

Mr. VAN HORNE. Mr. President, I would like to suggest to the chairman of the committee on rules, that a further amendment should be made to that rule by further inserting after the word "read" in the fourth line, "and amended."

Mr. VARIAN. It might not be amended. Of course that goes without saying. If they amend, all right.

Mr. KERR. Mr. President, I wish to inquire of the gentleman whether the Convention shall have the power to offer or make any change in the Constitution after it is reported by the committee on engrossment and enrollment.

Mr. VARIAN. Not, except as stated; I will say Mr. President, there ought to be an end to all things. Not an amendment in substance, but an amendment in phraseology, and construction of the instrument, yes—that is the intention.

Mr. RICKS. Mr. President, I would like to inquire what is meant by the provision on page nineteen, "the committee shall have full power to revise the language used in the various propositions."

Mr. VARIAN. It is meant by that that they shall have power to correct any errors or inaccuracies in grammatical construction, syntax, orthography, or punctuation, or arrangement of several parts with each other and between themselves, the arrangement of the different sections, placing them in the order in which they shall be placed, and present the instrument back here as a whole for the final supervision in the same line only of the Convention. That is what that committee is for.

Perhaps they may not be quite so harmonious in the arrangement as the Convention might desire and the Convention reserves the right to correct and supervise their work, but nothing further.

Mr. THATCHER. Mr. President, I would like to offer to the mover of that section the following suggestion:

Strike out the words, "to revise the language used in various propositions and to arrange the same so as to be clearly expressive of the sense of the Convention," and insert the following: "The committee shall have full power to arrange, compile, and make the instrument complete and consistent within itself." That will comprehend them all, the corrections contemplated in the proposed amendments, and make the rule much shorter, much more comprehensive and the committee itself will more fully understand its powers. It will need no explanation of its authority.

Mr. MALONEY. I second that motion.

Mr. ROBERTS. Mr. President, I wish to offer an amendment to the amendment of the gentleman from Cache County, in the way of a substitute for his amendment.

Insert in the fifth line before "language" the words "grammar of the" and then in the sixth line after "of" the words, "but not to alter." The clause will then read if the amendment should be adopted:

"The committee shall have full power to revise the grammar and the language used in various propositions and to arrange the same so as to be clearly expressive of but not to alter the sense of the Convention, to make the instrument consistent within itself," etc.

The SECRETARY. That would do away with Mr. Thatcher's motion.

Mr. Roberts' motion to amend was seconded.

Mr. ROBERTS. Mr. President, I am of the opinion that the powers conferred upon this committee should be somewhat carefully guarded. I grant you, as the gentleman from Salt Lake has stated, that the Convention would have an opportunity to revise all the work of this committee on compilation and arrangement, but when they shall make their report it will be very near the close of the session of this Convention, and it is possible for a committee of this kind even not intentionally to so alter the language, in correcting as they suppose the phraseology, as to affect the legal meaning of the term, and therefore, the purpose I take it, of all these amendments is to limit and definitely express the powers of that committee. It seems to me if we make this clause read as I have suggested it will accomplish the purpose that we are aiming at.

Mr. VARIAN. Mr. President, I don't see that the amendment offered by the gentleman from Davis does anything more than to make the sentence involve unnecessarily. I find no difficulty with the language that is complained of. It was taken from the rule of the constitutional convention of Wyoming. That part of the rule reads as follows:

"The committee shall have full power to revise the language used in the various propositions."

That does not mean to insert new language, "to arrange the same as to be clearly expressive of the sense of the Convention to make the instrument complete and consistent within itself."

Now, it seems to me that you cannot make that easily more comprehensive and concise. To revise does not need any interpretation here in a standing rule. To revise the language and to arrange it so that it will be clearly comprehensive of the sense of the Convention, carries on its face its purpose.

It means just what it says. It needs no criticism. It is not involved; it is not labored in any way; of course it does not mean that the committee on compilation and arrangement will make a new Constitution or a new section. I hope the rule will stand as originally presented by the committee on rules.

Mr. GOODWIN. Mr. President, it seems to me that this is all right and fully explains itself. The whole thing might be contained in one thing. The committee shall have full power to "edit" the various propositions and make the instrument complete in itself. That word in the second line would make the line plain enough. The objection made by Mr. Roberts does not count, because with all the instruments, it is very possible for the committee to work in a little change themselves. It seems to me the rule is all right. We might spend another hour or two but it carries the whole idea. Simply a smoothing-out committee. I judge so personally by the language, that it is simply to get it before this Convention in readable shape. It seems to me it is better to leave the rule as it is.

The PRESIDENT. As the chair understands it, the motion has been made to adopt the rule in its entirety. It has been amended by Mr. Thatcher and a second amendment has been made by Mr. Roberts. The proposition as I un-

derstand it, is on the amendment of Mr. Roberts.

Mr. GOODWIN. A substitute.

Mr. ROBERTS. That is right.

Mr. Roberts' motion to amend was lost.

The PRESIDENT. The question is on the motion of Mr. Thatcher.

Mr. KIMBALL (Salt Lake). Mr. President, I don't understand Mr. Roberts' amendment to conflict with that of Mr. Thatcher's.

Mr. THATCHER. Mr. President, it very much conflicts with it. My amendment contemplates simply the striking out of these words, "to revise the language used in the various propositions and to arrange the same so as to be clearly expressive of the sense of the Convention." Those are the words that are stricken out by my amendment.

Mr. THURMAN. Mr. President, there can be but one question arise under the phraseology as it is, "the same so as to be clearly expressive of the sense of the Convention." Now, if that means the sense of the Convention as previously expressed, we will pass upon the question. It is deficient as it is; if it could be construed to mean the sense of the Convention at the time they are amending it, so as to perhaps give it a different sense from that at the time it was being passed upon, it ought to be amended. In my own judgment, it expresses as it is in the written copy the fact as we want it, "expressive of the sense of the Convention as previously expressed."

Mr. VARIAN. Wouldn't it be a forced construction? I would ask the gentleman.

Mr. THURMAN. I think so.

The PRESIDENT. The question is on the motion of Mr. Thatcher to amend.

The motion is lost.

Mr. VAN HORNE. Mr. President, before that motion is finally put, I think there ought to be a provision made by which the committee on revision making its report to the Convention shall report to them the changes that have been made by the committee, in order that the Convention may have their attention called to the particulars in which the committee have changed the expressed sense of the Convention.

The PRESIDENT. I would ask Mr. Varian whether there was any provision of that kind made?

Mr. VARIAN. The committee reporting? Of course that would be a part of its duties. I didn't suppose it was necessary to put down everything here in this rule. I say the committee on rules didn't suppose so. If they make any change of course they will report. If they don't it will be easily ascertained, because the printed articles as they went to that committee are in the hands of each member, and I presume that each member will read for himself as the clerk reads the whole Constitution as it is presented for final adjustment.

Mr. WHITNEY. If that means the adoption of the rule, I desire to move for another slight amendment before the rule is adopted.

Mr. VARIAN. Yes, it does mean that.

Mr. WHITNEY. I merely wish to suggest that the correct name of the committee is "engrossment and enrollment."

Mr. DRIVER. Mr. President, may I be excused?

The PRESIDENT. Yes.

I would call the attention of the gentlemen again to the desire of these photographers that you made an agreement with to meet at three o'clock, and it is now four.

Mr. RICKS. Mr. President, if we agreed to meet those photographers, I move we take a recess for ten minutes and go down and meet them.

The motion for a recess being put it was carried by a rising vote of 55 ayes to 36 noes.

The Convention then took a recess for ten minutes.

The Convention re-assembled after recess and the following proceedings were had:

Messrs. Low of Cache, and Farr, were excused.

The consideration of the special order was resumed.

The secretary then read rule twenty-three.

Mr. VARIAN. I move its adoption.

The PRESIDENT. If there is no objection the rule will be adopted.

The secretary then read rule twenty-four.

Mr. VARIAN. I move its adoption.

The PRESIDENT. If there is no objection the rule will be adopted as read.

The secretary then read rule twenty-five.

Mr. VARIAN. I move its adoption.

The PRESIDENT. If there is no objection the rule will be adopted.

The secretary then read rule twenty-six.

Mr. VARIAN. I move its adoption.

The PRESIDENT. If there is no objection the rule will be adopted.

The secretary then read rule twenty-seven.

Mr. VARIAN. I move its adoption.

The PRESIDENT. If there is no objection the rule will be adopted.

The secretary then read rule twenty-eight.

Mr. VARIAN. I move its adoption.

The PRESIDENT. If there is no objection the rule will be adopted.

The secretary then read rule twenty-nine.

Mr. VARIAN. I move its adoption.

The PRESIDENT. It will be adopted as read if there is no objection.

The secretary then read rule thirty.

Mr. VARIAN. I move its adoption.

The PRESIDENT. If there is no objection, gentlemen, the rule will be adopted as read.

The secretary then read rule thirty-one.

Mr. VARIAN. I move its adoption.

The PRESIDENT. If there is no objection, the rule will be adopted.

The secretary then read rule thirty-two.

Mr. VARIAN. I move its adoption.

Mr. WELLS. Mr. President, I would like to ask the chairman why that is five days before the final adjournment?

Mr. VARIAN. The rule is provided for the purpose of directing the attention of the Convention to the matter in order that it may direct the attention of the committee to the duty of engrossing and enrolling the Constitution. The operation of this rule requires some future action. I presume it is inserted in the rules of these conventions in order that the attention of the convention may be called to it.

The PRESIDENT. The rule will be adopted as read if there are no objections.

Mr. WELLS. I don't understand what the Convention will be doing for five days after that has been done.

Mr. THURMAN. We will be getting our photographs taken.

The PRESIDENT. Does this gentleman object to the rule?

Mr. WELLS. No, I have no amendment to offer.

The PRESIDENT. The rule will be adopted as read.

The secretary then read rule thirty-three.

Mr. VARIAN. I move its adoption.

The PRESIDENT. If there is no objection the rule will be adopted as read.

The secretary then read rule thirty-four as follows:

RULE XXXIV. The following classes of persons besides officers and members of the Convention shall be entitled to admission to the floor of the Convention during the session thereof, viz:

1. The governors, secretaries, auditor, treasurer and ex-governors.

2. The justices of the supreme court and ex-justices thereof.

3. The delegate to Congress and ex-delegates.

4. Members of the Utah commission.

5. Reporters of the press, as provided by these rules.

6. Ladies.

No other person shall be admitted to the floor during the session of the Convention unless the Convention shall otherwise order.

Mr. VARIAN. Mr. President, the committee on rules overlooked one courtesy in that rule. I move to insert a new subdivision, after sixth as follows: "The probate judge and members of the county court of Salt Lake County." These are the gentlemen as a body who have given the use of this hall to this Convention. It would seem appropriate that we should recognize it in this way.

The PRESIDENT. Mr. Varian, would you include the mayor of Salt Lake City?

Mr. EVANS (Weber). Mr. President, I move to amend that by adding the mayor of Salt Lake City.

Mr. VARIAN. I accept it.

Mr. EVANS (Weber). And that it be inserted as subdivision five and that subdivisions five and six be made six and seven.

Mr. KIESEL. And the city council of Salt Lake City, I wish to amend.

Mr. VARIAN. I object to that.

Mr. KIESEL. The probate judge and all the officials—I don't see why we cannot have the mayor and all the officials——

Mr. EVANS (Weber). Why not have the mayors of all incorporated cities?

Mr. VARIAN. I accept Mr. Evans' amendment, I don't accept the other.

Mr. KIESEL. Has my proposition been seconded.

The PRESIDENT. No, sir.

Mr. KIESEL. I would like to put that to a vote if it is seconded, that the city council also have the privileges of the floor.

Motion seconded.

Mr. VARIAN. Mr. President, the committee on rules considered this matter and it was manifest to them, as it must be manifest to the Convention, that we must draw the line somewhere, owing to the limited accommodations, and we did not care to make a distinction that might be complained of, and drew the lines so closely that we overlooked a small matter of courtesy that we ought not to have overlooked, namely the county court; but for that I should have no objection myself and I presume the committee would not, to incorporating in the rules a provision admitting the city councils and mayors of all the cities in the Territory and members of the Legislature.

Mr. KIESEL. Mr. President, it is a mere matter of courtesy. Mr. Varian knows just as well as I that these gentlemen are not going to invade this room here. It is just simply a matter of courtesy and they are entitled to it. We are holding this Convention in their city here. We are under their protection. I think they are entitled to it.

Mr. EICHNOR. Mr. President, I will state to the members of this Convention that the matter was first proposed in a meeting of the city council; that Councilman O'Meara introduced a resolution that an arrangement should be made to hold the Constitutional Convention in this building, and that as the city council set the movement on foot, I think we should show them the courtesy.

The PRESIDENT. Gentlemen, you have heard the motion to amend the resolution and extend the courtesy to the city council. The original motion was to extend the courtesy to the probate judge, county court and mayor of Salt Lake City. All who are in favor of the motion of Mr. Kiesel will say aye; opposed, no.

Carried.

The rule as amended was then adopted.

The secretary then read rule thirty-five.

Mr. VARIAN. I move its adoption.

The PRESIDENT. If no objection the rule will be adopted as read.

Rule thirty-six was then read by the secretary.

The PRESIDENT. If no objection the rule will be adopted as read.

Rule thirty-seven was read by the secretary as follows:

RULE XXXVII. The standing rules of the Convention and the regular orders of business shall not be suspended or interrupted unless by a vote of two-thirds of the delegates present.

Mr. VARIAN. That rule as it stands met and does meet with my approbation. It has been suggested, however, that perhaps it is a little too stringent—that a majority of the delegates present ought to have the power to so order and direct the business as they may see fit. For the purpose of testing the sense of the Convention upon that, I move the amendment, by striking out the words, "two-thirds," in line three and inserting "majority."

Seconded.

Mr. EVANS (Weber). What would be the necessity of a rule at all on that question, then? That is a power that the body has.

Mr. VARIAN. Mr. President, I quite agree with that, but I thought inasmuch as I had the matter in charge and heard the gentlemen speak about it—I thought it nothing more than fair to have it brought up and acted upon.

Mr. EVANS (Weber). Mr. President. I am in favor of the rule as it stands. It is an ordinary rule enforced in all deliberative bodies, and such a rule as that would probably prevent just such a scene as we had a few moments ago, when we were in session deliberating upon the adoption of these rules—that we might adjourn for the purpose of going out and having photographs taken. I believe the rule ought to stand. I think such disgraceful proceedings ought not to obtain in this body.

Mr. HART. Mr. President, that is the usual rule I believe for the amendment of rules of a deliberative body to require a two-thirds vote, that is the provision Mr. Roberts names. I think that is the rule required in Congress to amend the rules. Otherwise it does not amount to the dignity of rules, if a bare majority can amend them at any time. We certainly should have a two-thirds vote to change a rule.

Mr. CANNON. Mr. President, I would like to move if it is in order an amendment to the amendment by striking out the word "present" and inserting the word, "elected" so that it will read, "unless by a vote of a majority of the delegates elected."

Mr. VARIAN. Mr. President, that is not seconded, but I want to suggest, if I may be permitted, that that would probably tie the Convention up in a more stringent way than it desires. There may occasions arise when we want to suspend the rules. It ought to be only upon occasion when the rules should be suspended. For that reason a reasonable number of delegates present are required to assent to it in order that the business may be speeded.

You may safely entrust it as a general rule from day to day to two-thirds of the delegates present in the direction of the business to act under these rules. Now, if you require two-thirds of the delegates elected—I assume nothing of that kind would come up here, but it would put it in the power of a small minority to obstruct the will of the body.

Mr. CANNON. My motion is not two-thirds of the delegates elected, but a majority of the delegates elected.

Motion seconded.

Mr. VARIAN. Mr. President, that would take from the majority of the quorum the power to act in certain

cases. Our rules contemplate that a majority of a quorum in the transaction of all ordinary business may dispose of the business before the Convention—not to pass propositions for insertion in the Constitution, but as to all other matters—ordinary resolutions concerning the business of the Convention and a disposition of any other matters, which may be in hand, are committed to the majority of the quorum. Now, it might be necessary, there being a quorum present, and not perhaps a majority of the members elected voting one way, in order to carry on the business to have certain rules here suspended. I find that this rule is one well known. It seems to be recognized everywhere. They have had it in Congress and in all constitutional conventions that I have observed the proceedings of, and it seems to be well settled in parliamentary proceedings, as well as the text books on the subject.

Mr. CANNON. Mr. President, I would say as mover of this amendment I understood Mr. Varian to say that he favored the proposition of two-thirds of the delegates present.

Mr. VARIAN. Yes.

Mr. CANNON. Two-thirds of the delegates on any occasion when we have been present, I believe would have been more than a majority of the delegates elect.

Mr. VARIAN. That might be, but there might be a case where it wouldn't be.

Mr. CANNON. I think we should not change the rule without at least a majority of those who have been elected voting upon that question in favor of a change.

Mr. VARIAN. Will the gentleman permit me to ask him a question? Do we understand this rule provides for a change of the rule? It is only for a temporary suspension. The other rules provide that a change in the rules can only be made after a reference to the committee on rules, a report from that committee, and then it can be done. This provides only for a temporary suspension for a day.

Mr. CANNON. Mr. President, I was under a misapprehension—in that case I am in favor of the rule as it stands. Two-thirds of those present.

Mr. Varian's motion to amend was rejected.

Mr. VARIAN. I move the adoption of the rule.

The PRESIDENT. The rule will be adopted, without there is objection.

The secretary then read rule thirty-eight.

Mr. VARIAN. I move its adoption.

The PRESIDENT. If there is no objection the rule will be adopted as read.

Mr. VARIAN. Mr. President, I move that the rules as a whole as they have been amended by the Convention be adopted as the standing rules of the Convention.

Mr. JAMES. Mr. Varian, will you allow me just a moment before you put this motion? Wouldn't it be well to grant some powers to the president to fill vacancies on the committees as they occur?

Mr. VARIAN. I think it is here. He has that power.

Mr. JAMES. I haven't seen that power.

Mr. VARIAN. It is not in terms perhaps, but of course——

The PRESIDENT. It is implied.

Mr. EVANS (Weber). It gives him the power to add to any committee if there is a vacancy.

Mr. Varian's motion was seconded.

Mr. WHITNEY. Mr. President, I wish to suggest a slight amendment in rule three, if it is admissible in this stage. In the first line of rule three, order of business, I move for the insertion of the words between the words "session" and "shall," "after roll call and prayer," so that it will read, "the first business of each day's session after roll call and prayer shall be the reading of the jour-

nal," etc. I consider roll call a part of the business of the session, as much as reading the minutes.

Mr. EVANS (Weber). I second the motion.

Mr. VARIAN. Don't you mean "prayer and roll call?" Transpose that.

Mr. WHITNEY. No; I think the roll call should be first, because until the roll call, we do not know whether there is a quorum present.

Mr. VARIAN. The minority needs the prayer as much as the quorum.

Mr. CANNON. I would suggest that the prayer usually comes first.

Mr. WHITNEY. It did to-day, but I think it is out of order.

The PRESIDENT. I followed the rule of the Wyoming people in that matter.

Mr. WHITNEY. My impression is, the roll call should come first.

Mr. EVANS (Weber). Suppose we should have divine exercises and after that the roll were called and there was found not to be a quorum present, the question would be, would the prayer avail anything? [Laughter.]

The PRESIDENT. We would be that much ahead.

Mr. EVANS (Weber). I agree that we ought first to have the roll call.

The PRESIDENT. The question is on the amendment of the rule as suggested by Mr. Whitney.

The motion was carried.

The PRESIDENT. The question is on the motion of Mr. Varian to adopt the rules as a whole, with the amendments.

The motion was agreed to.

Mr. VARIAN. Mr. President, I also move the adoption of the report of the committee on rules, recommending that the sum of fourteen dollars, I think it is, be allowed and paid.

Mr. RICKS. That was passed upon.

Mr. VARIAN. No; it was not passed upon; it is in getting up these rules.

The PRESIDENT. The question is on the motion to adopt the report of the committee, and that the sum of fourteen dollars be paid as recommended.

Carried.

Mr. VARIAN. Mr. President, I also may be out of order, but I ask leave to make a motion that should have been made on the adoption of the rules; I move that the committee on printing be instructed to have printed such number of copies as in their judgment they may think necessary.

Mr. LAMBERT. That was attended to yesterday, Mr. Varian.

Mr. VARIAN. Well, that is all right.

Mr. HART. Mr. Varian's motion a moment ago on the adoption of the report of the committee on rules, mentioned one item of recommendation only in those minutes. There are two items there, and his motion should either be made to adopt the recommendations of the committee on rules without specifying one particular matter therein, or else there should be a separate motion now on another recommendation contained in the report of the committee on rules. The last sentence, "and we further recommend that the appointment of committees heretofore made be ratified." I would suggest——

Mr. VARIAN. Make a motion.

Mr. HART. I would suggest that the clerk make your motion to read that the recommendation of the committee on rules be adopted without specifying the fourteen dollars or this other matter, and then it will cover the whole thing.

Mr. VARIAN. Now, as I understand it, consent was asked that that motion may be deemed to include the other recommendation of the committee, that the appointment by the chair of the committees as heretofore made be ratified.

The PRESIDENT. If there is no objection to the recommendation it will be so amended by the secretary.

Mr. IVINS. Will the chair please

state Mr. Varian's motion that is now before the house? Didn't you move that a certain number of copies of these——

Mr. VARIAN. I did and was informed by the chairman of the committee on printing, that that had already passed yesterday.

Mr. IVINS. Mr. President, I wish to move as an amendment to that motion that the names and addresses of the members of this Convention be included in the same pamphlet in which the rules are.

Mr. LAMBERT. I will say for your information that was all included in the resolution of yesterday.

Mr. IVINS. I was not present yesterday.

Mr. CANNON. If there is no other business, I move we now adjourn.

Carried.

The Convention then at 4:55 p. m. adjourned.

ELEVENTH DAY.

THURSDAY, March 14, 1895.

The Convention was called to order at 2 o'clock p. m. by President Smith.

The roll was called showing the following members present:

Adams	Larsen, L.
Allen	Larsen, C. P.
Anderson	Lemmon
Barnes	Lewis
Bowdle	Low, William
Boyer	Low, Peter
Brandley	Low, Cache
Button	Lund
Buys	Maeser
Call	Mackintosh
Cannon	Maloney
Chidester	Maughan
Christianson	McFarland
Clark	Miller
Coray	Morris
Corfman	Moritz
Crane	Murdock, Beaver
Creer	Murdock, Wasatch
Cunningham	Murdock, Summit
Cushing	Nebeker
Driver	Page
Eichnor	Partridge
Eldredge	Peters
Emery	Peterson, Grand
Engberg	Peterson, Sanpete
Evans, Weber	Preston
Evans, Utah	Raleigh
Farr	Ricks
Francis	Roberts
Green	Robertson
Goodwin	Robinson, Kane
Haynes	Robison, Wayne
Hammond	Ryan
Hart	Sharp
Halliday	Shurtliff
Heyborne	Snow
Howard	Spencer
Hughes	Squires
Hyde	Stover
Ivins	Strevell
James	Symons
Johnson	Thompson
Jolley	Thoreson
Kiesel	Thorne
Keith	Van Horne
Kearns	Warrum
Kerr	Wells
Kimball, Salt Lake	Whitney
Kimball, Weber	Williams
Lambert	Mr. President.

Mr. Thurman was excused.

Prayer was offered by Rev. W. D. Mabry, of the Methodist Episcopal Church.

Journal of last previous session read by the secretary and approved.

Mr. KIESEL. Mr. President, I ask for a suspension of the rules, and ask for the admission to the floor of Hon. John Watson, and Hon. Nathan Tanner, from Ogden, for this afternoon's session.

Granted by unanimous consent.

Mr. EVANS (Weber). Mr. President, Mr. Kimball, of Weber, has requested me to ask that the records show his absence yesterday on account of sickness,

and I do so; he is not well and for that reason was not present.

Mr. KIESEL. Mr. President, I ask for a suspension of the rules and also ask for the admission of Hon. Joseph Stanford, of Ogden, to the floor.

The request was granted by unanimous consent.

Mr. GIBBS. Mr. President, I wish to be recorded as present this afternoon.

Mr. HILL. I desire the same privilege.

Mr. PIERCE. I would like to be recorded present.

Mr. VARIAN. My name also.

Mr. RICHARDS. Mr. President, if it is necessary, I ask also to be recorded present. It seems to me that it ought not to be necessary for a member to make a special request to be recorded present, and have it appear on the minutes, and incur that much additional expense. It seems to me that if members coming in during the reading of the minutes, or immediately after roll call, would report their names to the secretary, that order ought to be made without its appearing on the records, and I therefore move, if it is necessary, that such be the rule of the Convention, and that this motion do not appear on the record.

Mr. KIESEL. I second that motion.

Carried.

The PRESIDENT. Gentlemen, the order of business is the presentation of petitions and memorials.

Mr. EVANS (Weber). Mr. President, I have the honor to present a memorial from the representatives of the ladies of Weber County to this Convention, asking that they might receive equal suffrage with men, and I ask the courtesy of the Convention that it might be read by the secretary at length and referred to the committee on elections and suffrage.

Mr. KIMBALL (Weber). Mr. President, I move that it be read by its title and referred without reading the whole petition.

Mr. EVANS (Weber). Mr. President, it is short—in courtesy to the ladies——

Mr. KIMBALL (Weber). Mr. President, we will have lots of these petitions here, and if we attempt to read all of them, it will take a long time—if any one will second my motion.

Motion seconded.

Mr. KIESEL. You cannot get a second to that motion; I would like to hear it read.

Mr. SQUIRES. Mr. President, in view of the fact that I understand that some of the ladies who are connected with this movement are present, I trust that out of courtesy to them, we will listen to this communication. It is not very long. I am in favor of the reading.

Mr. VARIAN. I call for the reading of it for information.

The secretary then read the memorial as follows:

OGDEN CITY, March 13, 1895.

To the Hon. President and Members of the Constitutional Convention of Utah:

GENTLEMEN: We, the undersigned delegates in behalf of the women of Ogden City, and Weber County, beg most respectfully to memorialize your honorable body and ask that the action of your committee on election and suffrage in reporting favorably on the right of suffrage and equal rights being granted to the women of Utah, be sustained, and that the article adopted by said committee be incorporated in the Constitution by the unanimous vote of the Convention.

Both political parties, in their declaration of principles last fall pledged themselves to grant full suffrage to women, and we feel assured that you will honor the pledge thus made.

Our great Creator has endowed women with the same attributes and power of mind possessed by man, hence, her right to equal privileges and opportunities under the laws and in the governments of the nation of which she is a member. Woman has been denied her rights in the past, but toward the close of the nineteenth century, her rights, her merits and worth are being better understood and appreciated, which is evidenced by the fact of the suffrage being granted her in many states of the Union as well as in many parts of Europe. And it will, beyond all question, reflect credit and honor

upon the framers of the Constitution to provide that the mother, wife and sister shall have a voice in the conduct of the affairs of the State of Utah, equal to father, husband and brother.

We claim we are loyal to the government and our country; we love and honor its flag and its Constitution. Give us an extended opportunity to demonstrate and furnish proof that our professions are sincere and true.

We claim a share and an interest in all the greatness and glory our country represents.

A few men argue, but their numbers are diminishing every year, that politics are corrupt and that women will be defiled and injured by engaging in them. Experience in Wyoming and other states does not sustain this view, but, on the contrary it is claimed that there is less drunkenness, immorality, less vice and crime, and that there are fewer criminals according to prison records, through the presence and influence of women in politics, than formerly, and that her efforts and example in the paths of sobriety and honor, tend to purify the political atmosphere, to elevate man and not to lower woman.

With these facts briefly referred to, before you, gentlemen, we feel that the most careful and scrupulous, and even the somewhat credulous, will do no violence to their feelings or any harm, but good to their state and country to grant our prayer, while we are thoroughly satisfied that the great majority of your honorable body will gladly and cheerfully do honor to the women of Utah by keeping inviolate the pledges of your respective parties.

Yours most sincerely and respectfully,

MRS. JENNIE E. NELSON,
MRS. KATE R. HILLIARD,
MRS. WM. DRIVER,
MRS. L. R. RHODES,
MRS. E. G. STANFORD.

Mr. VARIAN. Mr. President, I would like to call for the reading of the report from the committee on elections and rights of suffrage, that is referred to in that petition.

Mr. KIESEL. Mr. President, for information of Mr. Varian, I would say that the matter was referred to the subcommittee to draft and present to the Convention a report. We are not ready yet to report.

Mr. VARIAN. Mr. President, it seems then, that the action of the committee —a committee of this Convention, seems to be known in Ogden before the Convention knows of it. It would seem that this petition is a little premature, and as it is addressed to the Convention and not to the committee, I move that it lie on the table until the report of the committee comes in.

Seconded.

Mr. KIMBALL (Weber). Mr. President, I had a motion here, to refer that to the committee on elections and rights of suffrage, by reading of the title. Mr. Varian called for the reading of it.

Mr. VARIAN. The gentleman is out of order.

The PRESIDENT. The gentleman is out of order.

Mr. RICHARDS. Mr. President, I offer as an amendment to Mr. Varian's motion, that it be referred to the committee on rights of suffrage.

Mr. EVANS (Weber). Mr. President, that was my motion. When I presented the memorial I moved that it be referred to the committee on elections and suffrage.

Mr. VARIAN. Mr. President, I arise to a point of order. That was the original motion made by Mr. Kimball. The motion is to lie on the table. If you do not want it to lie on the table, then it can be voted down and the motion will come up.

The PRESIDENT. The question is upon the motion that this petition lie upon the table.

Lost.

Mr. KIMBALL (Weber). Mr. President, I renew my motion.

Mr. EVANS (Weber). Mr. President, I renew my motion to refer that to the committee on election and rights of suffrage.

The motion of Mr. Evans was carried.

Mr. MURDOCK (Wasatch). Mr. President, I desire to introduce a petition signed by 370 members of Wasatch County, introducing an article of prohibition.

Mr. VARIAN. Mr. President, that is not the order of business, the proposi-

tion for insertion in the Constitution. The gentleman said he introduces a proposition for insertion in the Constitution.

Mr. RICHARDS. I understood him to say a petition.

Mr. MURDOCK (Wasatch). It is a petition.

The secretary then read the title to said document as follows:

Proposed article on prohibition and methods of submitting same to vote of the people.

Mr. RICKS. Mr. President, I move that it be read by its title and referred to the committee on schedule and future amendments and miscellaneous.

Mr. KIESEL. Mr. President, I amend by referring to the committee on commerce and manufacture.

Mr. VARIAN. I second that motion.

Mr. IVINS. Mr. President, I ask that the petition be read for information. I understand it is very short, I do not want the names of the signers.

Mr. EVANS (Weber). It is short, let it be read.

Mr. HART. Under our rules the reading of a petition is not in order unless ordered by the Convention as I understand it. Rule four requires a vote of the house in order to read a petition or memorial.

Mr. VARIAN. Mr. President, the reading is called for for information as I understand it. Any member has a right to that.

The PRESIDENT. That is as I understand it.

Mr. HART. I do not see how a member can call for the reading of it for information and thus avoid the operation of the general rule that has been adopted. I understand the purpose of this rule is to avoid the taking up of time in reading these petitions and memorials that may come in.

Mr. VARIAN. Mr. President, there are two motions pending to refer to separate committees. The gentleman wants it read for information. I don't see how you can deprive him of that right. He has no right to debate it perhaps, but that is another question.

Mr. EVANS. We do not know which committee it should go to until it is read.

The secretary then read the same.

Mr. MURDOCK (Wasatch). Mr. President, I move that it be referred to the committee on schedule and future amendments and miscellaneous.

The PRESIDENT. There has been a motion for reference to the committee on manufacture and commerce, and to another committee, I don't just remember what.

Mr. MURDOCK (Wasatch). Schedule, future amendments and miscellaneous.

Mr. IVINS. Mr. President, it seems to me that the gentleman from Wasatch, Mr. Murdock, while being the introducer of this petition, having requested that it go to the committee on schedule, future amendments and miscellaneous, that it ought to go there without any further action on the part of this house.

Mr. KIMBALL (Weber). Mr. President, I arise to a point of order that that is a proposition for insertion in the Constitution, and not a petition. If the secretary will read it, the president will readily observe that it is a proposition to have inserted in the Constitution certain matter, and I object to it as out of order at this time—that it should come up on that order.

The PRESIDENT. I think the point of order is well taken—that it does not come properly as a petition under the circumstances. The gentleman may have leave to withdraw and present it in its proper place.

The committee on accounts and expenses presented a report which was read by the secretary as follows:

CONVENTION HALL, March 14, 1895.

Mr. President and Members of the Convention:

We, your committee on accounts and

expenses, beg leave to report the following:

1. In relation to furnishing the Convention with a clock, Mr. Thomas G. Webber, superintendent of the Z. C. M. I., has kindly loaned the clock now hanging in the hall, free of charge, during the session of the Convention.

2. In relation to furnishing the delegates with drawers or boxes, for the safe keeping of their books and papers, etc., we herewith attach the following bids for same.

3. A number of delegates seem to think the per diem of appointive officers, not covered by statute, as furnished the Convention on Monday too high. We would therefore ask for the sense of the Convention in regard to this matter.

4. Members of the Convention have asked us to furnish postage stamps for their use in corresponding with their constituents. We are undecided as to whether that request should not go to the committee on printing and stationery.

5. We communicated with Secretary Richards yesterday in regard to the mileage of delegates, and he informs us the mileage should be thirty cents one way, hence our report of Monday figured at twenty cents is incorrect. We attach herewith a correct report.

6. A number of delegates have requested us to pay their mileage. As we have no instructions to do so, we would ask for the wishes of the Convention regarding the matter.

7. We are undecided as to our duties and would ask the Convention if we are expected to keep a journal of the per diem of members and expenses and report the balance on hand daily.

8. We would ask for instructions in regard to the salary of appointive officers—whether their salaries commenced with the first day of the session, time of appointment or time when sworn in.

A. C. LUND,
Chairman.

SALT LAKE CITY, UTAH,
March 13th, 1895.

To the Hon. The Committee on Furniture, Constitutional Convention, city:

GENTLEMEN: We will make 106 plain, pine stained boxes, 10 inches by 15 inches and 10 inches deep, all outside measure, with hinges and tumbler locks, for $1.65 each.

Respectfully submitted,
HENRY DINWOODEY FURNITURE CO.
H. Dinwoodey, Prest.

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SALT LAKE CITY, UTAH,
March 13, 1895.

JOHN R. BARNES, ESQ.

DEAR SIR: We will furnish you 106 tin boxes 10x14x10 inches deep with lock and key, for the sum of ($97.50) ninety-seven dollars and fifty cents.

Yours respectfully,
JAMES, SPENCER, BATEMAN & CO.

Will furnish the boxes in two days after receiving the order for same.
J. S. B. Co.

The PRESIDENT. What will you do with the report, gentlemen, there is several propositions involved in it?

Mr. VARIAN. Mr. President, I think it ought to be taken up when we have more time, to be considered later in the afternoon under the head of resolutions.

Mr. RICKS. There is no second to that motion. I move that the first proposition be read.

Mr. EVANS (Weber). Mr. President, I second the motion, that it be received and placed on file.

Mr. RICKS. Mr. President, I will amend the motion by moving that the proposition be read separately and acted on now.

Seconded.

Carried.

The PRESIDENT. The amendment is carried, the secretary will read.

The secretary then read the following:

1. In relation to furnishing the Convention with a clock, Mr. Thomas G. Webber, Supt., of the Z. C. M. I., has kindly loaned the clock now hanging in the hall, free of charge, during the session of the Convention.

Mr. KIMBALL (Weber). I move that that part of the report be adopted, [laughter] with the thanks of the Convention to Mr. Webber.

Carried.

The secretary then read as follows:

2. In relation to furnishing the delegates with drawers or boxes for the safe keeping of their books, papers, etc., we herewith attach the following bids for same.

Mr. RICKS. Mr. President, I move we instruct the committee that we do not want those drawers—I move that

we lay that part of the report on the table.

Seconded.

Mr. LUND. Mr. President——

The PRESIDENT. It is not debatable.

Mr. IVINS. Mr. President, I arise for information, or rather to a point of order. The gentleman, I understand, moved that this report be read by sections, and passed on. Now the clerk begins to read one of the sections, and he gets up and objects to them being read.

Mr. RICKS. No, to lay it on the table.

Mr. IVINS. Hadn't we better hear it read first, so we will know what we are laying on the table?

Mr. BOYER. I call for the reading.

The secretary then read as follows:

SALT LAKE CITY, UTAH,
March 13, 1895.

J. R. BARNES, ESQ.

DEAR SIR: We will furnish you 106 tin boxes, 10x14x10 inches deep, with lock and key for the same, for ninety-seven dollars and fifty cents ($97.50).

Yours truly,
JAMES, SPENCER, BATEMAN & CO.,

Will furnish the boxes in two days after receiving the order for same.

J. S. B. Co.

Mr. VARIAN. Question. Mr. President, the question is on this part of the report lying on the table.

Mr. EVANS (Weber). Mr. President, I now move that we reject that part of the report.

Mr. VARIAN. I arise to a point of order; a motion to lie on the table cannot be disposed of in that way.

The PRESIDENT. You have heard the motion, gentlemen, that this part of the report lie upon the table.

Carried.

The PRESIDENT. The secretary will continue to read.

Mr. VARIAN. I arise to a point of order. The whole report is on the table now. It is so inseparably connected with the subject matter that it carries the whole report with it on the table.

Mr. KIMBALL (Weber). I beg leave to differ with the gentleman, there are several sections to that report on different subject matters.

The PRESIDENT. Will Mr. Varian point to the rule in regard to this matter?

Mr. KIMBALL (Weber). It is not one subject matter, but it is several subject matters.

Mr. VARIAN. I have not the rules at hand, nor have I got Roberts' rules of order; there is no question about it.

Mr. EVANS (Weber). Mr. President, I now move that the report of the committee on printing be taken from the table for action.

Mr. VARIAN. Mr. President, I arise to two points of order, the first is, the president has not decided this question before the house, and second that a motion to lay upon the table being made, which has been decided and no other business intervening, the only way it can be rectified is by some person who voted for it with the majority, to move to reconsider the vote.

Mr. KIMBALL (Weber). I understand the president has decided the last motion, that there are several subject matters in one report and that it cannot be disposed of in that way.

Mr. HOWARD. Mr. President, I understood when that motion was put that it meant that one portion of the report referred to, and no other part, and I vote in the affirmative that that be laid on the table—that portion of the report. I now move that the report be taken from the table and considered.

Mr. LUND. Mr. President, in this particular section which we moved to dispose of there is one bid which has not been read yet, consequently, I say that it cannot be laid on the table.

Mr. PIERCE. Mr. President, I would like to make a remark or two on this question. Referring to Roberts' rules of order, page 51, on the subject of a motion to lay on the table; it removed the subject from consideration until the

assembly voted to take it from the table. The subject under consideration is the tin boxes, and when we voted to lay this matter on the table——

Mr. VARIAN. I arise to a point of order; this is not debatable unless upon an appeal from the ruling of the chair.

Mr. PIERCE. The chair has not ruled upon it at all.

Mr. VARIAN. I say it is not debatable; no other gentleman is entitled to the floor but myself, and I only to make the point of order.

Mr. PIERCE. Mr. President, I arise to the question of personal privilege.

Mr. VARIAN. Mr. President, I ask that my point of order be ruled upon.

Mr. PIERCE. Mr. President, I arise to a question of personal privilege.

The PRESIDENT. State the point of order.

Mr. VARIAN. I have made and do now make a point of order which has not yet been ruled upon. The question is before the house. It is not debatable by any other gentleman either to rise to a question of privilege or to make any motion concerning it. When the chair shall rule upon it, then, if there be an appeal taken, every gentleman upon this floor has an opportunity to debate the question. Certainly they cannot inject the privilege to argue the matter.

Mr. PIERCE. Mr. President, I arise to a question of personal privilege, and call your attention to Roberts' rules of order on this question.

The PRESIDENT. The chair is of the opinion that the point of order was not well taken.

Mr. PIERCE. Mr. President, I would like to call the chair's attention to this question.

The PRESIDENT. There is nothing before the house, Mr. Pierce, at all.

Mr. EVANS (Weber). My motion is before the house to take this from the table.

The PRESIDENT. Gentlemen, you have heard the motion that this report of the committee be taken from the table.

Carried.

The secretary then read as follows:

SALT LAKE CITY, UTAH,
March 13, 1895.

To the Hon. Committee on Furniture, Constitutional Convention, city:

GENTLEMEN: We will make 106 plain, pine stained boxes ten inches by fifteen inches and ten inches deep, all outside measure, with hinges and tumbler locks, for $1.65 each.

Respectfully submitted,
HENRY DINWOODEY FURNITURE CO.,
Henry Dinwoodey, Prest.

Mr. ELDREDGE. Mr. President, I move that we lay that subdivision of that report upon the table.

Mr. BUTTON. Mr. President, I move we reject that part of the proposition.

Seconded.

Mr. EVANS (Utah). Mr. President, I move as an amendment that we reject both of those last subdivisions.

The PRESIDENT. The question is on Mr. Button's amendment.

Mr. BUTTON. It applies to the proposition of the two lockers, the tin and the wood.

Carried.

The PRESIDENT. The question is on the motion to reject section two of the committee's report.

Carried.

The secretary then read section three of the report.

The PRESIDENT. Has the Convention any instructions to give the committee on this point?

Mr. SQUIRES. Mr. President, we have not had the whole of this read in relation to that. A little further on the committee reports a further matter that they were too low on mileage by ten cents a mile.

The SECRETARY. This has reference to appointive officers; that refers to mileage of members.

Mr. EVANS (Utah). Mr. President, I would ask that that part of the former report be read and state the per diem suggested.

Mr. KIMBALL (Weber). Mr. President, I move that that part of the report be referred to the committee on expenditures, if we have such a committee; that, as I understand it, refers to officers other than those provided by statute.

Mr. LUND. Mr. President, the first report that we submitted to the Convention, was to show approximately what we were consuming of the funds daily, and we put the price of the payment at four dollars for the messengers. It is not covered by statute.

The PRESIDENT. The report is here, it can be read.

Mr. LUND. Mr. President, those officers that are appointive—we cannot say how much they will have without the sense of the Convention. As it requires accuracy I would like to know as the keeper of the accounts how that shall be.

The PRESIDENT. The question is on the fixing of the salary of these parties so that the committee can perform its work understandingly.

Mr. RICKS. Mr. President, I would move that this report be referred back to that committee with instructions to make some recommendation in regard to the salaries of the officers of the Convention, so that we will know what to do.

Mr. KIMBALL (Weber). Mr. President, unless that comes by way of amendment——

The PRESIDENT. Mr. Kimball's motion was not seconded.

Mr. SQUIRES. Mr. President, the committee making this report wants the report to come back. Mr. Ricks moved the same thing. Both motions are identical.

The PRESIDENT. It is moved and seconded that this report be recommitted.

Mr. CANNON. I trust that this motion will not prevail; I think we are taking up too much time. It will be brought back into the Convention and we will discuss it again. I think it can be settled in two or three minutes; there are only two officers, I believe, and I think the Convention ought to fix the price now, and not refer it back. I am opposed to that motion.

The PRESIDENT. Gentlemen, you have heard the motion to commit.

The motion was lost.

Mr. SQUIRES. Mr. President, I now move you that the salaries of the officers of the Convention be as reported by the committee in its former report.

Seconded.

Mr. EVANS (Weber). Let's hear the report.

Mr. IVINS. Mr. President, before we vote on that, let's know what those salaries are—I call for the reading o that part of the report that refers to the salaries of officers not provided by statute.

The secretary then read the following:

Officers' salaries per day—

Secretary, P. P. Christensen.....	$ 6.00
Assistant secretary, C. S. Rapp,	5.00
Sergeant-at-arms, R. Clawson...	5.00
Watchman, Bruce Johnson	4.00
Janitor, J. M. Scott.....	4.00
Messenger, L. C. Camp.....	4.00
Messenger, J. H. Thorne.....	4.00
Enrolling and engrossing clerk, J. A. Smith	5.00
Chief messenger, T. S. Watson,	4.00
Official stenographer	30.00

Mr. RICKS. Mr. President, which officers is it that we are considering here?

The PRESIDENT. We were to consider the officers that no provision had been made for payment of in the appropriation.

Mr. RICKS. Mr. President, how are we any wiser now than we were before?

Mr. LOW (Cache). Mr. President, I move as an amendment of the motion of the gentleman from Salt Lake—I think—that the salaries be paid to messengers Camp and Thorne read $2.50 instead of $4.00.

Seconded.

Mr. LUND. Mr. President, we thought that matter over at some length, and

while we didn't want to get the approximate too low per day, we placed it at $4.00. I think they have enough work to warrant the payment of $3.00 per day, and I move to amend the motion last made and insert $3.00 per day.

Seconded.

Mr. SQUIRES. Mr. President, I move as a still further amendment that the motion remain as stated in the first report of the committee, $4.00.

Seconded.

Mr. VAN HORNE. Mr. President, I arise to a point of order. That would make the third motion; it is out of order.

The PRESIDENT. Gentlemen, you have heard the motion to amend the proposition of $2.50 and that it be fixed at $3.00 per day.

Mr. SQUIRES. What was the original motion? I call the attention of the chair to the fact that when figures are to be considered, the highest amount is first to be presented.

The PRESIDENT. Gentlemen, the question is on the motion that it shall be $4.00 per day that will be paid to these messengers.

Lost.

The PRESIDENT. All in favor of fixing the salary at $3.00 will say aye; contrary, no.

Carried.

Mr. THORESON. Mr. President, are there any other officers in that list whose per diem is not fixed by law?

Mr. LUND. The committee clerks.

The PRESIDENT It seems to me there was a proposition made to refer the question of their salaries to that special committee on yesterday.

Mr. BUTTON. Mr. President, are there any others on that list that are not fixed by law except those two?

Mr. CANNON. Mr. President, I think all the others are fixed by law except the stenographer, and that was by special agreement.

Mr. RICKS. Mr. President, the salary of the minute clerk I don't think was fixed by statute.

Mr. BARNES. Mr. President, I will say in regard to the minute clerk, that Secretary Richards informed me that his salary should be $5.00 per day.

The PRESIDENT. Is there an appropriation for that?

Mr. BARNES. No, sir—that the Legislature paid their minute clerks $5.00 per day and it is supposed that we were to be governed by the same rules.

Mr. KIMBALL (Weber). Mr. President, I move that the report of the committee fixing the salary of the assistant secretary, or minute clerk, at $5.00 per day be adopted.

Seconded.

Mr. THORESON. I think that motion is out of order; this is all fixed by statute and incorporated in the Enabling Act.

The PRESIDENT. That is correct; it is already fixed by statute as far as the Legislature is concerned.

Mr. KIMBALL (Weber). Mr. President, this is not fixed by statute as far as the Legislature is concerned. It is for each session of the Legislature. The minute clerk is payable out of the territorial fund, while the chief clerk is payable out of the United States fund. Now, I renew my motion to fix the salary of the minute clerk or assistant secretary at $5.00 per day.

Seconded.

Mr. LOW (Cache), I believe that this question has been disposed of according to the motion that was first made, that the report of salaries made by the committee on expenses and accounts be adopted, and it was amended, and when that report was amended it included the original motion as I understood it, and it was all adopted.

Mr. BARNES. Mr. President, if the adoption of the resolution or motion by Mr. Kimball of Ogden prevails, that will do away with any difficulties in the matter.

Mr. EVANS (Utah). Mr. President,

the minute clerk, as I understand it, is not fixed by the act of Congress, with respect to the clerkships in the Legislature. This Convention is created by the Enabling Act, and they are entitled to the same officers that the Legislature of the Territory is entitled to. Now, by what right and authority does this Convention create an office not authorized by law?

Mr. KIMBALL (Weber). Mr. President, I will state that after conferring with Mr. Richards we are informed that they will pay any officers that we deem necessary to have.

Mr. EVANS (Weber). Who gives that authority?

Mr. KIMBALL (Weber). The secretary of the Territory, he is all the authority we have.

Mr. EVANS (Weber). If Uncle Sam will pay this clerk we will be very glad to have him. We might vote to have him any way, and let the clerk look out for it hereafter.

Mr. SQUIRES. Mr. President, for information of the gentleman from Weber County, I will say that the secretary of the Territory telegraphed to Washington on that point and as a result of the instructions he received, the next morning he suggested the appointment of these officers.

The motion to fix salary of minute clerk at $5.00 per day was agreed to.

Mr. LUND. Mr. President, while we are considering the appointive officers, there are now two committee clerks whose wages are not fixed per day.

Mr. CANNON. Mr. President, I move that the matter of committee clerks be referred to the committee on expenses with power to act, for the reason that the committee clerks might differ in their ability. I think that that ought to be left to that committee to decide later on.

Mr. LUND. Mr. President, I hope that will receive no second, I think we can decide it here. I make a motion that the committee clerks be paid at the rate of $4.50 per day.

Seconded.

Mr. BOYER. Mr. President, I move to amend by making the payment $4.00 per day.

Seconded.

Mr. LUND. Mr. President, these committee clerks who are able to use the typewriter perfectly well, I consider are worth more to us than a janitor, and I hope that they will be paid at the rate of $4.50 per day.

Mr. CANNON. Mr. President, I move an amendment to the amendment that the price be fixed at $5.00 per day.

Seconded.

Mr. CANNON. Mr. President, I think we have fixed the salary of several members or several clerks at $5.00 per day. I think these ladies are entitled to as much compensation. I think when a lady performs the same work or equal work, she should receive the same pay as any man.

The PRESIDENT. The question is first on the motion to fix the salary of these committee clerks at $5.00 per day.

Carried.

The PRESIDENT. The secretary will proceed with the balance of the report.

The secretary then read section four of the report, as follows:

Members of the Convention have asked us to furnish postage stamps for their use in corresponding with their constituents; we are undecided as to whether the request should not go to the committee on printing and stationery.

Mr. PARTRIDGE. Mr. President, I move that we reject that part of the report, and every man be required to pay his own individual postage.

Seconded.

Mr. JAMES. Mr. President, I arise to amend by providing that the chairmen of the committees have the privilege of asking for postage stamps when they need them, and that the committee on expenses and accounts furnish them. I have now a bill of $2.00 for postage

stamps. Of course if this Convention won't pay it I will pay it myself.

Mr. KIESEL. The gentleman is out of order.

Mr. PARTRIDGE. Mr. President, while I am willing that postage stamps be furnished for the necessary business of the Convention, I am opposed to the public furnishing them for private correspondence.

Mr. CANNON. Mr. President, I would like to move as an amendment to the amendment that the sergeant-at-arms be instructed to furnish to members applying such postage as they may need for business connected with the Constitutional Convention.

Mr. KIMBALL (Weber). Mr. President, I would like to ask the gentleman one question—where the sergeant-at-arms is going to get the money?

Mr. CANNON. If we authorize it the Convention will be responsible for it.

The PRESIDENT. The question is on the motion to reject this part of the report in regard to postage.

The motion to reject was agreed to.

The secretary then read section five of the report as follows:

We communicated with Secretary Richards yesterday with regard to mileage of delegates, and he informs us that the mileage should be thirty cents one way, hence our report of Monday figured at twenty cents is incorrect. We attach herewith a correct report.

Mr. KIMBALL (Weber). I move that that part of the report be rejected, that it is a matter between the secretary of the Territory and the members of the Convention as to what it pays for mileage, and what it pays per diem. The United States statute provides it.

Mr. EVANS (Weber). Mr. President, I move as an amendment to that, that that part of the report lie on the table. That is a matter between the United States and the members.

Mr. KIMBALL (Weber). I will accept the amendment.

Mr. EVANS (Weber). We should not reject it; that might indicate that we didn't want it.

Mr. KIMBALL (Weber). I accept the amendment.

Mr. LUND. Mr. President, I would like to ask if this is a matter that is left between the secretary or between the United States and the members of this Convention—if we can change it. The law says thirty cents.

Mr. KIESEL. You cannot change it.

Mr. EVANS (Weber). Mr. President, I move to just simply lay that part of the report on the table.

Mr. HART. I understood the president to rule a while ago, that a motion to table a part of a report carries the whole report. I think the better way would be now to move to accept this. That does not adopt it or take any action on it, other than to accept it.

Mr. SQUIRES. I call the gentleman's attention to the fact that the president ruled that the point of order raised by Mr. Varian was not well taken.

Mr. BUTTON. Mr. President, is this a motion or an amendment to a motion?

The PRESIDENT. It is moved by Mr. Kimball that this part of the report, lie on the table.

[Calls for the question.]

Mr. HART. Mr. President, I ask for information as to what the ruling of the president was as to the point of order of Mr. Varian.

The PRESIDENT. The ruling of the chair was, that a part could be laid on the table.

Mr. BUTTON. Mr. President I want to know for information if we have got a bill with the United States—inasmuch as some of these people would like to have their money, if we hadn't just as well commence and find out what we have to do. If we are going to get this mileage, we might just as well collect it.

Mr. KIMBALL (Weber). All you have got to do is to go to the secretary and get it.

Mr. EVANS (Weber). To remedy this difficulty, I withdraw my motion by

consent of my second, to lay this on the table, and now move that that part of the report be received for information and passed.

Mr. EVANS (Utah). Mr. President, I move as an amendment that that part of the report be referred back to the committee with power to ascertain and settle it.

Mr. CUSHING. Mr. President, there are a number of delegates here who have asked us to pay their mileage. Now, if this matter is laid on the table, it will be impossible for us to perform that duty.

Mr. KIESEL. Mr. President, I move as a substitute that the secretary be requested to pay the members their per diem and the mileage.

The PRESIDENT. That is out of order.

Mr. BARNES. Mr. President, I would like to ask a question, if it is not out of order, as a member of that committee, I would like to know whether that committee has anything further to do with the mileage of members—that is, the committee on accounts and expenses; it strikes me it is a matter between the members and the secretary of the Territory, and that that committee has nothing whatever to do with it.

The PRESIDENT. The question is on the motion of Mr. Evans, that we accept that part of the report and pass it.

Carried.

Mr. BARNES. Mr. President, if I could get my questions answered I would like it as a member of that committee. I do not think we have anything further to do with the mileage of the members.

The PRESIDENT. I don't think you have.

Mr. BARNES. I would like to know if you ruled we have not—that ends it.

Mr. WELLS. Mr. President, I move that they have not.

Mr. KIMBALL (Weber). I second the motion.

Carried.

Mr. LUND. We have nothing then to do with the mileage of these members?

The PRESIDENT. No.

The secretary then read section seven of the report as follows:

We are undecided as to our duties and would ask the Convention if we are expected to keep a journal of the per diem of members and expenses, and report the balance on hand daily.

Mr. LUND. Mr. Chairman, we want to know if you expect from us a daily balance so that you will know exactly what is left, or a weekly balance, or what accounts we are to keep.

Mr. VAN HORNE. I move you that this section of the report of the committee on accounts and expenses be referred back to the committee with instructions to keep a journal of the expenses and accounts, showing the daily balance of funds on hand.

Seconded.

Mr. CREER. Mr. President, I make an amendment to the gentleman's motion, "and report when called for by the Convention."

Mr. VAN HORNE. Very well, I accept the amendment.

Carried.

The secretary then read section eight of the report as follows:

We would ask for instructions in regard to the salary of appointive officers—whether their salaries commence with the first day of the session, time of appointment or when sworn in.

Mr. VAN HORNE. Mr. President, I move you that it be declared the sense of this Convention, that the salary of appointive officers begin from the time they are sworn in.

Seconded.

Mr. EICHNOR. Mr. President, I wish to offer this amendment, that their salaries begin from the time of their employment.

Seconded.

Mr. LUND. Mr. President, I would ask for information then—when their

employment commences. Some of them worked quite a long time before the Convention met here in order to get these different places.

The PRESIDENT. Will the gentleman in his motion fix upon a time?

Mr. EICHNOR. Mr. President, for the benefit of the gentleman from Sanpete County, I will state my idea is that their salaries should commence from the time they commenced work in this Constitutional Convention.

Mr. VAN HORNE. Mr. President, the reason I made the motion in the way I did was, I doubt the authority of this Convention to order an expenditure of this money as a salary to an appointive officer, when the journal says that that officer was not an officer of this Convention at the time the salary was voted for, or for a part of the time the salary was voted for.

Mr. SQUIRES. Mr. President, so far as that is concerned we have already taken an action to the contrary. We have made a contract with Mr. McGurrin dating from the first day of the Convention, and it was a long ways after the opening of the Convention before the contract was closed.

Mr. CANNON. Question on the amendment.

Mr. EICHNOR. My amendment is that the salaries of the appointive officers shall begin from the time of their employment in this Constitutional Convention.

Mr. EVANS (Weber). Mr. President, I desire to speak on that just a moment. I think that is a very proper motion to prevail here. I am informed that two of the committee clerks whom we elected the other day have been actively engaged at work in the committees, and have not yet been sworn in. Now it is not right that they should not be compensated for that work actually done.

Mr. LUND. Mr. President, I offer an amendment to the amendment, which shall say that Mr. McGurrin and the two committee clerks commenced service on the first day, and that the others be paid from and including the days when they were sworn in.

Seconded.

Mr. EICHNOR. Mr. President, I hope that this Constitutional Convention will not ask any person to work without pay. I believe in fixing salaries. I believe in hiring people and paying them for their work. If persons employed here are not sworn in the same day why should they not receive pay for that day? Let us deal as fairly in this Constitutional Convention as in private life.

Mr. SQUIRES. Will the gentleman from Salt Lake indicate what clerks there are who have worked here without being sworn except the committee clerks and Mr. McGurrin?

Mr. EICHNOR. Mr. President, the janitor of Salt Lake county was working here I think for nearly a week, the watchman was working here I think for several days before he was sworn in. I do not know with regard to the minute clerk, whether he was here before or not.

Mr. JAMES. Mr. President, I move as a substitute to the whole of these motions, that the matter be referred to the committee on accounts and expenses to report to this Convention when the labor of each employe begins, and when they are entitled to be paid.

Mr. KIMBALL (Weber). Mr. President, I didn't hear any second to that gentleman's motion, and I move now, as a substitute to all the motions, that each employe of this Convention be paid from the first day.

Seconded.

Mr. RICKS. Mr. President, I oppose that motion for this reason——

Mr. IVINS. Mr. President, I arise to a point or order, before there is any discussion on that motion. It is out of order. This motion that is now before the house, has been amended twice. It

cannot be amended again either by substitute or by amendment. A substitute might have prevailed as an omendment but after it has been amended and then there has been an amendment to an amendment, any other motion is out of order.

Mr. LUND. Mr. President, with the permission of my second, I will withdraw the amendment to the amendment.

Mr. KIMBALL (Weber). Then Mr. President, I renew my motion as a substitute, that all employes be paid from the first day of the session of the Convention.

Seconded.

Mr. RICKS. Mr. President, I am opposed to that motion for this reason. As I understand it, we have been in session here about six days, without the committee clerks. Now, I don't think it is just right to go back and pay those committee clerks for service they have not rendered. Mr. McGurrin, I understand, has been employed here from the first day. I think he ought to receive his compensation from the first day, so I do for every member that has been employed, but I am not in favor of paying those who have not been employed.

Mr. CANNON. I call for the previous question.

The previous question was ordered.

The PRESIDENT. The question is on the substitute of Mr. Kimball that the employes of the Convention be paid from the commencement.

Lost.

The PRESIDENT. It recurs on the amendment of Mr. Elchnor.

Carried.

The PRESIDENT. This finishes the report, gentlemen.

Mr. PARTRIDGE. Mr. President, I would like to ask this for my information, if that motion that has just carried, means from the time of their employment, if they were employed before the Convention met, or since the Convention did meet?

Mr. EVANS (Weber). Employed by the Convention.

Mr. JOLLEY. Mr. President, is it not a fact that there should be some arrangement or rules made by the general Convention in relation to the mileage before they will be enabled to get their mileage?

Mr. SQUIRES. Mr. President, I think it is due to answer the question that was just asked about work done previous to the Convention. That is a more important matter than the gentleman may consider it. There was a proposition made to us by the county court——

Mr. KIMBALL (Weber). I submit there is nothing before the house.

Mr.SQUIRES(continuing)——in which they specify that they should be at no charge for arranging this room. They had the man employed here on that business before the session of the Convention. I move that that matter be referred to the committee on accounts and expenses for investigation and report to the Convention.

Mr. EVANS (Weber). Mr. President, I move that the regular order be proceeded with; I arise to a point of order now.

The PRESIDENT. The point is well taken.

Any further committee reports?

Mr. CANNON. Mr. President, I have here file number 9, referred to the committee on revenue, taxation and public debt, relating to salaries and fees. I think it was improperly referred and I return it to the secretary and move that it be referred to the committee on salaries of public officers.

The PRESIDENT. If there is no objection, it will go to the committee named.

Any further reports of committees?

Any reports of select committees?

Introduction of ordinance and propositions for insertion in the Constitution.

Mr. STREVELL. Mr. President, I desire to offer two propositions. An article, hours of labor (file No. 36), and a proposition regulating elections (file No. 37).

Proposition concerning hours of labor was read a first and second time by its title.

The PRESIDENT. It will go to the proper committee, if there is no objection.

Mr. SQUIRES. Mr. President, it should be read the first time at length unless the rules are suspended.

Mr. VAN HORNE. Mr. President, I move that the rules be suspended, and that it be read the first and second times by its title and referred to the proper committee.

Mr. RICHARDS. Before that motion is put, I will ask the gentleman to make that apply to all propositions offered to-day, unless otherwise ordered.

Mr. VAN HORNE. Very well.

Carried.

The proposition concerning hours of labor (file No. 36), offered by Mr. Strevell, after being read a first and second time by its title, was referred to the committee on labor and arbitration.

Mr. Strevell introduced a proposition relating to the regulation of elections (file No. 37), which was read a first and second time by its title and referred to committee on elections and right of suffrage.

Mr. Ryan, of Juab, introduced a proposition authorizing the Legislature to classify and fix salaries of public officers (file No. 38), which was read a first and second time by its title.

Mr. RYAN. Refer it to the committee on legislative.

Mr. THORESON. As we have a committee on salary of public officers, I think that would be the proper committee.

The PRESIDENT. Is there some specific reason why you want this to go to the legislative committee?

Mr. RYAN. I think that is the proper committee, for the reason that it directs the Legislature to classify counties and fix the salaries of public officers. If that system should prevail, it properly goes to the committee on legislative. If the Constitution fixes the salary, then it will properly go, I am told, to the committee on salaries of public officers. I think the committee on legislative is the proper committee.

The PRESIDENT. It will go to the legislative committee.

Mr. Ryan introduced a proposition on exemptions for the Constitution, (file No. 39), which was read a first and second time by its title.

Mr. RYAN. Mr. President, I move that it be referred to the committee on legislative.

The PRESIDENT. It will go under the rule to that committee at the gentleman's request.

Mr. Ryan introduced a proposition to limit powers of corporations and companies (file No. 40), which was read a first and second time by its title and referred to committee on corporations other than municipal.

Mr. Crane introduced a proposition relative to apportioning representatives to Congress and census (file No. 41), which was read a first and second time by its title and referred to committee on apportionment and boundaries.

Mr. Raleigh introduced a proposition on prohibition (file No. 42), which was read a first and second time by its title.

Mr. VAN HORNE. Mr. President, I move that that be referred to the committee on manufacture and commerce.

Seconded.

The SECRETARY. It is asked to be referred to the committee on schedule, future amendments and miscellaneous.

Mr. MILLER. That is the proper committee.

Mr. CANNON. Mr. President, I move as an amendment that it be referred to the committee requested by the introducer.

Seconded.

Mr. KIMBALL (Weber). Mr. President, I think that is out of order. That is the original motion.

Mr. CANNON. Mr. President, I move it as a substitute.

Mr. HART. Mr. President, I understood that Mr. Cannon moved to amend the motion of the gentleman from Salt Lake. That is certainly in order.

The PRESIDENT. The question is on the substitute of Mr. Cannon that it go to the committee on schedule, future amendments and miscellaneous.

The substitute was agreed to.

Mr. KIESEL. Division.

The PRESIDENT. Too late.

Mr. EVANS (Weber). Mr. President, I desire to introduce a proposition for insertion into the Constitution relating to the taxation of mines (file No. 49), and I ask that it might be read twice by its title and referred to the committee on revenue and taxation.

The SECRETARY. I already have four. I will read them in order as they have been presented.

The PRESIDENT. Read them in their order as they come.

Mr. Allen introduced a proposition relative to changing county lines and creating new counties and removing county seats (file No. 43), which was read a first and second time by its title.

Mr. VAN HORNE. I move that it be referred to the committee on municipal corporations.

Seconded.

Mr. EICHNOR. It needs no motion.

Mr. KIMBALL (Weber). I suggest that it is a proper committee anyway without a motion.

The PRESIDENT. That is all right.

Mr. THORESON. Mr. President, I would like to ask if there are references to the constitutions from which they are taken?

Mr. EICHNOR. Mr. President, I would suggest that some of them are so old they need no references.

Mr. Howard introduced a proposition for insertion in the Constitution relative to irrigation and use of water (file No. 44), which was read a first and second time by its title and referred to the committee on water rights and irrigation.

Mr. IVINS. Mr. President, it is a little late, but I ask unanimous consent of the house to arise at this stage to a point of order. When the last motion was put, a viva voce vote was had and the chair announced the result. Mr. Kiesel asked for a division; it was stated that it was too late.

Mr. KIESEL. I waive that now.

Mr. IVINS. That a division could not be had. I wish to say that the chair sustained the objection that he raised to Mr. Kiesel's calling for a division. I would like to read just a few words from Roberts' rules of order.

(Reads.)

Mr. KIESEL. Mr. President, I thought, as Mr. Ivins read here—I thought that I was right about the proposition, but I waive that now so that we do not need to discuss it.

Mr. IVINS. My object was to get this before the house for future use rather than that just transpired.

Mr. Howard introduced a proposition for insertion in the Constitution relative to regulating or affecting boards of officers charged with the duties of registering voters (file No. 45), which was read a first and second time by its title and referred to committee on elections and right of suffrage.

Mr. Crane introduced a proposition for insertion in the Constitution relative to organising a board of arbitration between employer and employes and board of statisticians (file No. 46), which was read a first and second time by its title and referred to the committee on labor and arbitration.

Mr. Stover introduced a proposition for insertion in the Constitution relative to public funds and property, and also non-exemption from taxation (file No. 54),

which was read a first and second time by its title and referred to committee on revenue, taxation and public debt.

Mr. Stover introduced a proposition for insertion in the Constitution relative to the manufacture and sale of liquors, (file No. 47), which was read a first and second time by its title and referred to the committee on manufacture and commerce.

Mr. Low (Cache), introduced a proposition for insertion in the Constitution relative to private corporations (file No. 48), which was read a first and second time by its title and referred to committee on corporations other than municipal.

Mr. Evans, of Weber, introduced a proposition for insertion in the Constitution relative to taxation of mines (file No. 49), which was read a first and second time by its title and referred to committee on revenue, taxation and public debt.

Mr. Eichnor introduced a proposition for insertion in the Constitution relative to providing for an amendment of constitutions and calling for constitutional conventions (file No. 50), which was read a first and second time by its title and referred to committee on schedule, future amendments and miscellaneous.

Mr. Eichnor introduced a proposition for insertion in the Constitution relative to providing for a legislative department (file No. 51), which was read a first and second time by its title and referred to the legislative committee.

Mr. Murdock (Wasatch) introduced a proposition for insertion in the Constitution relative to prohibition (file No. 52), which was read a first and second time by its title and referred to committee on schedule, future amendments and miscellaneous.

Mr. KIMBALL (Weber). It is sometime since, there was a proposition offered here in the shape of a petition by the ladies of Weber County that went over until this time. I call your attentention to the fact that it went over to this time, so that can be attended to now.

Mr. RICHARDS. Mr. President, my recollection is, that that communication was referred to the committee on elections and right of suffrage.

Mr. KIMBALL (Weber). You are mistaken; I raised the point of order myself, and it went over on the point of order until this time.

Mr. EVANS (Weber). With respect to the matter of prohibition, not the question of suffrage; that memorial was referred to the committee on election and right of suffrage.

Mr. Stover introduced a proposition for insertion in the Constitution (file No. 53), relative to inspection of public institutions, which was read a first and second time by its title and referred to committee on corporations other than municipal.

Mr. Varian introduced a proposition for insertion in the Constitution relative to the community system (file No. 55), which was read a first and second time by its title and referred to the committee on legislative.

Mr. Varian introduced a proposition for insertion in the Constitution relative to the taxation of mines (file No. 56), which was read a first and second time by its title and referred to commitmittee on revenue, taxation and public debt.

Mr. Warrum offered a proposition for insertion in the Constitution relative to the judiciary (file No. 57), which was read a first and second time by its title and referred to the committee on judiciary.

Mr. Warrum introduced a proposition for insertion in the Constitution relative to public lands (file No. 58), which was read a first and second time by its title and referred to the committee on public lands.

Mr. Warrum introduced a proposition for insertion in the Constitution relative to finance and State debt (file No. 59), which was read a first and second time

by its title and referred to committee on revenue, taxation and public debt.

Mr. Pierce introduced a proposition for insertion in the Constitution relative to a system of education (file No. 60), which was read a first and second time by its title and referred to committee on education and school land.

Mr. Kiesel offered the following resolution:

Resolved, that the Hon. Secretary of the Territory be requested to pay members of this Constitutional Convention their per diem and mileage, when requested; provided, he has the authority to do so.

Mr. IVINS. Mr. President, there being no motion in regard to the disposition of that resolution, I wish to say that my attention has been called to the fact that the committee clerks which have been appointed to serve the different committees of this Convention need typewriting machines, and no provision has been made for procuring them; therefore, that this matter might be properly brought before the Convention, I now move that the committee clerks be authorized to procure the use of two typewriting machines upon the best terms obtainable, to be used in this Convention.

Seconded.

Mr. EICHNOR. Wasn't Mr. Kiesel's motion seconded?

Mr. KIESEL. Mr. President, I move to adopt the resolution.

Seconded.

Mr. IVINS. Mr. President, I maintain that this motion is entirely out of order.

The PRESIDENT. The motion before the house is Mr. Ivins' motion in regard to the typewriting machines.

Mr. SQUIRES. Mr. President, I understand that these machines shall be hired, not purchased.

The PRESIDENT. Yes, sir.

Mr. IVINS. They are to be obtained as I stated on the best terms obtainable; I expect we will have to pay something for them; I understand the rental will be small.

The PRESIDENT. You have heard Mr. Ivins' motion.

Mr. MORRIS. Mr. President, I will furnish one machine without any pay.

Mr. EVANS (Weber). Mr. President, if Mr. Morris tenders one free of charge, I move that in the motion we tender him our thanks.

Accepted.

The PRESIDENT. Gentlemen, you have heard the motion. When you vote aye, please include that part of it.

The motion was agreed to.

Mr. KIESEL. Mr. President, I renew my resolution. I offer this resolution in the interest of some members that would like to have a little ready cash, and it is simply a request to ask the secretary if he can do so, to comply with it. Of course, I do not know how far his power goes in the premises. We can certainly, as a Convention, request it if it is in his power, and I move to adopt the resolution.

Seconded.

Mr. LOW (Cache). Mr. President, I wish to offer an explanation of this matter. I spoke personally to the secretary of the Territory about the matter, and he said that the means were not available at present, but as soon as they were, he would notify the delegates and the Convention. Furthermore, he would send them instructions how to proceed to obtain their mileage. He has not yet sent it, but I presume he will.

The PRESIDENT. There is no necessity of encumbering our record with this after this explanation.

Mr. KIESEL. I will withdraw the resolution.

Mr. WELLS. Mr. President, I move that there be another committee clerk employed. We have not been able to get one for our committee on preamble and declaration of rights. Each time when we have sent for one, she has been engaged, and I recommend the ap-

pointment. I nominate for the position of committee clerk, Miss Charlotte Reese.

Mr. EVANS (Weber). We have not the sense of the Convention yet, whether we will have another.

Mr. CANNON. Mr. President, it was before decided that we should employ three committee clerks. The time when we should nominate them was the only thing omitted. The clerks were named the other day, and I think Mr. Wells' motion is entirely in order.

Mr. CRANE. Mr. President, I understood that these committee clerks—the next one to be appointed or elected must be a stenographer.

Mr. WELLS. Mr. President, I cannot answer the question, but we do not need a stenographer so much as a typewriter.

Mr. CRANE. Mr. President, I take pleasure in placing in nomination Miss Emma Madison. She is quite an accomplished young woman and a good stenographer.

Mr. EVANS (Utah). Mr. President, I arise to a point of order—that we did determine upon three committee clerks at such time as we needed them, but it has not been determined whether now is the time or not. Before we can proceed any further, it must be determined whether we want them at this time or not.

Mr. WELLS. Mr. President, I move that it be determined that now is the time and now is the hour. If there ever was a time when we needed committee clerks, it is right now in formulating this Constitution.

Seconded.

Carried on a rising vote of 57 ayes and 32 noes.

Mr. WELLS. Mr. President, I nominate to the position of committee clerk Miss Charlotte Reese.

Mr. CRANE. Mr. President, I place in nomination the name of Miss Emma Madison. She is a stenographer and typewriter, and I desire to say for her, that she is the only support of a widowed mother and five little sisters who are depending entirely upon her for their support this winter.

Mr. EICHNOR. Mr. President, I desire to place in nomination Miss Florence Hartley, who is a stenographer and typewriter.

Mr. KIESEL. Mr. President, to make a little change, I nominate a gentleman this time, Mr. L. C. Johnson.

Mr. STOVER. Mr. President, I withdraw the name of Mr. Johnson. I offered his name before—a gentleman capable of taking care of twenty committees. I am opposed to having any more committee clerks at this time, and I withdraw Mr. Johnson's name.

Mr. GOODWIN. Mr. President, I wish to second the nomination of Miss Emma Madison. I know she is a fine stenographer and typewriter, has a new machine, and she is as bright as a dollar, notwithstanding she was in my employ for two years.

Mr. MURDOCK (Wasatch). Mr. President, I move the nominations be now closed.

Carried.

Mr. WELLS. Mr. President, I desire to state that the lady whom I nominated, Miss Reese, is a good stenographer. I did not make that statement at the time.

Mr. PIERCE. Mr. President, Miss Hartley is also a good stenographer, and has been a court reporter in one of the district courts in Kansas for a good many years, and never makes any mistakes, I am told.

Mr. KIMBALL (Weber). Mr. President, I move we call the roll and each man announce his choice.

The PRESIDENT. The roll will be called.

Mr. HART. Mr. President, I suggest we vote on this by a standing vote. We can do it so much quicker. I suggest that those in favor of one candidate rise up and be counted, and then the next, and so on.

Mr. EVANS (Utah). Mr. President, I would like to hear the names read.

Mr. GOODWIN. Mr. President, I second Mr. Kimball's motion.

The PRESIDENT. The motion before the house is that we proceed in the election by the calling of the roll and that each member announce his candidate.

The secretary will please call the roll.

The secretary then called the roll.

Mr. BOYER. Mr. President, not being acquainted with either of the candidates that are in nomination for the minute clerk, I desire to retain my vote and cast it with the losing party, as I am ever in the minority, seemingly.

The PRESIDENT. The privilege shall be granted the gentleman if there is no objection.

Mr. CANNON. Mr. President, I think that the Convention thus far has followed the rule of electing ladies who are present. For this reason, and hoping that my candidate will win, I vote for Miss Reese.

Mr. EVANS (Weber). Mr. President, I ask to be excused from voting upon the ground that I believe that we already have enough committee clerks, and think it is an additional expense that is entirely unnecessary. If I am not excused, however, I will vote.

The PRESIDENT. The secretary will note the gentleman's statement.

Shall the gentleman be excused from voting?

Mr. GOODWIN. Who is the gentleman going to vote for? If he is not going to vote for my girl, I move he be excused.

Mr. LOW (Cache). Mr. President, I move he be excused.

The PRESIDENT. The gentleman is excused.

Mr. PARTRIDGE. Mr. President, if it is in order, I move that all who wish to be excused from voting on this question will have that privilege. I am the same with Mr. Evans; I think we have enough clerks.

Motioned seconded.

Mr. PIERCE. Mr. President, I arise to a point of order. The motion cannot be put in this manner—unless some individual wants to be excused.

Mr. IVINS. Mr. President, I desire in explanation of my position to say that we have two committee clerks. They are both stenographers, and none of the committees with which I am in any way connected have, as yet, needed the services of a clerk, that they could not readily get one. I think that at this juncture there is no necessity for another clerk, consequently, I wish to be excused from voting.

The PRESIDENT. Shall the gentleman be excused? All in favor will say aye; contrary, no.

The gentleman is excused.

Mr. JAMES. Mr. President, I wish to be excused from voting, for the reason that up to the present time, I have had in the committees a gentleman who has compiled the great bulk of the clerical work that we have had to do before that committee, and of course, I shall present a bill for his time to this Convention, and if they don't pay it, I will have to pay it myself, but I do not think that there is any necessity for another clerk.

The PRESIDENT. Do you want to be excused from voting?

Mr. JAMES. Yes.

The PRESIDENT. The gentleman is excused.

Mr. PARTRIDGE. Mr. President, it was stated here yesterday, when two committee clerks were elected, that there was a gentleman who was proposed, who had worked for twenty or twenty-four committees——

Mr. WELLS. Mr. President, I arise to a point or order. If the gentleman does not wish to vote, it seems to me, he can state he desires to be excused.

Mr. PARTRIDGE. I desire to be excused from voting on this question.

Mr. EVANS (Weber). Mr. President, the rules give the gentleman two minutes to explain his vote.

The PRESIDENT. That is correct.

Mr. PARTRIDGE. For the reason that it was stated that one gentleman could report twenty or twenty-five committees, and we have two, I think we could get along with what we have. I wish to be excused from voting.

Excused.

Mr. WARRUM. Mr. President, I ask to be excused on the ground that I do not know the parties nor their qualifications for the place.

Excused.

Mr. THORESON. Mr. President, I wish to be excused from voting on this question, for the reasons that have been stated.

Excused.

Mr. BOYER. Mr. President, I desire to have my vote cast with the losing party, for I believe that this thing should not be done, and I do not desire to have any hand in the election of another clerk.

Mr. THOMPSON. Mr. President, I arise for information. Is it contemplated that these committee clerks serve us during the session of the Convention, or such length of time as we need their services?

The PRESIDENT. As the chair understands it, these committee clerks are to meet the wishes of the committees in their sessions at such time as may be appointed by the various chairmen, the matter being arranged to work equitably so far as they can. They cannot all have a committee clerk at the same time, but none of the committees are in session here now except the committee on rules; they are permitted to meet any time without special permission.

The result of the vote was as follows:

Miss Madison, 45.

Miss Reese, 35.

Miss Hartley, 11.

No election.

Mr. RICKS. Mr. President, I move we adjourn until 2 o'clock to-morrow.

Seconded.

Mr. MURDOCK (Beaver). I wish you would withhold that motion for a moment.

Mr. CRANE. If the mover of the motion to adjourn will withhold the motion one moment—two or three of the committees have not been able to secure the services of a clerk, and I would move——

Mr. IVINS. Mr. President, I arise to a point of order. There is a motion before the house to adjourn. The gentleman has no right to make another motion.

Mr. SQUIRES. I ask the gentleman to withhold his motion to adjourn. I have a resolution on the table that was sent up as soon as we opened on this day. It has not been reached.

Mr. RICKS. I will withhold it for that purpose.

The secretary then read the following resolution:

Resolved, that the committee on accounts and expenses be instructed to investigate the cost of arranging the furniture and preparing the Convention hall and committee rooms for the use of the Convention, and report the amount to the Convention.

Mr. SQUIRES. I move the adoption of the resolution.

Carried.

Mr. RICKS. Mr. President, I renew my motion.

The Convention then at 4:46 o'clock p. m. adjourned.

TWELFTH DAY.

FRIDAY, March 15, 1895.

The Convention was called to order by President Smith at 2 o'clock p. m.

The roll was called and members found in attendance as follows:

Adams	Lambert
Allen	Larsen, L.
Anderson	Larsen, C. P.
Barnes	Lemmon
Bowdle	Lewis
Boyer	Low, William

Brandley	Low, Peter
Button	Low, Cache
Buys	Lund
Call	Maeser
Cannon	Maloney
Chidester	Miller
Christianson	Morris
Clark	Moritz
Coray	Murdock, Beaver
Corfman	Murdock, Wasatch
Crane	Murdock, Summit
Creer	Page
Cunningham	Partridge
Cushing	Peters
Driver	Peterson, Grand
Eichnor	Peterson, Sanpete
Eldredge	Pierce
Engberg	Preston
Evans, Weber	Richards
Evans, Utah	Ricks
Farr	Roberts
Francis	Robertson
Gibbs	Robinson, Kane
Green	Robison, Wayne
Hammond	Ryan
Hart	Sharp
Haynes	Shurtliff
Halliday	Snow
Heybourne	Spencer
Howard	Squires
Hughes	Stover
Hyde	Symons
Ivins	Thompson
James	Thorne
Johnson	Thurman
Jolley	Van Horne
Kiesel	Varian
Kearns	Wells
Kerr	Whitney
Kimball, Salt Lake	Williams.
Kimball, Weber	

Mr. LOW (Cache). Mr. President, I desire to state in behalf of Johnson, that he has been suddenly called away and desires to be excused until Tuesday next.

The PRESIDENT. If there is no objection the gentleman will be excused.

Mr. LOW (Cache). Mr. Warrum has also been called away on business and desires to be excused until Monday.

The PRESIDENT. If there is no objection the gentleman will be excused.

Prayer was offered by Rev. Dennis Kielly, of the Roman Catholic Church.

Mr. KIESEL. Mr. President, I believe that all the congregations have been called upon and have responded in offering prayer here, except the Hebrew congregation, and I wish to call that to your attention and hope that you will call on the Rabbi.

The PRESIDENT. We will add their congregation to the list of ministers.

Mr. VARIAN. Mr. President, in behalf of the committee on elections and right of suffrage, I ask permission for a temporary leave of absence for Messrs. Ivins, Sharp, Jolley, Kearns, and myself.

The journal of the 11th day's session was read and approved.

Mr. Bowdle was excused by request.

The PRESIDENT. The next order is the presentation of petitions and memorials.

Mr. THURMAN. Mr. President, I wish to present a memorial relating to woman suffrage from the ladies of Utah County; I ask that it be read and referred to the committee on elections and right of suffrage.

Mr. BUTTON. Mr. President, I move that the rules be suspended and that it be read by its title.

Mr. THURMAN. I ask that the petition be read. It is very short.

Motion seconded.

Mr. KIMBALL (Weber). Mr. President, the motion which passed yesterday suspended all rules of reading the first and second times by its title.

The PRESIDENT. It is asked in this case that it be read.

Mr. RICHARDS. Mr. President, I suggest that if a request be made that a paper be read and there is no objection, it ought to be read.

The secretary then read the memorial as follows:

The undersigned delegates to the Woman's Suffrage Association of Utah County, appointed to represent said association in presenting this memorial to your honorable body, respectfully represent that the women of said association, in common with their sisters throughout the Territory of Utah, are at present deprived of the privileges of American citizenship, notwithstanding the great majority of them are native born citizens of the United States. We further represent that notwithstanding that we are taxed and are amenable to the laws equally with men, still we have no voice or vote upon the justice or propriety of such taxation or expediency of the laws to which we are equally amenable with men.

We recognize with feelings of gratitude that both the great political parties in Utah have declared in favor of equal suffrage. We have no doubt that you will keep the pledge and confer upon the women of Utah that political freedom and equality which justly and logically belongs to them as citizens of the most enlightened, just, and progressive nation on the earth.

Because it is just and because you have solemnly pledged yourselves to accomplish the result, we respectfully request that you insert a clause in the Constitution of the State of Utah, conferring upon women the right of suffrage, and your memorialists will ever pray, etc.

(Signed) MRS. ELECTA BULLOCK,
MRS. SARAH A. BOYER,
MRS. HANNAH S. LAPISH,
Delegates.

The PRESIDENT. It will be read by its title.

Said document was then read by its title by the secretary.

The PRESIDENT. It will go to the committee on elections and right of suffrage.

Introduction of ordinance and propositions for insertion in the Constitution.

Mr. Kearns introduced the following proposition for insertion in the Constitution (file No. 61):

The Legislature shall have the power to grant special charters or grant special acts of incorporation, but all incorporations shall be framed under general acts passed by the Legislature; provided, that all such acts shall prohibit incorporation for political purposes, which shall directly or indirectly prohibit or discriminate against any man or woman, creed, religion or church, by reason or on account of the religious belief of such man, woman, or church.

Said proposition was read the first time at length, and the second time by its title, and referred to the committee on corporations other than municipal.

Mr. KIMBALL (Weber). Mr. President, I think that should be municipal corporations.

The PRESIDENT. It will go to the one named on the proposition.

Mr. Cushing introduced a proposition for insertion in the Constitution relative to the incorporation of cities (file No. 62), which was read a first and second time by its title and referred to the committee on municipal corporations.

Mr. Cushing introduced a proposition for insertion in the Constitution relative to counties (file No. 63), which was read a first and second time by its title and referred to the committee on municipal corporations.

Mr. Eichnor introduced a proposition for insertion in the Constitution relative to prohibiting municipalities from selling or disposing of or leasing the water works, water rights, water supplies (file No. 64), which was read a first and second time by its title and referred to the committee on municipal corporations.

Mr. Allen introduced a proposition for insertion in the Constitution, relative to districting and apportionment of legislative members (file No. 65), which was read a first and second time by its title and referred to the committee on apportionment and boundaries.

Mr. Partridge introduced a proposition for insertion in the Constitution, relative to militia (file No. 66), which was read a first and second time by its title and referred to the committee on militia.

Mr. Crane introduced a proposition for insertion in the Constitution relative to protecting live stock from contagious diseases (file No. 67).

Mr. CREER. I would like to have that read.

The PRESIDENT. The reading of this is called for, if there is no objection, it will be read.

Mr. EVANS (Weber). I would suggest that Mr. Crane be permitted to read it.

The secretary then read the same as follows:

Section 1. The Legislature shall pass all necessary laws to provide for the protection of live stock against the introduction or spread of pleuro pneumonia, glanders, memitic or Texas fever, and other infectious diseases. The Legislature may also establish a system of quarantine inspection and such other precautions as may be necessary for the protection of stockholders and most conducive to the stock interests within the State.

Mr. THURMAN. Does that belong to the bill of rights?

Mr. CREER. Live stock.

The SECRETARY. Live stock or agriculture.

Mr. HAMMOND. There is no live stock committee.

Said proposition was referred to the committee on water rights, irrigation and agriculture.

Mr. Cannon introduced a proposition for insertion in the Constitution affecting the condition of labor (file No. 68), which was read by the secretary as follows:

It shall be unlawful for any organization or combination of persons to exist in this State, having for its object, either directly or indirectly, the discrimination in any manner whatever, against persons, either male or female, over the age of fourteen years, acquiring knowledge of any trade or profession, or which shall limit or attempt to limit the number of such persons employed by any person, firm or corporation.

Said proposition was read a second time by its title and referred to the committee on labor and arbitration.

Mr. EVANS (Weber). Mr. President, I would like to inquire of the gentleman from Salt Lake the purpose of introducing the proposition for insertion into the Constitution.

The PRESIDENT. This is out of order I think, I don't see the purpose of it.

Mr. CANNON. Mr. President, the gentleman asked that question I believe in all sincerity and I will answer it frankly. The purpose is—I am not in any way connected with the committee to which it was referred. I think it was a subject that should be introduced.

The PRESIDENT. This is all out of order.

Mr. Thurman introduced a proposition for insertion in the Constitution relative to prohibiting the taking of private property for public purposes without just compensation (file No. 69).

Mr. THURMAN. There are only six lines of it, read it.

The secretary then read as follows:

Private property shall not be taken for public purposes without a just compensation first made, or secured to be made, as may be determined by law; nor shall private property be taken by any private corporations, without compensation being first made, to be determined by agreement of the parties or by a jury in a court of competent jurisdiction.

Said proposition was read a second time by its title and referred to committee on preamble and bill of rights.

Mr. RICHARDS. Mr. President, I move that the rules be suspended and that these propositions be read the first time by their titles unless otherwise requested.

Mr. BUTTON. Mr. President, that motion was already passed when we commenced.

The PRESIDENT. It has not been made here to-day.

Mr. BUTTON. I made the motion; I don't know whether you put it or not.

The PRESIDENT. The motion was not put; the chair did not hear such a motion. You have heard the motion of Mr. Richards to suspend the rule.

Mr. EICHNOR. I hope Mr. Richards

will withdraw his motion for a short time; the gentleman wants the next proposition read.

Mr. RICHARDS. Certainly; the motion was that they be suspended unless the reading is called for.

Mr. Peterson, of Grand County, introduced a proposition relative to boundaries (file No. 87).

Mr. BOYER. I call for the reading of the proposition on boundaries.

The secretary then read as follows:

In convention. Introduced by Mons Peterson.

Proposition to provide for boundaries.

The delegates of the Constitutional Convention of the Territory of Utah, as assembled, do propose as follows:

Sec. 1. The boundary of the State of Utah shall be as follows:

Beginning at the intersection of the 37th meridian of longitude west from Washington, with the 42nd parallel north latitude, thence east along said parallel——

Mr. BOYER. I misunderstood the language of the clerk. I understood the proposition to be on bounties. Now, I apprehend by the reading, that it is boundaries. I, at this stage of the proceedings, would be pleased to withdraw the request for the reading of the article.

Mr. RICHARDS. I renew my motion, Mr. President.

Mr. BUTTON. Mr. President, I want to ask a question. There was a motion made yesterday to suspend the rules that all these papers handed in should be read twice by their titles and referred to the committees, unless request was made to have them read. Now, if that motion to suspend the rules does not stand until there is another motion made to take them up?

Mr. RICHARDS. Mr. President, I do not understand that motion, made for the suspension of the rules to-day, can affect the deliberation of the house on any other day; the rules are in force after we pass that order of business.

The PRESIDENT. The understanding of the chair is, that these rules will have to be suspended from day to day, that a suspension does not apply during the entire session.

Gentlemen, you have heard the motion to suspend the rule, and that these propositions be read by their titles and referred to the appropriate committees.

Carried.

Mr. Cannon introduced a proposition for insertion in the Constitution relative to wages of employes (file No. 70).

Mr. CANNON. I would like to have that read.

The secretary then read the same as follows:

It shall be unlawful for any person, firm, or corporation in this State, to discriminate either directly or indirectly in the wages paid to employes performing the same labor on account of the sex of such employes.

Said proposition was read a second time by its title and referred to the committee on labor and arbitration.

Mr. Maloney introduced a proposition for insertion in the Constitution relative to requiring judges of the supreme, district, and superior courts, to report defects in the laws to the attorney general (file No. 71), which was read a first and second time by its title and referred to the committee on judiciary.

Mr. Hart introduced a proposition for insertion in the Constitution relative to militia (file No. 72), which was read a first and second time by its title and referred to the committee on militia.

Mr. Maloney introduced a proposition for insertion in the Constitution relative to requiring judges of the supreme court to give opinions on questions of law to governor, senate, or house of representatives (file No. 73), which was read a first and second time by its title and referred to the committee on judiciary.

Mr. Maloney introduced a proposition for insertion in the Constitution relative to free publication of supreme court de-

cisions (file No. 74), which was read a first and second time by its title and referred to the committee on judiciary.

Mr. Peters introduced a proposition for insertion in the Constitution relative to county organization (file No. 75), which was read a first and second time by its title and referred to the committee on municipal corporations.

Mr. Maloney introduced a proposition for insertion in the Constitution relative to requiring all judges to decide questions and render decisions within thirty days after argument, or submission to them (file No. 76, which was read a first and second time by its title and referred to the committee on judiciary.

Mr. Lewis introduced a proposition for insertion in the Constitution relative to protecting settlers upon school lands (file No. 77), which was read a first and second time by its title and referred to the committee on education and school lands.

Mr. Kimball (Salt Lake) introduced a proposition for insertion in the Constitution relative to superintendence of district schools and school districts (file No. 78), which was read a first and second time by its title and referred to the committee on education and school lands.

Mr. Francis introduced a proposition for insertion in the Constitution relative to division of counties (file No 79), which was read a first and second time by its title and referred to the committee on apportionment and boundaries.

Mr. Francis introduced a proposition for insertion in the Constitution relative to forbidding donations of public lands (file No. 80), which was read a first and second time by its title and referred to the committee on public land.

Mr. Francis introduced a proposition for insertion in the Constitution relative to municipal corporations (file No. 81), which was read a first and second time by its title and referred to the committee on municipal corporations.

Mr. Coray introduced a proposition for insertion in the Constitution relative to fixing the basis of taxation (file No. 82).

Mr. CORAY. I would like to have that read.

The secretary then read the same as follows:

Proposition regulating the basis of taxation. All property in the State except State property, United States property, and public and private libraries, shall be taxed. Said property to be assessed at a valuation on which in the preceding year it has paid the legal rate of interest of the State.

Said proposition was read a second time by its title and referred to the committee on revenue, taxation and public debt.

Mr. Crane introduced a proposition for insertion in the Constitution relative to fixing State boundaries (file No. 83).

Mr. EVANS (Weber). Read it.

The SECRETARY. Articles on boundaries.

Mr. EVANS (Weber). Never mind; I thought he said bounties. I withdraw my request.

Said proposition was read a first and second time by its title and referred to the committee on apportionment and boundaries.

Mr. Low of Cache introduced a proposition for insertion in the Constitution relative to State institutions other than educational (file No. 84), which was read a first and second time by its title and referred to committee on public buildings and State institutions not educational.

Mr. Thurman introduced a proposition for insertion in the Constitution relative to non-partisan election of school and judicial officers (file No. 85).

Mr. KIMBALL (Weber). Mr. President, I thought that was introduced by Evans of Weber.

Mr. EICHNOR. Mr. President, I would like to have that read.

Mr. THURMAN. No objection, Mr. President.

The secretary then read as follows:

Resolved, that the following propositions be inserted in the articles on elections and rights of suffrage in the Constitution, to-wit:

The terms of office of all officers made elective by this Constitution, made in pursuance thereof, shall be so established that school and judicial officers shall not be elected on any day when other officers are elected.

Said proposition was read a second time by its title and referred to the committee on elections and right of suffrage.

Mr. Allen introduced a proposition for insertion in the Constitution, relative to narcotics (file No. 86), which was read a first and second time by its title and referred to the committee on schedule, and future amendments, and miscellaneous.

Mr. Peterson of Grand introduced a proposition for insertion in the Constitution, to provide for boundaries (file No. 87), which was read a first and second time by its title and referred to the committee on apportionment and boundaries.

Mr. RICKS. Mr. President, I move that when this assembly adjourn, it will be to meet to-morrow morning at 10 o'clock.

Mr. KIMBALL (Weber). Oh, no.

Motion seconded.

Mr. JAMES. Mr. President, I move that when this Convention adjourn it be until 2 o'clock on Monday.

Mr. EVANS (Weber). Let us get through the order of business.

Mr. HART. Mr. President, there is a motion to fix the time of adjournment, that has precedence.

Mr. RICHARDS. Mr. President, is this motion in order?

The PRESIDENT. Yes, sir.

Mr. RICHARDS. Has the president passed to the point of reaching the order of motions.

The PRESIDENT. No, sir.

Mr. RICHARDS. Then, how is this in order?

The PRESIDENT. A motion to adjourn is always in order.

Mr. RICHARDS. Yes; but a motion to fix the time for adjournment is not always in order.

Mr. EICHNOR. I ask the gentleman from Sevier County to withhold his motion for a moment. There is another proposition on the table for insertion in the Constitution.

Mr. RICKS. It does not make any difference.

The PRESIDENT. We will finish the record here with the consent of the gentleman.

Mr. Snow introduced a proposition for insertion in the Constitution relating to legislative apportionment (file No. 88), which was read a first and second time by its title and referred to the committee on apportionment and boundaries.

Mr. EICHNOR. I would like to have that read.

The PRESIDENT. The secretary will read it.

The secretary then read the same as follows:

In the apportionment of the State of Utah for legislative purposes, every organized county shall have at least one member of the house of representatives.

Reference, committee on apportionment and boundaries.

Mr. SQUIRES, Mr. President, I move that committee be changed to the committee on legislative.

The PRESIDENT. Is there a second to that motion? If there is no objection——

Mr. SNOW. I object, Mr. President; I want it to go to the committee on apportionment and boundaries.

Mr. THURMAN. Mr. President, I second the motion for referring it to the committee on apportionment and boundaries.

The PRESIDENT. There is no second to the other motion. If there is no objection, it will go to that committee.

Mr. BUTTON. Mr. President, is the table clear?

The PRESIDENT. The motion before the house is to fix the time to which to adjourn.

Mr. BUTTON. Mr. President, the amendment was not seconded. I move to amend that by saying Monday at 2 o'clock.

Mr. RICHARDS. I second the amendmendment of the gentleman from Salt Lake.

Mr. RICKS. Mr. President, I will accept the amendment.

Mr. ROBERTS. Mr. President, I sincerely hope that that motion will not prevail.

The PRESIDENT. It is not debatable.

Mr. THURMAN. Fixing the time—it is debatable.

The PRESIDENT. If there is no other question before the house it is debatable.

Mr. RICKS. Mr. President, it is out of its regular order and consequently it is undebatable.

Mr. EVANS (Weber). Mr. President, I arise to a point of order. The motion to adjourn to 2 o'clock on Monday is not in order. The first rule which we have provided reads as follows:

> Unless otherwise ordered the Convention shall meet on each day, except Sundays and holidays, at the hour of 10 o'clock a. m.

That rule must be suspended before the motion is in order.

Mr. KIMBALL (Weber). That was amended, Mr. Evans, to read 2 o'clock.

Mr. EVANS (Weber). Read that two; but this motion is intended to skip Saturday; according to our rules we shall meet each day and we cannot suspend that rule except with a two-thirds vote.

Mr. FARR. Mr. President, I would like to hear the gentleman's reason for adjourning over until Monday.

Mr. SQUIRES. Mr. President, the language in the first part of that rule—I call the gentleman from Weber's attention to it. "Unless otherwise ordered." What does that mean but to take a vote upon it?

Mr. EVANS (Weber). That means that we have got to order it by a two-thirds vote.

Mr. SQUIRES. Why does it not say so, then?

Mr. HOWARD. Mr. President, is there any other question before the house except this motion to adjourn to a certain time?

The PRESIDENT. No, sir; there is no other question, except the regular order of business, and the motion to fix the time to adjourn is in order at any time.

Mr. HOWARD. Mr. President, Roberts' Rules of Order provide, on page 36, in reference to fixing the time to which the assembly shall adjourn. It says, if made when no other question is before the assembly, it stands as any other principal motion and is debatable.

Mr. ROBERTS. Mr. President, proceeding then to discuss that question of fixing the time until 2 o'clock on Monday, I wish to say that I hope that motion will not prevail. It would be the loss of a day, and I understand there is at least one of the standing committees that will be able to report to-morrow and place before this Convention, matter for consideration, that shall go into the Constitution that we are here to frame. That being the case, I think it would be an infinite pity to adjourn over until Monday, and lose practically one precious day in the consideration of the matters we were sent here to take under advisement. We have been here now for a long while—

Mr. RICKS. I withdraw my motion with the consent of the second—if that is a fact—I hadn't the slightest idea any committee would be ready to report to-morrow.

Mr. RICHARDS. Mr. President, I now move that when this Convention adjourn, it will be until Monday at 2 o'clock.

Seconded.

Mr. KIMBALL (Weber). I second that motion.

Mr. RICHARDS. And I desire to state my reasons for making the motion.

The PRESIDENT. The rule fixes the hour——

Mr. ROBERTS. Mr. President, I have the floor——

Mr. RICHARDS. Mr. President, I submit there is nothing before the house except my motion.

The PRESIDENT. The gentleman is correct. There is nothing before the house.

Mr. RICHARDS. I had the floor.

Mr. HART. Mr. President, Mr. Ricks' motion is before the house, to adjourn until to-morrow morning at 10 o'clock.

Mr. JAMES. Mr. President, he withdrew his motion.

Mr. HART. I object to his withdrawing his motion. This is the first opportunity I have had to make objection. When a gentleman makes a motion he cannot withdraw it at will——

Mr. RICHARDS. Mr. President. I offer as an amendment to that motion——

Mr. ROBERTS. Mr. President, I arise to a point of order; I have the floor.

The PRESIDENT. There is no question before the house——

Mr. ROBERTS. I understood the ruling of the chair to be that the proposition of Mr. Ricks was before the house for consideration and that was the proposition that I was discussing.

The PRESIDENT. There was an effort to withdraw——

Mr. RICKS. Mr. President, I will claim that this question is undebatable for this reason, now considering the proposition——

Mr. EVANS (Weber). Mr. President, I arise to a point of order; my point is, that the chair has decided that; if the gentleman does not like the decision, let him appeal from it.

Mr. FRANCIS. Correct.

Mr. ROBERTS. Now, Mr. President——

The PRESIDENT. The motion is before the house; Mr. Roberts you may proceed.

Mr. ROBERTS. I repeat that it would be almost an outrage to lose to-morrow's work——

Mr. LUND. Mr. President——

The PRESIDENT. No other question before the house; this is debatable. Mr. Roberts has the floor.

Mr. LUND. I would just like to ask the gentleman a question, is all—if he understands the motion of Mr. Ricks? If I understand it correctly, it is to move to adjourn until to-morrow morning at 10 o'clock—I am certainly in favor of it.

Mr. ROBERTS. I thought Mr. Ricks' motion was to adjourn until Monday.

The PRESIDENT. The understanding of the chair was, that Mr. Ricks accepted the amendment to the motion to adjourn until 2 o'clock on Monday.

Mr. ROBERTS. Then I grant you that my remarks are not in place. The only thing I wanted to do was to protest against this adjournment until Monday.

Mr. EVANS (Utah). Mr. President, I make another point of order. When the gentleman accepted the amendment it became his motion, which motion is 2 o'clock on Monday, and I object to its being withdrawn. It cannot be done. That is the question before the house.

The PRESIDENT. The point of order is well taken by the gentleman on that question as I understand it——

Mr. HART. Does the chair now rule that motion is before the house—the motion to adjourn until Monday at 2 o'clock.

The PRESIDENT. That is it.

Mr. BUTTON. No; that when we adjourn, to adjourn until 2 o'clock Monday?

The PRESIDENT. The proposition to fix the time——

Mr. HART. When we adjourn we adjourn to meet at 10 o'clock to-morrow.

The PRESIDENT. 2 o'clock on Monday.

Mr. HART. Now, the gentleman undertook without the consent of this house to withdraw his motion, or in other words to accept a different proposition, to which I object. The point of order I raise is that Mr. Ricks' motion to adjourn until to-morrow morning at 10 o'clock is the proposition now before the house. The gentleman withdrew his amendment and the original motion before the house is the proposition of Mr. Ricks to adjourn until to-morrow morning at 10 o'clock.

The PRESIDENT. Mr. Ricks accepted Mr. James' amendment and there was no objection to it at that time, if there is an objection, before this is discussed——

Mr. HART. I object to it, this is the first opportunity I have had. I object to the other proposition.

Mr. RICKS. Mr. President, inasmuch as there seems to be a muddle here I will withdraw my motion to adjourn until Monday at 2 o'clock, and name to-morrow at 10 o'clock.

Mr. HART. I insist on the chair ruling on the point of order before the house.

Mr. KIMBALL (Weber). Mr. President I suggest to change the general rule to take a two-thirds vote to adjourn until 10 o'clock. The rule is that each day we shall meet at 2 o'clock.

The PRESIDENT. A two-thirds vote on it will be necessary. Gentlemen, you have heard this motion to adjourn until to-morrow morning at 10 o'clock.

Mr. RICHARDS. Mr. President, I offer as an amendment that when the Convention adjourn, it will be until Monday at 2 o'clock.

Mr. BUTTON. I second the amendment.

The PRESIDENT. Gentlemen, you have heard the motion.

Mr. RICHARDS. Mr. President, I desire to give my reasons for offering this amendment. I offer the amendment for the very reason assigned by the delegate from Davis, as being opposed to this motion, and in favor of meeting to-morrow. I say that instead of losing a day by adjourning until Monday we will make a day. We meet here every afternoon. We make no progress. We spent to-day, by the clock, one hour in amending our minutes—the minutes of yesterday. What have we done since then? Received various propositions, that may be valuable (I don't desire to underestimate their value), but we have now before the various committees a great number of propositions, and while this house is in session, in the afternoon, under the rules the committees cannot be in session. If the house were not in session the committees might be in session. Now, my object in making this motion is to afford the committees an opportunity to spend an entire day, to-morrow, in their work, that they may be ready on Monday to report to this Convention; but the gentleman from Davis says that one of the committees will be prepared to report to-morrow. Then I would be in favor of according to that committee the privilege of having their report printed in advance. If it be ready to-morrow, let them give it to the committee on printing and have it ready on our tables here on Monday, that we may commence work and afford the committees an opportunity to prepare their work, and that we may come in here and have something to do, besides meeting day after day at the expense of six hundred dollars to the government, and spending an hour or two in correcting our minutes; that is what we are doing and that is about all that we are doing. Now, if I believed that the effect of this motion would be to delay the work of this Convention one moment, or if I believed that by making this motion, it would not be accelerating the speed of

this Convention, I would not make it, but I believe that it would have that effect. I know that it certainly will if the members will attend to their business in committees to-morrow instead of meeting here and going through the reading of minutes from day to day.

Mr. CANNON. Mr. President, I arise for information. I would like to ask the gentleman from Davis what committee will be prepared to report to-morrow, it he is at liberty to say.

Mr. ROBERTS. Mr. President, I am informed that the committee on preamble and declaration of rights will be ready to report to-morrow.

Mr. CANNON. Mr. President, I favor the proposition of Mr. Richards. I think that we will on the whole gain more time by adjourning, when we do adjourn, to Monday at 2 o'clock than if we were to meet to-morrow.

The PRESIDENT. This motion will have the effect of suspending the rule.

Mr. THURMAN. Mr. President, I am opposed to adjourning until Monday. Last week on Friday we adjourned until Monday, believing that we might do something on Saturday; the result was that my friends in Salt Lake, who live here, went about their business, and the gentlemen who lived in the country, as many as could of them went home. We could not get any committee work done, and that will be the result to-morrow. If there is any thing we can do in Convention here to-morrow, let us meet to-morrow. If there are any gentlemen that cannot be here let them get excused and go about their business. There are a good many people here at least from the country, that want to get through with this business, and finally adjourn, and I am one of them. I think we ought to meet at ten o'clock to-morrow or two o'clock to-morrow, as may suit the convenience of the majority, but I am opposed to adjourning until Monday.

Mr. CHIDESTER. Mr. President, I would like to say this in answer to the gentleman from Utah County: when there is committee work to do that no member of this Convention has any right to go home. They are in duty bound to stay here and attend to that work, and for the reason that some of them have not been so diligent as they might be, the committees have not been able to do the proper amount of work. But that is no reason why we should not adjourn and give these committees time to do the work. They have not had time. The reason that the committees did not do the work the last time that we adjourned, was because the chairmen of various committees failed to get their notices out so that there was a good understanding, but if the Convention will give the chairmen an opportunity now of notifying their committees when they will meet, they can accomplish more by adjourning until Monday than they can to undertake to run this Convention every day, for the reason that the committees are accomplishing very little work, when they have but a short time to work in. There is where the work is being done now; there is no great work being done here in this Convention.

Mr. CANNON. Mr. President, I move the previous question.

The PRESIDENT. Shall the main question be now put?

Carried.

The PRESIDENT. The question is on the motion of Mr. Richards to amend the motion of Mr. Ricks as to the time of adjournment. The motion before the house is the adjournment until Monday at 2 o'clock. As I understand it, this changes the rule and will require a two-thirds vote.

All in favor of the motion of Mr. Richards will say aye; those opposed, no.

The chair is in doubt.

By a rising vote the motion was declared lost by a vote of 51 ayes to 39 noes.

Mr. CANNON. Mr. President, I would

like to know where it provides that there must be a two-thirds vote.

Mr. KIMBALL (Weber). The rule is that we adjourn until 2 o'clock anyway.

Mr. EVANS (Utah). On page 98 of Roberts' rules.

Mr. EICHNOR. Does the chair rule that the motion is lost?

The PRESIDENT. Yes, sir; that it requires a two-thirds vote.

Mr. EICHNOR. Two-thirds vote of the whole house or of the members present?

The PRESIDENT. The question before the house is on the adjournment until to-morrow morning at 10 o'clock. All in favor of the motion say aye.

Mr. CORAY. Mr. President, as I understand it, it requires a two-thirds vote to decide the main question shall be put, but when the main question is put, I don't.

The PRESIDENT. The standing rules of the Convention and the regular orders of business shall not be suspended or interrupted unless by a vote of two-thirds of the delegates present. The regular time of adjournment would be until to-morrow afternoon at 2 o'clock. This proposes to skip a day and be 2 o'clock on Monday.

Mr. RICKS. The question on my motion.

The PRESIDENT. The question now before the Convention is Mr. Ricks' motion to adjourn until to-morrow at 10 o'clock, when we do adjourn, all in favor of the motion say aye.

Mr. GIBBS. Mr. President, I would like to offer an amendment until to-morrow afternoon at 2 o'clock.

Mr. KIMBALL (Weber). Mr. President, I move to amend that motion by saying half past one o'clock on Monday afternoon.

Mr. RYAN. Mr. President, I arise to a point of order. This question, as I understand it, is not amendable after the first part of the motion was put.

The PRESIDENT. The question in regard to adjournment until to-morrow at 10 o'clock.

The question was put and the motion declared lost.

The PRESIDENT. Our adjournment will be in the regular order, without there is some change, until to-morrow at 2 o'clock, under the rule.

Unfinished business, gentlemen, is now in order.

Mr. WELLS. Mr. President, if there is any unfinished business on the table, is it the business of members to call for it, or does it come up?

The PRESIDENT. It comes up legitimately, as I understand it.

Mr. WELLS. We were attempting to decide upon the appointment of a committee clerk, as I understand it, yesterday.

The PRESIDENT. The question before the house upon our adjournment last night was the question of the committee clerk.

Mr. CANNON. Mr. President, I would like to state before the vote is taken upon this committee clerk that since last night I have been informed, by parties who are perfectly familiar with all those interested, that the lady who who was nominated by Mr. Wells, Miss Reese, is a competent stenographer, a first class typewriter, in addition to that she supports her mother and those who are dependent upon her. I have also been informed by parties interested and acquainted with the facts, that one of the other ladies named—the lady who received the highest vote last night has employment and that Miss Reese at this time has not, and therefore hope that the Convention will vote for Miss Reese.

Mr. GOODWIN. Mr. President, I wish to say that the little girl that received the most votes yesterday is one of the most thorough stenographers and typewriters of this city, one of the most rapid workers; she has had two years' experience in newspaper office, and while she has employment, it is beggarly employment and she is entitled

by her character and her position to the generous consideration of all the gentlemen upon this floor.

Mr. BUTTON. Mr. President——

The PRESIDENT. Mr. Button has made an effort several times to get the attention of the chair.

Mr. BUTTON. Before this was called upon, I intended to make a motion, if it was in order, to have the chairmen of different committees announce the different committee meetings at this time under this order.

The PRESIDENT. I think that it is a good suggestion. It is out of order until after this proposition.

Mr. BUTTON. We don't know where to go, and the ladies who are committee clerks don't know where to go.

Mr. RICKS. Mr. President, since yesterday, I have learned that the two committee clerks that we have have not been engaged in any service until this morning. I therefore move that we postpone the employment of another committee clerk indefinitely.

Mr. WHITNEY. I second the motion.

The PRESIDENT. Gentlemen, you have heard the motion, that we postpone the employment of another committee clerk indefinitely. This motion is seconded. All those in favor of——

Mr. CANNON. Mr. President——

Mr. RICKS. I arise to a point of order. This question is undebatable.

The PRESIDENT. That is true. The point of order is undebatable. I do not believe it is debatable. Gentlemen, you have heard the motion that the employment of this other committee clerk be postponed indefinitely.

Carried.

Motions and resolutions.

Mr. EVANS (Weber). I desire to introduce a resolution and ask its immediate consideration.

Mr. BUTTON. Mr. President, if I am in order now, I wish to make a motion.

Mr. EVANS (Weber). Mr. President, I have the chair.

The PRESIDENT. Mr. Evans has the chair, Mr. Button——[Laughter]. Or the floor, he had the chair in his hand.

The secretary then read Mr. Evans' resolution as follows:

Resolved, that the territorial auditor be requested to furnish the Convention, for its information, a statement of the amount of bonded indebtedness of the Territory of Utah, together with the dates when each series of bonds issued and the rates of interest thereon, and when payable; and, be it further

Resolved, that the recorder of each municipal corporation in this Territory be requested to furnish, for the information of the Convention, the bonded indebtedness of such city, together with the dates when each series of bonds were issued, and when payable, and the rate of interest thereon; and, be it further

Resolved, that the county clerk of each county in Utah Territory be requested to furnish the Convention with information respecting the bonded indebtedness of such county, together with the dates when such bonds issued, and the interest thereon, and when payable; and, be it further

Resolved, that the school board of each school district in this Territory be requested to furnish, for the information of this Convention, the amount of bonded indebtedness incurred by such district, and the dates when such bonds issued, and rate of interest thereon, and when payable.

Mr. EVANS (Weber). Mr. President, I move the adoption of the resolution.

Mr. ROBERTS. I second it.

The resolution was adopted.

Mr. THURMAN. Mr. President, in view of the trouble we are having here in relation to our minutes and the length of time it takes to correct every day, I move the chair appoint a standing committee of three to correct the minutes, instead of taking up the time of this Convention.

Seconded.

Mr. PIERCE. Mr. President, I move you as an amendment to the motion that this subject be referred to the committee on engrossment and enrollment.

Seconded.

Mr. ROBERTS. Mr. President, I un-

derstood that amendment to be seconded and now before the house?

The PRESIDENT. Yes, sir.

Mr. ROBERTS. Mr. President, I hope it will not prevail. The committee on engrossment and enrollment have duties appertaining simply to the engrossment and enrollment of the Constitution as it shall be framed by the Convention, and I think it is an inappropriate committee. I think there should be a special committee selected with their fitness in view for revising these minutes and getting them in such shape that we will not spend from forty-five minutes to sixty in correcting them every day.

Mr. PIERCE. Mr. President, the committee on engrossment and enrollment is a committee that is well qualified to attend to this business, as much as any committee that could be appointed from this body, and the argument made by the gentleman from Davis County was just the argument I shall make myself, that that committee has nothing to do at the present time as a committee and this matter could be entirely referred to it and that committee take it up and attend to it and report each day.

Mr. RICHARDS. Mr. President, I desire to ask when these minutes shall be revised—before they go the printer?

Mr. THURMAN. Before they are read here?

Mr. RICHARDS. Before they are printed or after?

Mr. PRESTON. Before they are printed.

The PRESIDENT. Before they are printed, is, I suppose, the meaning of the motion.

Mr. THURMAN. Mr. President, with the consent of my second, I accept the proposition or amendment proposed by Mr. Pierce, if they are a suitable committee; I do not know as to the personnel, but inasmuch as they have nothing to do for awhile, let them do that.

Mr. HART. Mr. President, I don't know about referring this matter to this particular committee, but I think it would be well to refer the matter to one of the standing committees. Otherwise, if this amendment fails and the motion comes on the appointment of a standing committee, that would have to be referred to the committee on rules. As it now stands, the committee on rules have reported what the duties of standing committees shall be, and there is also the rule that all changes in that shall be submitted to the committee on rules. Therefore, I favor referring this matter either to this committee or to some other committee named, rather than create a new committee.

Mr. SQUIRES. Mr. President, I move as an amendment that this matter be referred to a special committee of three.

Mr. ELDREDGE. Mr. President, the gentleman is out of order.

Mr. VAN HORNE. Mr. President——

Mr. KERR. Mr. President, I understand that there is a motion to the effect that a committee of three shall be appointed to correct and revise the minutes. That has been amended, that the committee on engrossment and enrollment——

The PRESIDENT. The original mover has accepted the amendment, that is the way it stands.

Mr. KERR. Mr. President, I move an amendment to the effect that the committee on printing shall be the committee to revise and amend the journal.

Mr. VAN HORNE. Mr. President, I think that our rules determine that the committee on revision and compilation is the one that has the correction of verbal inaccuracies under the rules, and will have nothing to do until we have completed all our work, and from the personnel of the committee and everything of that sort, I move you as an amendment that the question of the revision of the minutes be referred to

the committee on revision and compilation.

Mr. RICHARDS. I second the motion.

The PRESIDENT. The original motion as I understand it now, is the reference to the committee on engrossment and enrollment—the amendment is to the committee on compilation and arrangement.

Mr. ELDREDGE. Mr. President, I understand that the original motion is to appoint a committee of three?

The PRESIDENT. It was withdrawn by Mr. Thurman and he accepted the proposition.

Mr. RICHARDS. Mr. President, before the motion is put I will ask if he will include in it that this committtee is to make this revision before the minutes go to the printer.

Mr. VAN HORNE. Yes, sir; that was the intention of the motion.

The PRESIDENT. All in favor of the amendment of Mr. Van Horne to the original motion, that the revision of the minutes go to the committee on compilation and arrangement, say aye; contrary, no.

The motion was declared carried.

Mr. CORAY. Mr. President, I wish to offer a resolution that announcement of the meetings of the committees and caucuses shall take precedence of a motion to adjourn.

Seconded.

Mr. EVANS (Weber). Mr. President, I move that motion be referred to the committee on rules.

Carried.

Mr. CRANE. Mr. President, for the information of those who live out of the city, I have a letter that I would ask the secretary to please read.

The secretary then read the following:

SALT LAKE CITY, March 12, 1895.

HON. CHARLES CRANE, City.

DEAR SIR: We are in receipt of your letters of the 9th inst. requesting rate of one cent per mile for members of the Constitutional Convention, when traveling between their homes and this city, and in reply, beg to state that arrangements have been made for rate of one fare for the round trip for all members of the Convention between above points during the life of the Convention.

It is only necessary for the members to present their credentials or certificates of membership in order to procure this rate, which, to our mind, is as low a rate as can consistently be granted, and which, I think you will find, is entirely satisfactory to the parties interested.

It is probable members of the Convention do not understand that this rate was granted for more than the first trip to Salt Lake.

We will be pleased if you will give all interested to understand that the rate is in effect until the Convention closes.

Yours truly,

J. H. BENNETT,
G. P. & T. A., R. G. W. Ry.
D. E. BURLEY,
General Agent, U. P. System.

Mr. CRANE. Mr. President, I move that we tender the gentlemen a vote of thanks for their kindness.

Carried.

Mr. Howard introduced the following resolution, which was read by the secretary:

Resolved, that all questions relating to apportionment of members of the Legislature and boundaries of legislative districts be referred to the committee on apportionment and boundaries for their consideration.

Mr. HOWARD. Mr. President, I move that the resolution be adopted.

Seconded.

Mr. ROBERTS. Mr. President——

Mr. SQUIRES. Mr. President, I am not quite ready yet to vote on that proposition. A committee here has been appointed—a standing committee by this body, called the committee on legislative. Another committee has been appointed upon executive. If I understand the duties of these committees, the duty of the one is to provide for an article upon the executive department of the State. The duty of the other is to provide for the legislative department of the State. Now, I do not understand why the matter should be referred to the committee on apportionment and boundaries. I believe that it

is the duty of the committee on legislative to prepare an article for the Constitution specifying the membership of the two houses, leaving the matter of apportioning those delegates or those representatives through the different portions of this Territory in the hands of the committee on apportionment and boundaries. A conference committee was appointed when the conflict came between the two committees, and those committees met and talked this matter over. I understood as a result of that that the committee on apportionment were willing to concede to the committee on legislative that they might fix the maximum and minimum membership of the two houses, and then the committee on apportionment should bring in a final report to this Convention. I am glad the matter has been brought to the attention of the Convention, because it is important that these two committees should understand what their respective powers and duties are in this matter. For my own part, I have conceived it to be the duty of the legislative to designate the names of the two houses to be formed in the State and to specify the membership of those houses so far as it may be left to them.

Mr. HOWARD. Mr. President, I understood that there had been a conflict between those two committees referred to by the gentleman who has just spoken, and I understood that when this committee on apportionment and boundaries were appointed, that they were appointed for that purpose—to apportion the number of members for the Legislature and to define the boundaries of legislative districts. In talking with members that belonged to this committee I understand that this conference committee has not been held, but they have informed me—some of them, that they did not understand that the matter has been settled.

This committee on apportionment and boundaries is composed of one member from each county in the Territory. Therefore, it has a representation of the people of the Territory, and for that reason I think they ought to have the jurisdiction of that matter, and decide it and present it to this Convention. I do not think we ought to put that matter in the hands of any other committee for the reason that I have stated that this committee is composed of one member from each county, and all the people ought to have a say in this matter, and in referring it to that committee, each section of the country will be represented, and I hope that the resolution will prevail.

Mr. THURMAN. Mr. President, I ask that the resolution be read.

The resolution was re-read by the secretary.

Mr. THURMAN. Now, I do not see why that resolution should not prevail. The very name of that committee implies what it was appointed for. The resolution asks that all matters relating to apportionment and boundaries be referred to the committee on apportionment and boundaries, and how any question could have ever arisen in the minds of gentlemen respecting their duties in this respect, is something I am unable to understand. The legislative department is given to the committee—the name it has implies that it shall define the powers and jurisdiction of the legislative assembly when it meets as an assembly, the kind of laws that it may make; and it has nothing whatever to do with where they shall come from, or how many of them shall come from a certain district. You take that away from the committee on apportionment, and what have they got left to do? What were we created for?

Mr. RICHARDS. Will the gentleman from Utah permit me an interruption? I think the gentleman misapprehends the question; as I understand it from the reference made by the gentleman from Salt Lake, it was as to the number, not as to the locality and the ap-

portionment, but as to the number that shall constitute the membership of each branch of the Legislature. I merely make the suggestion.

Mr. THURMAN. I am speaking to the resolution. The resolution is that matters relating to apportionment and boundaries be referred to the committee on apportionment and boundary.

Mr. RICHARDS. I think the gentleman is entirely correct, and that the resolution should prevail, but the question raised by the gentleman from Salt Lake was not that question.

Mr. THURMAN. It may be that the resolution as it is now written will not obtain the sense of this house upon the question the gentlemen want determined, but most certainly as the resolution is worded it ought to prevail and all such questions should go to that committee.

Mr. VAN HORNE. Mr. President, I listened very carefully to the wording of the resolution as presented; it seems to me that there is no objection, whatever, as far as the resolution itself is concerned, and it expresses the sense of this house, as to the proper method of procedure, but I understand also from the remarks of the mover of that motion that he thinks that resolution carries with it the power to fix the number of houses of the Legislature. That is a matter that has been in dispute between the two committees, the legislative committee claiming that by its powers, by its name, it was the proper committee to determine what should be the membership of the two houses of the Legislature and should make the report to this Convention as to its final decision on that matter, to get the sense of the Convention. It is claimed, as I understand, by the committee on apportionment, that the power to apportion carries with it the power to fix the number of the Legislature, and I judge from the remarks of the gentleman moving this resolution, that he thinks this resolution will carry that power with it. The legislative committee is clear in its membership, that their province is to fix in their report the number of the upper and lower houses of the Legislature of the proposed State of Utah. And while I see no objection to the resolution, as it is, if I thought the resolution did take away from the legislative committee that power, I should certainly oppose it.

The question was called for by a number of members.

The PRESIDENT. Gentlemen, the motion before the house is to adopt this resolution as offered by Mr. Howard.

The resolution was adopted.

Mr. SNOW. Mr. President, I have a resolution which I desire to offer.

The resolution was read by the secretary, as follows:

Resolved, that it be the sense of this Convention that the jurisdiction of determining the number of senators and representatives properly belongs to the committee on apportionment and boundaries.

Several members seconded the motion.

The PRESIDENT. Is there a motion for adoption of the resolution?

Mr. SNOW. I move the adoption of the resolution.

Seconded.

Mr. EICHNOR. Mr. President, in the first stage of this Convention, I heard so much about precedents, now, I will state that the majority of the states and the United States have the power of fixing the number of senators and members of the lower house embodied in the legislative department.

Mr. THURMAN. Yes, but we don't follow precedent.

Mr. EVANS (Weber). I would like to ask you if the first day of the session was according to precedent.

Mr. EICHNOR. Well, we will make one, if we did not have one.

The PRESIDENT. Mr. Eichnor has the floor, gentlemen.

Mr. EICHNOR. Mr. President, and

gentlemen of the Convention, it is a matter that properly belongs to the legislative department to fix the number, and then the committee on apportionment distributes them over the Territory or over the coming State. Washington, Idaho, Wyoming, nearly all the western states—in fact I do not know any particular state that makes an exception to this general rule. As far as I am concerned, I am not on the legislative committee, neither am I on the committee on apportionment and boundaries, but as a principle laid down in constitutions, I am firmly of the opinion that the matter belongs to the legislative department. If there is contention between the legislative department and the committee on apportionment and boundaries, let them get together and not come in here and waste our time. Let them get together and agree on a plan.

Mr. SNOW. Mr. President, as the introducer of that resolution I desire to say that early in the session, or early in the week, I noticed in the newspaper that the chairman of the legislative committee had announced what in his opinion ought to be the proper ratio of numbers of members of the house of representatives and senate. This immediately set the members of the committee on apportionment and boundaries to talking about the subject, they unanimously believing that that had been delegated to them. In the committee room when it was suggested and carried and incorporated in the majority report that this committee should comprise a member from each county, it was understood by those members that this was one of their particular duties. When they were appointed upon that committee they believed so and they, consequently, sincerely and honestly believed that it was their proper jurisdiction. Likewise in all sincerity, the legislative committee claimed it and there has been a conflict of these two committees, and they have been unable to agree, and they said the only thing they could do was to get the sense of this Convention. Inasmuch as the resolution that was first presented here, did not cover the ground, and members of the legislative committee desired this question mooted, because they raised it themselves, I thought to bring it to an issue, and I think it is proper and should be decided upon by the Convention. Now, in relation to precedent. I have endeavored in my votes here to follow precedent. That is, a well established precedent of constitutional law. I hope every member of the Convention can say the same thing, but I do not think men who have voted here in this Convention on matters which they thought to be right against precedent ought to have anything to say about precedent now when a matter of right is before them. I contend that this is a matter of right,—of right it belongs to this committee, for the reasons stated by the gentleman from Emery, that it is a representative committee composed of members from each county. Moreover, we have a very notable precedent for this. In the convention that framed the Constitution of the United States this same question came up and was referred to a committee consisting of a member from each state, with the express purpose of giving them all representation, not only as to the apportionment, but also as determining the number, the smaller states claiming repretentation in the senate with the larger ones, and the larger ones denying their right. Mr. President, there are quite a number of precedents in recent constitution making for the committee on apportionment having this jurisdiction. I have on my table the journal of the proceedings of the North Dakota constitutional convention, in which, on page 195, the chairman of this same committee on apportionment and boundaries makes a report to the house or to the convention, in which it says

that they have had under consideration files number 20, 33, 66 and 108, all of which refer to and determine the number of senators and representatives and their apportionment in senatorial and representative districts throughout their state. Throughout the proceedings of this convention this committee had jurisdiction entirely over this determination of the number and of the apportionment. It is true that the constitutions which we have before us have, in the legislative department, incorporated the number that the senate and house shall consist of, but the journals do not substantiate the view that that committee has always had the jurisdiction of the determining of the number. Wyoming, I am credibly informed by members of the apportionment committee—Wyoming also in their journal gave the jurisdiction of this matter to their committee on boundaries and apportionment. It has always been represented to me that Michigan did also, but of the latter I cannot state from personal fact, as I have not had the possession of these journals, but I will say that in these two instances of recent constitution making they have delegated this power to this committee, and I think that it is proper, and it is right and eminently fit that this committee should handle it. As I said on the floors of this Convention some few days ago, there is no disposition in this committee to do anything that is unfair or unjust, but they desire that in this important matter every county shall be represented, and I contend that it is the most fit committee that we have of all our standing committees to decide on this important question, and bring in a report to this Convention.

Mr. MALONEY. Mr. President, as a member of the committee on the various standing committees, I wish to say in reply to the gentleman who has just taken his seat that the committee has never talked, so far as my information goes, to the effect that we should allow the committee on apportionment and boundaries to have anything to do or say with the number of senators or representatives. That belongs, according to my judgment, to the legislative committee. The object that I had in view, and I believe the majority of the committee had, was that the committee on apportionment and boundaries take into consideration and perfect senatorial and legislative districts throughout the Territory, and the object of having a member of that committee from each county was to see that that county was properly apportioned and had its representation. I don't think there is any doubt in the mind of any member of this Convention, except perhaps one or two, in regard to the true construction of these committees and what the intention of the committee was who formed these committees. The resolution reads:

Resolved, that it be the sense of this Convention that the jurisdiction of determining the number of senators and representatives properly belongs to the committee on apportionment and boundaries.

That undoubtedly belongs to the legislative committee.

Mr. CHIDESTER. Mr. President, as one of the committee that helped create this committee, I wish to say that my understanding was exactly the reverse of that of the gentleman who has just spoken. He understood that that would be the purpose—that was discussed and the name of this committee was brought in question and it was so decided as I understood that this committee was the one that should have that jurisdiction, and it appears to me to be right and proper, for the reason that the committee consisted of one member from each county and that it would be proper for that committee to say how many it should consist of and where the boundaries should be, and there has been no precedent cited to the contrary. The precedents mentioned by Mr. Elchnor were not cited. We have no precedent

before us to the contrary of what was stated by Mr. Snow. Therefore, I believe that that is the proper committee. I believe that that was the understanding of the committee that created it and that it was for that expressed purpose, and therefore I favor that motion and I believe that that jurisdiction should be conferred upon them.

Mr. ROBERTS. Mr. President, I also was a member of the committee which fixed or suggested the number of names of the standing committee, and I wish to say that either my recollection or the gentleman's recollection who last spoke, is wonderfully defective. My understanding of that was when discussed in that committee that the only duty in this matter that belonged to the committee on apportionment and boundaries, was to apportion the senatorial and representative districts and that it was the proper function of the legislative committee to determine the number both of senators and representatives that should be in the senate and in the house respectively. In the matter of precedent—I do not see that is a subject that need detain us very long. Gentlemen will find precedents for the contention of each side of this question. The matter of apportionment has sometimes in constitutional conventions been referred to the legislative committee, and not only the matter of fixing the number in the house and in the senate, but also naming the districts from which they should come. That has sometimes been done by the legislative committee. That, however, is something that the legislative committee does not ask to do. In other words, the legislative committee does not propose to encroach upon the ground at all of the committee on apportionment and boundaries, but it seems to me that the committee on apportionment and boundaries does propose to trench upon the ground which properly belonged to the legislative committee. The simple fact that the committee on apportionment and boundaries is made up of one member from each county, amounts to nothing in this question. I do not concede to that committee—although it is more numerous than the legislative committee—that they can any better fix the number of the legislators of the new State than the legislative committee. We have already conceded considerably to that committee. There was a minority report here that contended against the apportionment on making up the personnel of that committee, by a member from each county, but it was conceded that there might be some one who understood local positions or local situations, and that they might fix the boundaries and representative districts. Having conceded so much to them, they now come and ask for something further, taking the matter which distinctly belongs to the legislative committee, which there is one in existence in the Convention, and assuming to determine the number of members in the Legislature. The gentleman from Utah County, in speaking to the former resolution on this subject, said that he believed the name indicated what ought to be done in the case of that resolution; that when it was a case of fixing the boundaries and legislative districts, it properly belonged to the committee bearing that name. I hope that in this issue he will be equally consistent and that when a question is before the house as to whether the committee on legislative shall determine the number of senators, and the number of representatives, and the proportion between the membership of the lower house and the upper house, since it evidently tends to the organization of the Legislature, that he will vote with us and say that it is a matter that belongs properly to the legislative committee; as most certainly it does. The fixing of the number of members in the Legislature is one thing, the distribution of districts from which those members shall come, is quite a different thing, and the committee on

apportionment and boundaries should have charge of the latter proposition; and it is clear to my mind that the committee on legislative should have the jurisdiction over the former proposition, and I hope that this resolution will not prevail.

Mr. GIBBS. Mr. President, I hold in my hand the journal. I find on page 5 when it came to a vote to adopt a majority or minority report that the majority report was adopted. The minority report recommended that the apportionment and boundary committee consist of fifteen, but the majority report recommended that it consist of a member from each county. Now, it certainly was my understanding, when that committee reported, that the apportionment committee should have the privilege of naming the number of the future Legislature of Utah.

Mr. ELDREDGE. Mr. President, I am not so much of a precedent follower, unless precedent is in the line of reason and common sense, and when you go according to that, why then it usually meets my views, I believe; I might cite a great many instances that would support, perhaps, this proposition. If people had followed precedent and kept in the line of tradition the country would not have reached the state of progress that we find it to-day. We would have different modes of travel, we would entertain different theories in regard to the shape of this globe, and we would have had different manners of communicating our ideas, and the distance would not have been so completely obliterated as it is, and time brought to a minimum. But if we should go for precedents, we will find plenty of them to support both positions. However, in cases where the legislative committee has fixed the number, it has been in instances where there has been no apportionment committee. Where there is an apportionment committee, and legislative committee, in many instances the legislative committee has specified the maximum and the minimum, and the apportionment committee has named the number that should constitute the senate and the house within those lines.

Mr. ROBERTS. Will the gentleman permit me a question?

Mr. ELDREDGE. Yes, sir.

Mr. ROBERTS. Do you understand that the legislative committee desires to name the districts and boundaries of the districts from which the legislators shall come?

Mr. ELDREDGE. I hardly know what they do desire.

Mr. ROBERTS. Well, then, if you will permit me, I will say that that is not their contention; they don't ask for that, but to do just what you proposed a moment ago, to fix the maximum and minimum of the membership of the Legislature and your committee to apportion them.

Mr. ELDREDGE. I understood and I believe that it was not to fix a maximum and a minimum, but was to fix, as I remember, what should constitute the senate, and what should constitute the house of representatives, if they so name it—the senate and the house of representatives, but if the gentleman has taken a different position, it is the first information I have had of the change of his position. I did agree in order to have harmony and that the matter should not be brought before this body to consume their time, to accord unto them the privilege of stating the minimum and the maximum, and that we should govern ourselves then on that line, but when I made this proposition to them, it did not meet with their approval, and they have forced the measure until it was brought upon this floor. I shall now stand squarely, Mr. President, upon what I consider to be right in the premises, and this Convention must determine whether that is so or not. The sovereign power is within the people, and it is with them to say what representation they shall have in a legislative body. Then

if it is not in the condition that we can reach the entire voice of the people we must then take that body which comes the nearest to reaching that, and if we will simply canvass the make up of the two committees, we will very readily ascertain that the committee on apportionment and boundaries lies nearer to the sovereign power than the committee on legislative power does.

I therefore hold that it is the prerogative and it is the right of that committee, not only to designate the localities from which the senators and from which the representatives will come, but it is their right to say the number, and upon this proposition I shall rest it with my colleagues upon this floor.

Mr. EICHNOR. May I ask the gentleman from Summit a question?

Mr. ELDREDGE. Yes, sir.

Mr. EICHNOR. Your committee desires to fix the number of the lower house and the senate?

Mr. ELDREDGE. How is that?

Mr. EICHNOR. Your committee on apportionment, desires to fix the number of members of the lower house and of the senate?

Mr. ELDREDGE. Yes, sir.

Mr. EICHNOR. Does your committee also desire to fix the number of judges in the various judicial districts?

Mr. ELDREDGE. I wish to say, Mr. President, that is not the question under consideration.

Mr. EICHNOR. That is apportionment.

Mr. THURMAN. Question.

Mr. RICHARDS. Mr. President, I desire to ask the delegate from Summit a question, and that is, how is it that the committee on apportionment have gotten nearer to the sovereign power than the committee on legislative department? That is a matter that I desire information upon.

Mr. ELDREDGE. I will answer.

Mr. RICHARDS. I had supposed that all the delegates of this Convention were equally near to the sovereign power. [Laughter].

Mr. ELDREDGE. I will answer it in this way, Mr. President, I believe that the gentleman from Salt Lake will concur in the proposition. The committee on legislative is composed of fifteen members, the committee upon apportionment is composed of twenty-six members. That constitutes one member from each county of the Territory of Utah, and in that it is voicing the whole people. So far as it can be reached by committee, I am sure that the gentleman from Salt Lake who asked the question, if he will consult to reason for one moment, will admit that a member from a county understands the wants and the interests of that county to a greater extent than a person that knows nothing about the county.

Mr. SNOW. Will the gentleman allow me to give him the information? Mr. Snow of Washington County is the only member of the legislative committee south of the county of Utah.

Mr. CANNON. Mr. President, and gentlemen of the Convention, I think that in discussing this question, we should be dispassionate, and the committee that has most clearly the right to perform this work is the one to which it should be assigned. In the first place, the very name of the legislative committee to my mind suggests the idea that it shall propose measures connected with the legislature that shall be transacted by the people. I believe in following precedent where we can, but I always believe that it is better to be right than to have any precedent and follow it, simply because some other fellow did wrong in the past, and when the gentleman from Summit says that the sovereign is more closely represented in the committee on apportionment, I distinctly deny that any such thing is the case. Who are you here to represent, counties or people? In the apportionment com-

mittee we have a man from each county.

Mr. ELDREDGE. Will the gentleman allow me to ask him one question?

Mr. CANNON. Certainly.

Mr. ELDREDGE. What does it take to constitute a county—what would it be without people?

Mr. CANNON. It takes to constitute a county a certain amount of land, sometimes partially settled, sometimes thickly inhabited.

Mr. THURMAN. A mere question of real estate. [Laughter.]

Mr. CANNON. When the gentleman from Summit says he believes in getting near the people and acting their sovereign power, does he consider it just to have a county which comprises from twelve to thirteen thousand voters have only the same representation as a county which comprises a few hundred? Is that the proportion with which this committee on apportionment would like to fix our Legislature? If it is, I think to my mind it is clear that it is not that committee that should consider that subject. We have in this case one man who represents the people of the largest county—the most populous, he represents those people upon the committee upon apportionment and it makes no difference whether we have one from each county or not, when you want to come near to the people, go to the representatives of the people; and in this whole question—the question before both committees should be, let us be just to the people, not to the number of acres that may be represented by any representative here upon this floor. It is a question of human rights, not of sand and banks of stone, not of water, or anything of that kind, but it is the people who want representation and those people are in proportion to their numbers, not to the size of the ground they occupy.

Mr. HOWARD. Mr. President, I do not think it is the object of the committee on apportionment and boundaries to confine the representation to the counties, that is, one member from each county. I believe that their object is to assign at least one from each county, and enough more in proportion to get a proper representation in the several counties. There is not a man on this floor, I presume, but what is a citizen of the United States, and the citizens of the United States boast that the United States is a land of progress—a civilized people—a people of progress, a people of advancement, a people of advanced institutions; and how can we ascribe that they have got that only through the people? It is because the people represent the government. They have a voice in the formation of the government; they have a voice to say who shall be their representatives, and how many they shall be. They have a voice in saying what kind of men shall go to represent them in the law-making bodies, and it is all the people that do this. It is in every state in the Union. There is no committee; there is no part of the Union that is misrepresented, or that is not represented in Congress. But all states have equal rights according to their population. Now, when it comes to this committee here that is appointed on this proposition, that is in contention, now, I claim that the committee on apportionment and boundaries is a committee that represents the whole people of the Territory. I do not say by this that this committee of fifteen on legislative does not represent the people of the Territory. We are all here to represent the people of the Territory. But this committee on apportionment and boundaries represent the people from every county in the Territory and I believe that they ought to have the right to say what their representation shall be. I have no objection—I do not suppose that any man on that committee has any objections to that committee being increased if necessary and give Salt Lake County, which has this great amount of population

and wealth, more representation on that committee if necessary. I would have no objection to that, but I do claim that every county in the Territory should be represented on that committee, and not only that, but they should be represented in the legislative body. For that reason I hope that the motion of Mr. Snow will prevail.

Mr. KERR. Mr. President, I call for the previous question.

Mr. RICHARDS. I arise to ask the gentleman to waive his request on the previous question until I make a personal explanation. Reference was made to my remark by the delegate from Summit, and the suggestion was made that I wouldn't dispute it, or that I would concede certain statements that were made.

Mr. KERR. All right.

Mr. RICHARDS. I desire to say that I do not endorse or concur in any such idea. I do not believe that any committee of this Convention or any member of this Convention is any nearer to the sovereign power of this Territory than any other committee or any other member. Furthermore, I understand that the duties of the committees of this Convention are simply to suggest to this body, as to what in their judgment is the most proper in their respective departments, and that the whole matter will be before this Convention, and it is this Convention that represents the sovereign power, and not any committee of this Convention or any delegate of this Convention. That is my position. Now, as to upon whom devolves this duty, I care not whether the duty be performed by this committee on apportionment or whether it be performed by the legislative committee, but it seems to me there is a propriety about this. It seems to me that we ought to have, after the committees have been appointed, those committees perform the duties that usually appertain to the committees and certainly this is a duty that is usually and ordinarily devolved upon the legislative department, and I think it should be prepared by that committee.

Mr. EVANS (Weber). Mr. President, I desire to speak in support of the resolution. It is true that the report of the committee——

The PRESIDENT. Does the gentleman continue to withdraw his motion?

Mr. KERR. Yes, sir.

Mr. HILL. I would like to be excused.

The PRESIDENT. Mr. Hill will be excused if there is no objection.

Mr. EVANS (Weber). It is quite true that the Convention will revise the action of any committee. It is equally true, that the Convention is the sovereign body, having the revisory power over the reports of all the committees, but gentlemen of the Convention, you will find that when a committee after due deliberation and investigation reports to this Convention that it will come with additional weight, especially if that report should happen to be unanimous. The gentleman from Salt Lake County states that this is a question of representation, not of sand hills and plains and mountains. Such a question as this in the early history of our country was raised when our revolutionary fathers were struggling against the tyranny of Great Britian. It was then said by the British parliament, that the colonists were living in a wild waste of country, timbered, where the war whoop of the Indians was heard and where civilization had no place.

Mr. CANNON. I would rise to a question of privilege. I would rise to explain that the gentleman does not accept my position correctly. My position, is Mr. Evans, that the question of representing the people being nearer to the sovereign people is not determined by locality.

Mr. EVANS (Weber). Exactly, that is about what I was saying, it was so considered by the English parliament, that the sovereignty was in the king

and that the center of population was there. At that time the people of the colonies were subjects of Great Britain. They were not willing to give the proper representation to this country on account of the fact that it was partially settled, uncivilized, but that great power—the greatest on earth, was humiliated by the very people whom they sought to subject. Give these counties representation in the Legislature, and who can apportion it better than the committee on representation composed of a member from each county? These barren sand hills and plains may be fruitful orchards. They might be highly cultivated and brought into subjection by man, but it is known in the history of legislation and in all governmental departments that the success that might be obtained in the arts and industries is largely measured by the benefits derived from legislation. If those counties have the apportionment of the number of members of the Legislature, composing the two houses, they will then have an equal part with the more populous and favored localities in bestowing the benefits which civilization will confer and will perhaps have the right to confer. Mr. President, this thing, in a small way, is somewhat analagous to the formation of the great government which we have in these United States. The smaller states at the time of the formation of the Constitution of the United States demanded the right of equal representation with the larger states in the senate of the United States. This right, which has been stated, was denied upon the part of the representatives of the larger states, but finally a compromise was made upon that question and all states were equally entitled to representation in the higher branch of the legislature; and the question of apportionment in the lower house went by population, and so I think it ought to be in this new State. I believe in the plan which has been adopted by many of the states to give representation to each county in the state senate. If we have as many senators as there are counties in the new State, I think each county ought to have a senator instead of a representative. They ought to have their representation in that way, and then in the lower branch of the Legislature, let them represent the people according to population. I therefore favor the resolution and hope that it will be adopted.

Mr. L. LARSON. Mr. President, it does appear to me that this is a matter that belongs to the legislative. That legislative ought to have the privilege to mention the maximum and the minimum number, as it has been agreed upon. I have understood it so from the beginning that that is the understanding between the two committees, not that the legislative committee will take in hand the apportionment of the senators and representatives, or that they would name the number—not the exact number, but the maximum and the minimum, and then the apportionment committee would have the privilege to select the proper number whichever they might agree upon. That is my understanding, and I do not now see why the committee on apportionment tries to draw out or kick out from this understanding or agreement. It appears to me that it is proper that a legislative committee should have this much to say and not leave it entirely to the committee on apportionment, which consists of one member from each county. All over this Territory many of those counties are small, and in this way it does appear to me an equitable apportionment would hardly be given. The legislative committee ought to state the number that has been agreed upon or the maximum and minimum, and then let the other committee decide as to the apportionment thereof. This is the way that I think is the proper way, and my vote will go that way.

Mr. SHURTLIFF. Mr. President, I move the postponement of this question until to-morrow morning.

Mr. SQUIRES. Mr. President, I hear no second to that motion; I would like to be heard on the question. I judge from some of the debates which we have already had upon the subject that our friends from the lower counties are very much alarmed for fear that they will not get justice, if the matter is left to the legislative committee. I judge that also from the tenure of a resolution offered by the gentleman from Washington on yesterday—that every county of the Territory should be represented by one member in the lower house. I understood also from the remarks of the gentleman from Washington, that this action is based upon a statement published on the newspapers as emanating from the chairman of the legislative committee; that statement, I believe, was something like this, that the upper house of the State Legislature should consist of fourteen members, and that the lower house should consist of twenty-seven members, and taking it for granted that the chairman of this committee is speaking for the committee—for I understand no other possible method by which they can use their information—they are afraid that the counties that are partially settled will not be properly represented. Now I call the attention of all those gentlemen to this fact that if this matter is left to the legislative committee, they won't have their work to do over twice. If this matter is left to the legislative committee, and they report to this Convention a plan forming the upper house and lower house, and stating the number of members that shall constitute each body, and this house approves or if it disapproves, and settles upon some other plan, then the committee on apportionment will have its work before them. They want to go over this whole Territory and apportion the districts twice, as they may very properly have to do if we depend upon them to make their report first. I have just asked the question from the gentleman on my right here from Garfield, I believe, as to how many members the committee on apportionment desires in the lower house.

Mr. CHIDESTER. I did not understand you to ask that question. You asked me how many are they that desire it?

Mr. SQUIRES. We will take it that way. Representing the committee upon the floor and in debate, I ask the gentleman he desires to represent in the lower house and he informs me that they thought about forty.

Mr. ELDREDGE. Mr. President, I arise to a point of order. It is not the question now before the house as to what it is probable that shall be. The question is as to what committee should decide as to what the number shall be.

The PRESIDENT. The gentleman will confine himself to the discussion of the question.

Mr. SQUIRES. I believe I am confining myself as closely to the subject under discussion as other gentlemen have. I want to look at that question just a moment. Forty representatives from the Territory. One from every county, that takes up twenty-seven. We have twenty-seven counties in the Territory. That will leave thirteen representatives to be distributed among all the other counties in the Territory.

Mr. ELDREDGE. I again rise to a point of order. I think that the gentleman is not speaking to the question that is before the house.

The PRESIDENT. I do not think the point of order is well taken.

Mr. SQUIRES. Well, Mr. President, I don't know why my friend from Weber County took us across the Atlantic and discussed the question of King George, away back before the revolution; in discussing the question, if I am not

speaking on the subject along the lines of discussion, I do not understand it.

The PRESIDENT. The chair's ruling is that the gentleman is in order.

Mr. SQUIRES. I do not care to waste the time of this Convention in a discussion of this sort. I believe that the proposition made is not a correct one. I believe that the duty and right of the legislative committee is to organize the legislative bodies of this State, just as the judiciary committee will make a report as to the judiciary of the State and say how many there shall be and the committee on apportionment certainly won't attempt to take that duty out of their hands. I am opposed to this motion, and I trust that the gentlemen present will see it in that light and vote it down.

Mr. HOWARD. May I ask the gentleman a question that has last spoken? Is the gentleman opposed to each county having one representative?

Mr. SQUIRES. I am not at all opposed to it.

Mr. CORAY. Mr. President, I call for the previous question.

Mr. HOWARD. Will the gentleman withhold that a moment please?

The PRESIDENT. The previous question is called for.

The previous question was ordered.

The PRESIDENT. The question before the house is upon the adoption of the resolution introduced by Mr. Snow.

The secretary will read the resolution, so that there will be no question in the minds of the gentlemen.

The secretary read the resolution.

The question being put, the chair was in doubt and a call of the roll being demanded, the vote was as follows:

AYES—53.

Allen	Hughes
Anderson	Ivins
Barnes	Johnson
Boyer	Jolley
Brandley	Kiesel
Buys	Kimball, Salt Lake
Call	Larson, C. P.
Chidester	Lemmon
Christianson	Lowe, Wm.
Clark	Lowe, Peter
Coray	Maeser
Corfman	Miller
Crane	Murdock, Wasatch
Creer	Nebeker
Cunningham	Page
Driver	Peters
Eldredge	Peterson, Grand
Evans, Weber	Ricks
Evans, Utah	Robertson
Farr	Robinson, Kane
Francis	Robison, Wayne
Gibbs	Ryan
Hammond	Snow
Hart	Spencer
Halliday	Thorne
Heybourne	Thurman.
Howard	

NOES—37.

Bowdle	Moritz
Button	Murdock, Beaver
Cannon	Murdock, Summit
Eichnor	Partridge
Emery	Peterson, Sanpete
Engberg	Pierce
Goodwin	Richards
Green	Roberts
Haynes	Sharp
James	Shurtliff
Kerr	Squires
Lambert	Stover
Larson, L.	Symons
Lewis	Thompson
Low, Cache	Van Horne
Lund	Varian
Maloney	Whitney
Maughan	Williams.
Morris	

The PRESIDENT. The resolution has been adopted, gentlemen.

Mr. GOODWIN. Mr. President, I understand that, while absent, this Convention, in a moment of hilarity, decided that the committee on compilation and arrangement should revise the minutes daily; is that true?

The PRESIDENT. That is true, sir.

Mr. GOODWIN. I move the reconsideration of that vote.

Mr. VARIAN. I second the motion.

The PRESIDENT. You did not vote on it; you cannot do it.

Mr. IVINS. Mr. President, I would like to ask the gentleman whether he voted on that or not?

Mr. SQUIRES. Mr. President, to relieve the gentleman and for his benefit, I move a reconsideration of that order.

Mr. GOODWIN. I second that motion. I won't detain the Convention more than a moment. I once read a story of Sir Walter Scott of an old baron who could not read or write and who had sold some land and when they brought the papers for him to sign he says, "Do you take me for a blank clark?"

Now, without confessing whether I can read or write or not, or whether the other members on that committee can or not, I want to ask this Convention if they take Mr. Thatcher, Mr. Whitney, Mr. Lambert, and myself, for "clarks." It is the duty of the clerk to keep these records and to have them right. He gets fifty per cent. more salary than any of us. It is his duty to do it himself or employ someone else, or to give up that place to someone else that can. We will have the duty of looking over the reports of all the committees in this Convention. The place was supposed to be rather honorable. Now, how are we going to keep the minutes unless we get there behind the desk? I suppose that in a moment of hilarity, as I said before, the Convention passed that resolution. I ask to have it reconsidered and that the clerk keep his own minutes.

Mr. WHITNEY. Mr. President, I was also absent temporarily from the main hall when this question was being debated or I should certainly have spoken on it then. I agree with the gentleman who has last spoken. It is a great labor that you have laid upon this committee (I think somewhat hastily and thoughtlessly), and you might just as well release us from all other duties, as to make us minute clerks of this Convention, to compel us daily to revise these minutes and to compare them—how can we perform that duty? How much better qualified are we than any other members upon this floor to keep track of what is going on at this desk and to revise these minutes and furnish you gentlemen that you will have a correct report of it next day? It is the business of the clerks who are paid for the labor and the proper way it seems to me would have been to have elected a minute clerk competent to attend to this matter and not put it upon this committee. I do not feel that it is just or right and I trust that this motion will be reconsidered, and that we will proceed to the election of a minute clerk.

Mr. CANNON. Mr. President, I think this motion to reconsider ought to prevail, and I therefore second it.

The PRESIDENT. Gentlemen, you have heard the motion to reconsider.

The motion was carried.

The PRESIDENT. The matter is up for further consideration.

Mr. BOWDLE. Mr. President, I move the previous question. [Laughter.]

Mr. RICKS. I move we adjourn.

Seconded.

Mr. CANNON. Mr. President, I would like to ask the gentleman to withhold that for one moment.

Mr. RICKS. All right.

The PRESIDENT. The question is on adjournment.

Mr. LAMBERT. He said he would withhold it until I present this matter that I have here.

Mr. RICKS. If it is desired I will withdraw the motion, with the consent of my second.

Mr. EVANS (Utah). Mr. President, the previous question is before the house. No other question can transpire but the adjournment. We moved to reconsider and when it carried it brought that question before the assembly, and the previous question

must now be put. No other matter can be considered but adjournment.

The PRESIDENT. The question, gentlemen, before the house is upon the question as to whether this matter shall be referred to the committee on revision and compilation. Shall the debate in regard to this matter now cease?

DELEGATE. Yes.

The PRESIDENT. All who are in favor of that say aye; those opposed, no.

The ayes have it.

Now, the question is in regard to the commitment of this to the committee on revision and compilation. The matter is now before the Convention for its consideration in regard to referring it to that committee or taking it from that committee. If the chair isn't right, I would like to be corrected in this matter.

Mr. ELDREDGE. Mr. President, I move to lay the motion on the table.

Mr. EVANS (Utah). Mr. President, I have to arise to a point of order.

The PRESIDENT. I think the point of order is well taken. The question is on the recommittal of this, and I think the point of order is well taken.

Mr. ELDREDGE. Mr. President, I move to lay it on the table, which takes precedence of all other matters, except to adjourn to a day certain or to adjourn indefinitely, and should be put without debate under our rules.

The PRESIDENT. There is no second to the motion to lay on the table.

Mr. GIBBS. I second the motion.

Mr. EVANS (Utah). Mr. President, I would like to be heard on my point of order. The previous question has been ordered and when that is so ordered, the question then must be put. "the question now recurs as to whether we will make the reference to that committee or not." I am in favor of voting it down,

The PRESIDENT. The gentleman's point of order is well taken I think in regard to that matter. Gentlemen, the question is, shall the matter be referred to the committee?

Mr. ELDREDGE. Mr. President, I wish to say this, I understand that the previous question was put. Now, that cuts off all debates as regards to the reconsideration.

Mr. CANNON. Mr. President, I arise to a point of order. When the chair has ruled on this question the gentleman must take his seat or appeal from the decision of the chair.

The PRESIDENT. I ruled that the gentleman's point of order is well taken.

Mr. EVANS (Utah). Then, I will ask that the gentleman be seated, if it requires the sergeant-at-arms to do it.

The PRESIDENT. The question is, gentlemen, upon the reference of this proposition for them to revise the minutes, that is the question before the house. All that are in favor of the motion will say aye; contrary, no.

The motion was lost.

Mr. CANNON. Mr. President, I move that a special committee of three——

Mr. THURMAN. I arise to a point of order. The motion now before the house as to the engrossing and enrolling committee, as to whether that matter shall be referred to them or not.

The PRESIDENT. The gentleman is right.

Gentlemen, you have heard the motion—this was the amendment to the original motion; all in favor of this going to the committee on engrossing and enrollment will say aye; opposed, no.

The motion is lost.

Mr. CREER. I move we now adjourn.

Mr. RICKS. I second the motion.

Carried.

The Convention then at 5 o'clock p. m. adjourned.

THIRTEENTH DAY.

SATURDAY, March 16, 1895.

The Convention was called to order at 2 o'clock p. m. by President Smith.

The roll was called showing the following members present:

Allen	Lambert
Anderson	Larsen, L.
Bowdle	Lemmon
Brandley	Low, Cache
Button	Maeser
Buys	Mackintosh
Call	Maloney
Cannon	McFarland
Christianson	Miller
Clark	Morris
Coray	Moritz
Corfman	Murdock, Beaver
Crane	Murdock, Wasatch
Cushing	Murdock, Summit
Driver	Partridge
Elchnor	Peters
Eldredge	Peterson, Grand
Emery	Peterson, Sanpete
Engberg	Pierce
Evans, Weber	Preston
Evans, Utah	Raleigh
Farr	Richards
Gibbs	Ricks
Goodwin	Roberts
Green	Robertson
Hammond	Robinson, Kane
Hart	Robison, Wayne
Haynes	Sharp
Halliday	Shurtliff
Hill	Snow
Howard	Spencer
Hughes	Squires
Hyde	Stover
Ivins	Symons
James	Thorne
Johnson	Thurman
Jolley	Van Horne
Kiesel	Varian
Keith	Wells
Kearns	Whitney
Kerr	Williams
Kimball, Salt Lake	Mr. President.

Excused:

Barnes	Maughan
Boyer	Nebeker
Cunningham	Thatcher
Creer	Thoreson
Low, William	Warrum.
Low, Peter	

Mr. HART. Mr. President, I would like to be excused for the balance of the day.

Excused.

Mr. VARIAN. Mr. President, I would like to ask to be excused, I am suddenly and unexpectedly called away this afternoon, and I do not know just when I will return.

Excused.

Prayer was offered by Rev. Dana W. Bartlett, of the Congregational church.

The journal of the previous day was read by the secretary, corrected and approved.

The PRESIDENT. I am requested to excuse the committee on preamble and declaration of rights for a few minutes. They will be excused if there is no objection.

The PRESIDENT. Reports of standing committees are now in order.

The committee on printing presented a report, which was read by the secretary, as follows:

Constitutional Convention,
March 16th, 1895.

MR. PRESIDENT:

Your committee on printing beg leave to report that they have requested and received sealed bids from the publishing houses of Salt Lake City, on printing of 250 constitutional committee reports. The Star Printing Company of Salt Lake City, being the lowest bidder, we recommend that the contract be awarded to them at the rate of $1.95 per page.

Respectfully,
RICHARD G. LAMBERT,
Chairman.

The PRESIDENT. What shall we do with the report, gentlemen?

Mr. LAMBERT. I move that it be adopted.

Carried.

The secretary then read as follows:

Constitutional Hall,
March 16th, 1895.

Mr. President and Members of the Convention:

We, your committee on accounts and expenses, beg leave to report as follows:

Expenses of Convention up to and including Friday, March 15th, 1895, $8,672.51; balance on hand, $21,327.50. Above report does not include expense of printing.

A. C. LUND,
Chairman.

The PRESIDENT. What will you do with the report, gentlemen?

Mr. SQUIRES. Mr. President, I understood these reports were to be made when called for, not daily. I move it be placed on file.

Carried.

The report of committee on apportionment and boundaries:

The secretary then read as follows:

MR. PRESIDENT:

Your committee on apportionment and boundaries recommend that file No. 83 on boundaries be adopted by the Convention. We also recommend that file No. 79 be referred to the committee on municipal corporations. Also that file No, 87 be laid on the table, as it is covered by file No. 83.

ALMA ELDREDGE,
Chairman.

Mr. HAMMOND. Mr. President, I move it be adopted.

Mr. SQUIRES. Mr. President, there is a proposition here to adopt something. I would like to know what it is we are to adopt? I would like to know what it is the committee wants the Convention to adopt?

The PRESIDENT. After it is read, I suppose it goes to the committee of the whole proper. Will we have this read?

Mr. SQUIRES. It depends, Mr. President, upon whether it is a matter to be inserted in the Constitution. We do not know what this file is until we have it read.

Mr. BUTTON. Mr. President, I move that it be read.

The PRESIDENT. It will be read if there is no objection.

The secretary then read as follows:

Commencing at a point formed by the intersection of the thirty-second degree of longitude west from Washington with the thirty-seventh degree of north latitude, thence due west along said thirty-seventh degree of north latitude to the intersection of the same with the thirty-seventh degree of longitude west from Washington; thence due north along said thirty-seventh degree west longitude to the intersection of the same with the forty-second degree of north latitude; thence due east along said forty-second degree of north latitude to the intersection of the same with the thirty-fourth degree of longitude west from Washington; thence due south along said thirty-fourth degree of west longitude to the intersection of the same with the forty-first degree of north latitude; thence due east along said forty-first degree of north latitude to the intersection of the same with the thirty-second degree of longitude west from Washington; thence due south along said thirty-second degree west longitude to the place of beginning.

Mr. SQUIRES: Mr. President, I move this matter be referred to the committee on printing to be ordered printed in the minutes.

Mr. HILL. I move that that be referred to the committee of the whole.

Mr. PIERCE. Mr. President, I would like——

The PRESIDENT. Is there a second to Mr. Squires' motion?

Mr. PIERCE. I would like to have the report of the committee read again.

The secretary read the report.

Mr. PIERCE. Will you indicate what the number of the file was?

The SECRETARY. The file that I read was number 83.

Mr. PIERCE. That is the one that is to be adopted?

Mr. EVANS (Weber). Mr. President, rule 19 makes the disposition of this matter without any action of the Convention.

(Reads rule 19.)

I arise to a point of order; what is the gentleman's motion?

The PRESIDENT. That is the rule, gentlemen; the point of order is well taken.

Mr. PIERCE. Mr. President, there is quite a number of other points that this committee will report. As far as this matter goes, it will follow the rule, as to the other points that it recommends be referred to the committee on municipal corporations, those matters should not go to the printing committee nor the committee of the whole. Will you read the other propositions?

The secretary read file No. 79.

Mr. PIERCE. I move you that that part of the committee report which recommends that this file be referred to the committee on municipal corporations be adopted and a reference made.

Carried.

Mr. PIERCE. Mr. President, I move that that part of the committee report which recommends that file No. 87 lie on the table be adopted.

Carried.

Mr. HOWARD. Mr. President, I wish to be excused.

The PRESIDENT. If there is no objection the gentleman will be excused.

The introduction of ordinances and propositions for insertion in the Constitution.

Mr. CANNON. Mr. President, I move that all propositions received, unless otherwise called for, under suspension of the rules, be read by their titles twice and referred to the appropriate committees.

Carried.

Mr. Corfman introduced a proposition for insertion in the Constitution relative to the seat of government (file No. 89), which was read by the secretary as follows:

Section 1. The Legislature shall have no power to change or locate the seat of government of this State; but the question of the permanent location of the seat of government of the State shall be submitted to the qualified electors of the State at the first general election held after five years from the date of the adoption of this Constitution. A majority of all the votes cast at said election upon said question shall be necessary to determine the permanent location of the seat of government for the State; and no place shall ever be the seat of government which shall not receive a majority of the votes cast on the matter. In case there shall be no choice of location at said first election, the Legislature shall at its first regular session after said first election, provide for submitting to the qualified electors of the State the question of choice of location between the three places for which the highest number of votes shall have been cast at the said first election. Said Legislature shall provide further, that in case there shall be no choice of location at said election, the question of choice between the two places for which the highest number of votes shall have been cast, shall be submitted in like manner to the qualified electors of the State at the next ensuing general election; provided, that until the seat of government shall have been permanently located as herein provided, the temporary location thereof shall remain at Salt Lake City.

Section 2. When the seat of government shall have been located, as herein provided, the location thereof shall not thereafter be changed, except by a vote of two-thirds of all the qualified electors of the State voting on that question, at a general election, at which the question of the location of the seat of government shall have been submitted by the Legislature. The Legislature shall make no appropriations or expenditures for capitol building or grounds until the seat of government shall have been permanently located and the public buildings are erected at the permanent capital, in pursuance of the law.

Said proposition was read a second time by its title and referred to the committee on public building and State institutions not educational.

Mr. Kiesel introduced a proposition for insertion in the Constitution relative to corporations (file No. 90), which was read a first and second time by its title, and referred to the committee on corporations other than municipal.

Mr. Chidester introduced a poposition relative to the protection of bona fide settlers on school lands of this State (file No. 91), which was read a first and second time by its title and referred to the committee on education and school lands.

Mr. Robison (Wayne) introduced a proposition for insertion in the Constitution on forestry (file No. 92), which

was read a first and second time by its title and referred to the committee on public lands.

Mr. Bowdle introduced a proposition for insertion in the Constitution relative to giving the Legislature power to control rates to be charged by railways and other corporations (file No. 93), which was read a first and second time by its title, and referred to committee on corporations other than municipal.

Mr. Thompson introduced a proposition for insertion in the Constitution relative to regulating corporations (file No. 94), which was read a first and second time by its title.

Mr. THOMPSON. Mr. President, I move that it be referred to the legislative committee. That is the proper committee.

The PRESIDENT. If there is no objection it will be so referred.

Mr. LAMBERT. Mr. President, some days since there were some strictures put upon the printing. That day, after our adjournment, I received this communication which I have in my hand; as chairman of the printing committee, I would like to have the privilege of reading it.

(Communication read.)

Mr. WHITNEY. Mr. President, may I ask what order of business we have reached?

The PRESIDENT. We are on motions and resolutions.

Mr. CANNON. Mr. President, I move we adjourn.

Seconded.

Mr. WELLS. Mr. President, I desire to ask a question. I think it was three days ago that we ordered printed a list of the standing committees, rules of the Convention and the Enabling Act. I have not received a copy of that yet, although I would like very much to get one.

Mr. LAMBERT. The printer contracted to have them here at 2 o'clock to-day. He just telephoned they will be here in a few minutes.

Mr. WHITNEY. Mr. President, the reason I ask what order of business we had reached, is because I want to make a motion. I trust we have not passed that yet.

The PRESIDENT. We have passed it; there is a motion to adjourn.

Mr. WHITNEY. Before I could get the floor I was confronted with that.

Mr. CANNON. Mr. President, I will withdraw my motion to adjourn in order to let the gentleman present his matter.

Mr. WHITNEY. I move that the committee on rules take into consideration the advisability of providing an additional clerk to assist the clerk of the Convention. If I may have a second I will state my reasons.

Mr. HILL. I second the motion.

Mr. WHITNEY. In my remarks of yesterday, I do not wish to be reported as making any reflections or saying anything to the discredit of the clerks of the Convention or of the officers in any way. I believe the corps of clerks is an overworked body. This Convention is two or three times the size of the legislative body, and yet we have provided to handle the business that comes up here, only one set of clerks; and in speaking as I did, it was not to find fault with the clerks so much as to show that another clerk was needed. I suggest that, instead of putting this labor upon the committee, the labor of revising the minutes—upon the committee on compilation and arrangement, or any other committee, the proper way would have been to elect another clerk—that is, an additional clerk, to render assistance that I think they need; I therefore, make this motion, disclaiming any intention to reflect upon the clerks or to wound the feelings of anyone, and I move that this matter be taken under consideration, for I think you will find out before you get through that the clerks need more assistance.

Mr. EICHNOR. Mr. President, I think this motion should pass. Mr. Whitney

is certainly right when he spoke of this large body having only as many clerks as we had in our Legislature where there are possibly twelve in the upper house and twenty-four in the lower. If you examine the proceedings of various constitutional conventions, which approach the number that we have in our Convention, you will find that they have about double the number of clerks that we have. This is certainly not a motion for extravagance; it is certainly a motion that every member should vote for. It is a fact that the minutes of our sessions, if they are ever published in book form—you will find some of the proceedings there, that no man on earth can tell what some of the members meant on this floor, when they got up and attempted to raise parliamentary points and introduced motions. I will defy any man, if those minutes are ever published, to find a worse jumble, than some of the delegates made in their motions, in any other Convention. I believe a great deal of this carping and criticism should apply to us. A great number get up—some of us get up and speak before we are recognized by the president. We fire in a motion before we are recognized. Let everything be done decently and in order; and I am in favor of this motion to give the clerks more assistance. And if they need another one besides this man, I am willing to vote for another one.

Mr. ELDREDGE. Mr. President, I move that we adjourn.

Mr. CANNON. That is not seconded.

SEVERAL DELEGATES. Second the motion.

Mr. EICHNOR. Vote it down.

The PRESIDENT. Is the motion to adjourn seconded?

Mr. WHITNEY. The motion was seconded that I made.

The PRESIDENT. A motion to adjourn is always in order.

Mr. VAN HORNE. Mr. President——

The PRESIDENT. No discussion on this.

Mr. VAN HORNE. I understand there was a motion to adjourn, that was withheld for the announcement of committee meetings. I arise to a point of order. Any motion while that motion is pending is out of order.

The PRESIDENT. A motion to adjourn is in order at any time.

Mr. VAN HORNE. I understand, but I understand that a motion to adjourn was made by Mr. Cannon and was withheld in order that the announcement of committee meetings might be made.

Mr. SQUIRES. Mr. Cannon distinctly withheld his motion to adjourn to allow Mr. Whitney to make this motion as he has made it.

Mr. THURMAN. Mr. President, I make the point that a gentleman or a member on this floor cannot withhold a motion for another motion to intervene. If he withholds his motion, he withdraws it altogether. He can only make it by renewing it again.

Mr. CANNON. Vote it down.

The question on the motion to adjourn was then put and lost by a rising vote of 23 ayes to 53 noes.

Mr. CANNON. Mr. President——

The PRESIDENT. The motion in order is Mr. Whitney's motion to employ more help.

Mr. CANNON. I move the previous question.

Mr. THURMAN. I would like to ask for information, if the president——

Mr. EVANS (Weber). Mr. President——

Mr. THURMAN. It is for the election of a clerk or a reference of the matter to a committee.

Mr. WHITNEY. To refer it to a committee.

The PRESIDENT. The question is on the previous question.

Mr. EVANS (Utah). Has there been any second? I did not hear it.

The PRESIDENT. No, I guess there wasn't. I don't call it to mind. Mr. Evans has the floor.

Mr. EVANS (Utah). Mr. President,

perhaps I am under a misapprehension of this motion. Is the motion that you made, Mr. Whitney, to refer this matter to a committee or is it to proceed to the election of another clerk?

Mr. WHITNEY. I will re-state it.

Mr. EVANS (Utah). I will be pleased to hear it.

Mr. WHITNEY. My motion was to this effect, that the committee on elections take into consideration the advisability of providing an additional clerk to reinforce those already in office.

Mr. EVANS (Utah). Mr. President, I am opposed to the motion. I have not been convinced yet that we need more committee clerks. Reference has been made here by the gentleman from Salt Lake that we have been speaking one, two and three at a time. That may be true, but we ought not have done so. We have rules here and we ought to enforce them, and after we have done that, and we shall find then that our committee clerks are not able to transact the business of this Convention, then I shall be in favor of it, but not until then. Our rules say here——

Mr. CANNON. Mr. President, I arise to a point of order.

The PRESIDENT. State the point of order.

Mr. CANNON. My point of order that the motion is not to appoint another committee clerk, but an assistant clerk for our secretary. The gentleman is speaking of the committee clerks.

Mr. EVANS (Utah). It is a minute clerk. That is what I am objecting to.

The PRESIDENT. The gentleman moved that the matter be referred to the committee on rules to consider the propriety of employing additional help to the clerks.

Mr. EICHNOR. Mr. President, I want to ask a question.

The PRESIDENT. Mr. Eichnor has the floor if the gentleman is through.

Mr. EVANS (Utah). I just yield for the question only.

Mr. PIERCE. Mr. President, I arise to a point of order. Mr. Eichnor has spoken once on this question and I have had no chance.

The PRESIDENT. Mr. Eichnor will take his seat. The point of order is well taken.

Mr. EICHNOR. I am not endeavoring to speak, I simply want to ask him a question.

The PRESIDENT. The gentleman will ask his question.

Mr. EICHNOR. I will ask the gentleman from Utah County, if the delegates do not observe strict parliamentary rules and laws, whether it is right to criticise the clerks that sit up there for their work?

Mr. EVANS (Utah). I decline to answer the question, for the reason that it has no bearing on this matter. Rule No. 8 says: Any member rising to debate, give a notice, make a motion or present a paper, shall not proceed until he shall have addressed the president, and been recognized by him as entitled to the floor. I submit to you, Mr. President, that if that rule shall be enforced, as I believe it ought to be, that no one will be speaking only he who has a right to speak, and it is just as easy for our clerk to take the minutes from one man speaking upon the question in a body of this kind, as it is if there were but five persons there talking to him; and I think that the argument that has been advanced by reason of this large body, does not have any good effect. As I stated before, however large the body may be, our rules provide that it must be done in order, and if this rule shall be enforced, there is no need of an assistant clerk. I believe we have plenty as it is, and I am opposed to the motion.

Mr. PIERCE. I am in favor of Mr. Whitney's motion and for this reason, it only involves the question of an investigation of the point whether we need other clerks or not.

Mr. WHITNEY. That is it.

Mr. PIERCE. Before this Convention

is called upon to pass upon this question, this committee is asked to report on the advisability of it. We cannot now, in this Convention, state whether these clerks are working more than they should, or whether we put more duties upon them than should be put upon them, until after we have had an investigation, and it is not fair—it is manifestly unfair, gentlemen of this Convention, to criticise our clerks, who, I believe, are doing the best they can, until this matter has been referred to the committee, and all this motion of the gentleman from Salt Lake contemplates is the reference to a committee, and it is a proper question, and I think it should be passed, and then we can determine whether or no we should have the extra clerk. I am in favor of it, and do not think that any opposition should be put into it.

Mr. GOODWIN. Mr. President, I am in favor of the motion, and I wish to explain that if I said anything yesterday that seemed like a censure to anybody, I meant it yesterday for Mr. Eichnor and Mr. Pierce. [Laughter.]

Mr. CANNON. I move the previous question.

Seconded.

The PRESIDENT. The previous question is called for, is there a second?

Mr. BUTTON. Mr. President, there is one thing——

The PRESIDENT. Mr. Button you are out of order.

Mr. BUTTON. I arise to a point of order. The point of order has just been stated by the gentleman now. Here is a motion that comes up and may——

Mr. EICHNOR. Mr. President, I arise to a point of order. He was not recognized by the chair.

Mr. BUTTON. Nor was the gentleman who made the motion.

The previous question was ordered.

The PRESIDENT. All that are in favor of the motion of Mr. Whitney of referring this matter of another clerk to the committee on rules, will say aye: those opposed, no.

Carried.

Mr. CANNON. I move we adjourn.

Carried.

The Convention then at 3:07 o'clock p. m. adjourned.

FIFTEENTH DAY.

MONDAY, March 18, 1895.

The Convention was called to order at 2 o'clock p. m. by President Smith.

The secretary called the roll and the following named members were found in attendance:

Adams	Lambert
Allen	Larson, L.
Anderson	Larson, C. P.
Barnes	Lemmon
Bowdle	Lewis
Boyer	Low, William
Brandley	Low, Peter
Button	Low, Cache
Buys	Lund
Call	Maeser
Cannon	Mackintosh
Chidester	Maloney
Christianson	Maughan
Clark	McFarland
Coray	Miller
Corfman	Morris
Crane	Moritz
Creer	Murdock, Beaver
Cunningham	Murdock, Wasatch
Cushing	Murdock, Summit
Driver	Nebeker
Eichnor	Page
Eldredge	Partridge
Emery	Peters
Engberg	Peterson, Grand
Evans, Weber	Peterson, Sanpete
Evans, Utah	Pierce
Farr	Preston
Francis	Raleigh
Gibbs	Richards
Goodwin	Roberts
Green	Robertson
Hammond	Robinson, Kane
Hart	Robison, Wayne

Haynes	Ryan
Halliday	Shurtliff
Heybourne	Snow
Hill	Spencer
Howard	Squires
Hughes	Stover
Hyde	Strevell
Ivins	Symons
James	Thompson
Johnson	Thoreson
Jolley	Thurman
Kiesel	Van Horne
Keith	Warrum
Kearns	Wells
Kerr	Whitney

Kimball, Salt Lake Williams.
Kimball, Weber

Prayer was offered by Rev. J. D. Gillilan, of the Methodist Episcopal Church.

The minutes of the thirteenth day's session were read, corrected and approved.

Petitions and memorials.

Mr. WHITNEY. Mr. President, I hold in my hand a memorial of the Woman's Suffrage Association of Salt Lake City. I move that it be read in full and referred to the committee on elections and rights of suffrage.

The secretary read the same as follows:

The undersigned delegates of the Woman's Suffrage Association of Salt Lake County, appointed to represent that association in presenting the memorial to your honorable body, respectfully state, that the women of said association, together with all the women of the Territory of Utah, are at present deprived of the privileges of American citizenship and the right of suffrage, notwithstanding the majority of them are native born citizens of the United States. We further represent that though amenable to the laws and pay taxes for the support of the municipal and territorial government exactly the same as male citizens, yet we are not permitted a voice or vote in the levying or expenditure of said taxes nor in making the laws by which we are governed.

We further represent that though a few women may not be willing to exercise the right of suffrage, we believe that the majority of the women of this Territory desire and will conscientiously use this great privilege of citizenship, and that it is not just that the large number who desire it should be longer deprived of their rights as citizens, because of the few who are indifferent.

We rejoice that both of the great political parties in Utah have declared in favor of equal suffrage, and we now ask that the pledges made to the women of Utah be kept and that the new State of Utah may have a Constitution framed upon the basis of justice and privileges for all citizens.

Believing that you are actuated by sentiments of true liberty and justice and because you have solemnly pledged yourselves to the enfranchisement of the women of this Territory, we respectfully request that you insert a clause in the Constitution of the State of Utah, conferring upon women the right of suffrage, and your memorialists will ever pray.

Ellen B. Ferguson, Elizabeth J. MacFarlane, Mary E. Irvine, May P. Silver, Jemima R. Midgley.

The memorial was referred to the committee on elections and rights of suffrage.

Mr. RICHARDS. Mr. President, I have the honor to present a memorial from the Suffrage Association of Utah Territory, asking for the equal suffrage for men and women. I ask that the memorial be read and referred to the committee on elections and rights of suffrage.

The memorial was read as follows:

To the Honorable Members of the Constitutional Convention of Utah:

We, your petitioners and memorialists representing the great majority of the women of Utah, and more particularly as the official representatives of the great woman organizations of Utah, numbering in aggregate membership over thirty-five thousand, viz:

The Utah Suffrage Association, auxiliary to the National American Woman's Suffrage Association, the National Woman's Relief Society, and the Young Ladies' National Mutual Improvement Associations, these thousands of women standing in a general way, or in virtue of direct official relationship, as our constituents, we your memorialists, speak in their names, and in behalf of the women of Utah, herewith present the woman's cause.

It is a matter of congratulation that in these closing years of the nineteenth century, the cause of woman can, without the stigma of partisanship, be laid before a body of chosen men to the work

of creating a new sovereignty within the galaxy of states as an equal member of the indissoluble Union. The men of Utah, in their respective parties, have, with equal unanimity, said that woman shall be accorded equal rights and privileges of citizenship, that sex distinction shall no longer be a ban and a bar to equal opportunity with men to exercise the God given power and capabilities which women are endowed for purposes of equal self government and equal enjoyment of the inalienable rights of life, liberty, and the pursuit of happiness. We take it that the men of Utah have spoken honestly, sincerely, conscientiously, as men, to that equally large number of citizens who are now disfranchised, who are now deprived of authority to speak a word or cast a vote in the framing of an organic law which determines their personal and property rights, their civil and political status in the social organism.

We are glad to feel assured that our brothers are dealing honestly and righteously with us, and that they will ordain truth and justice in the name of God and humanity; and we are happy, too, in the belief that these overtures made by the men of Utah, are in line with the onward march of civilization, that the bow of promise is rising higher and brighter in the heavens of human hope, that with the elevation and emancipation of woman, "the plans of God are ripening with the process of the suns." And we say to you that we contemplate no rival sovereignty, no sphere peculiar and apart, no conflicting regime or antagonistic legislation, no hostile policy or divided councils. No, the woman movement means only true human progress, it means higher and truer harmony, more genuine and enlightened fellowship, more real co-operation, more vital and perpetual union. The key and the clue to all true progress is the large harmony that the Infinite Spirit is breathing into the rising grandeur of human development.

As constitution makers, as framers of the chart that shall guide us on what we hope to be a long and prosperous future, you will cherish in your deliberations a sacred regard for the principles of liberty, for those undying axioms that we have laid at the foundations of our temple of freedom. We have thousands of women in Utah who are property holders and taxpayers in their own right. Probably no other state furnishes as large a roll of taxpaying women. "Taxation without representation is tyranny." This was the key note, the bugle call of the revolutionary fathers in their struggle for liberty. Says James Otis, in 1764, in one of the pamphlets that made our independence. 'The very act of taxing, exercised over those who are not represented, appears to me to be depriving them of one of their most essential rights. For one civil right is not worth a rush after a man's property is subject to be taken from him at pleasure without his consent. If a man is not his own assessor in person, or by deputy, his liberty is gone." Hon. Charles Sumner, in his speech on March 7th, 1866, endorses the declarations of James Otis, and he says, "Stronger words for universal suffrage could not be employed." His argument is that if men are taxed without being represented they are deprived of essential rights.

These axioms are as clear as sunlight, and it would be in violation of the fundamental principles of our institutions for the men of Utah to frame laws whereby women propertyholders shall be taxed without their consent, given through such represention as is accorded to men as a condition precedent to their being taxed.

Again, all our constitutions, either in terms or in substance, commence their preambles with the comprehensive formula, "We the people." Our government, "of the people, for the people and by the people."

Whatever the status of women may be, they are at least a part of the people. As such, the government provides a place for them and by no form or principle of reasoning can they be deprived of such rights and privileges as inure to men under government, without at the same time destroying the natural rights which men hold for themselves to be inviolate.

Furthermore, by the Declaration of Independence, the existence of government hinges upon "the consent of the governed." This consent is to be given through the form of provisions whereby governments are made and administered. This consent goes to the framing of the constitution, to the enactment of laws under that constitution and to the administration of those laws; and there can be no consent without representation. Hence, the disfranchisement of half the people and a large proportion of taxpayers and creators of wealth is tyranny pure and simple, even though it be under the shadow and in the name of liberty and free government.

But we seek not to weary you with the recital of axioms; what we desire is, that we may uphold your hands in revealing them to the world and making them effective in human government. Jefferson laid a deep foundation for human freedom in planting equal rights at the roots of the tree of liberty; but it was given to Lincoln to make these principles most effective, and to cause

them to shine as the noonday sun in the firmament of American history.

He said, "I believe the day is not far distant when woman will wield the ballot to purify and ennoble politics. I go for all sharing in the government who assist in bearing its burdens, by no means excluding the female."

To you, gentlemen of the Utah Constitutional Convention, it is given to make other deep and fundamental principles of our government effective in the administration of law. We do not doubt your ability and willingness to do so. But we come to greet you in behalf of the women of Utah to strengthen your hand and to assure you that we are keenly alive to the importance and far reaching consequences of your labor in our behalf.

And above all we would impress you with the fact that the women of Utah are by no means indifferent spectators of the drama that is now being enacted. We believe that every age has its rising and its setting sun. We believe that the woman movement has come because the sun of our civilization has thrown across our social horizon the dawning of a new and more glorious era in the history of man. We believe that "through the ages an eternal purpose runs," and that in the full enfranchisement of women there will come a larger, truer sovereignty, a national conscientiousness in fuller harmony with the temporal welfare and happiness of man. We believe that both men and women will be benefited morally, sociably, and economically. We believe that now the time clock of American destiny has struck the hour to inaugurate a larger and truer civil life, and the future writers of Utah history will immortalize the names of those men who, in this Constitutional Convention, define the injustice and prejudice of the past, strike off the bonds that have heretofore enthralled woman, and open the doors that will usher her into free and full emancipation.

We, therefore, ask you to provide in the Constitution, that the rights of citizens of the State of Utah to vote and hold office shall not be denied or abridged on account of sex, and that male and female citizens of the State shall equally enjoy all civil, political, and religious rights and privileges.

Signed: Emmeline B. Wells, President of the Woman's Suffrage Association of Utah. Emmy S. Richards, Vice President; Zina D. H. Young, President of the National Woman Relief Society, Jane S. Richards, Vice President; Ellen B. Ferguson, Salt Lake County Suffrage Association; Electa Bullock, Utah County Association; Lucy A. Clark and Jennie Nelson, Weber County Association; Celia Bean, Sevier; Silvia L. Cox, Sanpete; M. A. Grover, Juab; M. H. Cannon, Salt Lake; E. T. Stevenson, Salt Lake; Louisa L. Wright, Joanna Milton, Cora G. Carlton, Isabella Horne, Ada Williams, Kate S. Hilliard, S. E. Anderson, Sarah A. Howard, Elizabeth J. MacFarlane, Mary E. Irvine, Jemima B. Midgley, Lydia D. Alder, Maria M. B. Horrocks, E. K. Peke, Rebecca H. Boolan, Margaret A. Caine, Ella W. Hyde, Jane A. Hatch, Rose E. Hatch, Emily Stevenson, Priscilla J. Riter, Mattie A. Brieger, Aurelia S. Rogers, Monica Secrist, Harriet A. Badger, Mary A. Freeze, Mary Elizabeth H. Shipp, Mary J. Holden, Josephine Howard, Annie Farley, Ellen C. Clawson, Mrs. Katie L. Paxman, Mary L. Moser, Susan Grant, Sarah H. Roberts, Harriet Beers, Eliza Jenkins, Hannah Jenkinson, Christina Atley.

The memorial was referred to the committee on elections and rights of suffrage.

Mr. HART. Mr. President, I have a petition here from 750 of the residents of Cache Valley. I move that the petition be read and referred to the committee on corporations other than municipal.

The secretary read the same as follows:

To the Constitutional Convention of the Territory of Utah:

GENTLEMEN:—The undersigned respectfully petition your honorable body to consider the advisability of placing in the Constitution of the State of Utah a clause to prohibit the forming of trusts or combines to control the prices of the necessaries of life.

The petition was referred to the committee on corporations other than municipal.

Mr. PIERCE. Mr. President, I ask the Convention to excuse the committee on education and public lands for a while. They desire to continue the work of the morning.

The PRESIDENT. If there is no objection the committee will be excused.

The committee on printing submitted the following report:

Convention Hall, March 18th, 1895.

MR. PRESIDENT:

Your committee on printing beg leave to report that they have received bids from bookbinders of the city for the

making of covers or holders for the minutes and reports of the Convention, and recommend that the contract be awarded to Kelly & Co., who offer to make 220 for $32.50.

LAMBERT,
Chairman.

The report was adopted.

Mr. WELLS. Mr. President, I beg leave to submit the report of the committee on preamble and declaration of rights, and in doing so, I wish to explain that while the committee have given the subject as much consideration as time would permit, they have necessarily been somewhat hurried and hampered by the knowledge or the understanding that this Convention expected them to submit the result of their work first; that is, before any of the other committees had presented theirs, so that we are free to admit that the instrument is not perfect. We do not claim perfection for it by any means. We are aware that the instrument will be subjected to the fusilade of a hundred guns, and we have endeavored to construct it with a view to withstanding such bombardment, but, if it does not withstand it, we have this consolation, gentlemen, that like gold in the furnace, it will be purified and improved by the fire. And before you begin your bombardment, I desire to say that the committee have endeavored to keep this fact well in mind, that in their opinion a constitution should not be a code of laws, but rather the magna charta of our liberties, upon which the laws may be afterwards founded. If there are rights dear to the people of Utah which we have not enumerated, we hope that you gentlemen will discover and insert them. And if, on the other hand, we have inserted rights which ought to be left to the Legislature, we shall not be offended if they are stricken out. Our desire is that the people of this commonwealth shall have all the rights and all the privileges enjoyed by the people of the other states of this Union, all the rights which a free and enlightened people, who have been too long kept in territorial bondage, have the right to expect. And now, gentlemen, we recommend our work to you in the hope that it may meet your wishes and the needs of the people of our great Territory and the future State of Utah, and in the further hope that when this Convention shall have finished its work, the declaration and preamble, as well as the entire Constitution, may be as perfect as it is possible for human brain and ingenuity to make it; a Constitution that may be looked to by those states which may follow us into the Union as a model for them to pattern after, one that it may be said of that nothing need be added to it and nothing taken away. I have one request, gentlemen, to make, and that is that Mr. Whitney, of Salt Lake County, who has all along acted as the secretary of our committee, and who is therefore entirely familiar with the construction and rhetoric of the document, be permitted to give it its first reading.

The PRESIDENT. Under the rule it goes to the committee of the whole.

Mr. EVANS (Weber). Mr. President, under the rule, it is ordered printed and referred to the committee of the whole.

Mr. WELLS. Mr. President, we don't insist upon this being read now, if the Convention don't wish it. But if it is read now, that Mr. Whitney do the reading. That is all.

The report was read by the secretary by its title and under the rules went to the committee on printing.

Mr. VAN HORNE. Mr. President, that being the initial work of our Constitution, I move you that the rules be suspended and that the report of the committee on preamble and declaration of rights be read in full in this Convention.

Mr. KEARNS. I second the motion.

Mr. HART. Mr. President, I would prefer to see that go in the regular order to the committee of the whole. We will have that printed, if it is not

already printed, and we can read it at our leisure, It is not worth our while, unless we are going to consider this in the committee of the whole now to have it read.

Mr. EVANS (Weber). Mr. President, it seems to me that it would be an entirely useless thing to have this read before this body. It will be printed. This is an instrument which ought to be taken by each member and carefully studied. A mere casual reading of the instrument at this time would only occupy considerable space and at the same time would be purposeless. I am informed that the committee have taken steps to have it printed and that it is already in type. I think this is a matter which ought to be studied carefully by the members. If every report is going to take this course, it is going to consume a long space of time.

Mr. SQUIRES. Mr. President, if what the gentleman from Weber has said is true, that this report is in type, I move as an amendment to this question that it be distributed to the members so that we may have time to examine it.

Mr. LAMBERT. Mr. President, I see by looking at our rules that every ordinance, proposition or other matter reported by any committee for insertion in the Constitution, shall, without further orders, be printed and referred to the committee of the whole. I think it is a waste of time to read this here now.

The amendment was agreed to.

Introduction of ordinances and propositions for insertion in the Constitution.

Mr. CHIDESTER. Mr. President, I move that the rules be suspended in all of these cases and that the propositions be read by their titles and referred to the proper committees.

The motion was agreed to.

Mr. Maloney introduced a proposition relative to the committee on judiciary (file No. 99), which was read a first and second time by its title and referred to the committee on judiciary.

Mr. Maeser introduced a proposition for insertion in the Constitution relating to a system of public instruction (file No. 98), which was read a first and second time by its title and referred to committee on education and school lands.

Mr. Bowdle introduced a proposition for insertion in the Constitution relative to exemptions of homesteads and other property to heads of families (file No. 100), which was read a first and second time by its title.

The PRESIDENT. It will go to the committee on judiciary.

Mr. EICHNOR. Mr. President, it is certainly an error to refer that to the judiciary committee. I am not a member of the judiciary committee, but it is certainly an error to refer it to the judiciary. If you refer that to the judiciary, you might refer every proposition to the judiciary and let them make the laws.

Mr. CANNON. What committee would you refer it to?

Mr. EICHNOR. I think it goes to Mr. Cannon's committee, revenue, taxation and public debt.

Mr. HART. Mr. President, other propositions on the same subject have gone to the committee on judiciary. I think there should be a uniformity.

Mr. EVANS (Weber). Mr. President, I admit in legislative bodies it ought to go to the committee on judiciary, but in this constitution making, the judiciary will have absolutely nothing to do with exemptions. I move that it be referred to the committee on revenue, taxation and public debt.

The motion was agreed to.

Mr. Bowdle introduced a proposition providing liens of mechanics and others (file No. 101), which was read a first and second time by its title and referred to the committee on labor and arbitration.

Mr. Morris introduced a proposition

relative to permanent location of the capital (file No. 102), which was read by the secretary as follows:

Section 1. The city of Salt Lake is hereby declared to be the seat of government of this State and shall so remain until changed by law; but no law changing the seat of government shall be valid or binding unless the same be approved and ratified by a majority of the qualified voters of the State voting therefor at a general election, under such regulations and provisions as the Legislature, by a two-thirds' vote of the members elected to each house, may provide, submitting the question of change to the people.

Mr. THURMAN. What constitution is that taken from?

The SECRETARY. No reference is made.

The resolution was referred to the committee on public buildings and state institutions not educational.

Mr. Strevell introduced a proposition regarding the election of United States senators (file No. 103), which was read by the secretary as follows:

It shall be the duty of the Legislature to elect United States senators in conformity with the Constitution and laws of the United States during the first thirty days of the session of the Legislature at which a senator or senators are to be elected.

The proposition was read a second time by its title and referred to the committee on legislative.

Mr. Clark introduced a proposition relative to exemption from taxation (file No. 104), which was read a first and second time by its title and referred to the committee on revenue, taxation and public debt.

Mr. Symons introduced a proposition relative to taxation (file No. 105), which was read a first and second time by its title, and referred to the committee on revenue, taxation and public debt.

Mr. Cushing introduced a proposition relative to the veto power of mayors, (file No. 106), which was read a first and second time by its title and referred to the committee on municipal corporations.

Mr. Cushing introduced a proposition relative to the indebtedness of cities (file No. 107), which was read a first and second time by its title and referred to the committee on municipal corporations.

Mr. CANNON. Mr. President, I think this proposition ought to come to the committee on revenue, taxation and public debt. I think it especially applies to that. I would ask if the gentleman has any reasons for requesting it to go to the committee on municipal corporations?

Mr. CUSHING. I would prefer it to go to the committee on municipal corporations.

The PRESIDENT. If there is no objection it will go to the committee on municipal corporations?

Mr. Shurtliff introduced a proposition requiring the county officials to file sworn statements of moneys received and disbursed (file No. 108), which was read a first and second time by its title and referred to the committee on municipal corporations.

Mr. Stover introduced a proposition relative to poll tax (file No. 109), which was read a first and second time by its title and referred to the committee on revenue, taxation and public debt.

Mr. Kimball, of Salt Lake, introduced a proposition relative to equitable arbitration to settle difficulties between employers and employes (file No. 110), which was read a first and second time by its title and referred to the committee on labor and arbitration.

Mr. Miller introduced a proposition relative to irrigation (file No. 111), which was read a first and second time by its title and referred to the committee on water rights, irrigation and agriculture.

Mr. Miller introduced a proposition relative to the use of public money (file No. 112), which was read a first and second time by its title and referred to the committee on revenue, taxation and public debt.

Mr. Creer introduced a proposition relative to sale and rentals of public lands (file No. 113), which was read a first and second time by its title and referred to the committee on public lands.

Mr. Allen introduced a proposition relative to labor (file No. 114), which was read a first and second time by its title and referred to the committee on labor and arbitration.

Mr. Brandley introduced a proposition providing for popular initiative and referendum (file No. 115), which was read by the secretary as follows:

Section 1. The popular initiative may be used when —— voters of the State of Utah present a petition for the enactment of the laws, abolition or alteration of certain law passed by the Legislature of the State of Utah.

Section 2. State laws shall be submitted for acceptance or rejection by the people if the demand is made by —— voters of the State.

The same was read a second time by its title, and on motion of Mr. Hart, referred to the committee on legislative.

Mr. Thoreson introduced a proposition concerning the removal of county seats, division of counties, county officers and their compensation (file No. 116), which was read by the secretary.

Said proposition was read a second time by its title and referred to the committee on municipal corporations.

Mr. KIESEL. I desire to be excused to-day.

The PRESIDENT. If there is no objection Mr. Kiesel will be excused.

Mr. Page introduced a proposition (by request) relating to the judiciary (file No. 117), which was read a first and second time by its title, and referred to the committee on judiciary.

Mr. THURMAN. Does that say that is presented by request? Does the gentleman endorse the request? Does he take the resposibility to endorse it? I would like the fact to be known, because I think it is out of order if he does not assume it.

The PRESIDENT. Under the rule it should be endorsed.

The SECRETARY. He put his name on it.

The PRESIDENT. That is all right; he put his name on it—he has endorsed it.

Mr. Maloney introduced a proposition relative to compact with the United States (file No. 118), which was read a first and second time by its title and referred to the committee on federal relations and compact.

Special orders.

Mr. SQUIRES. Mr. President, I suppose it is contemplated in our rules, under this order of business, the Convention should resolve itself into committee of the whole. That was my understanding when Mr. Varian presented the rules. I move the Convention now resolve itself into committee of the whole to consider file 83, referred to the committee on Saturday.

The motion was agreed to.

The PRESIDENT. We will go into committee of the whole. I will ask Mr. Kimball, of Ogden, to take the chair if his health will warrant it.

Mr. EVANS (Weber). Mr. President, I would like to move a reconsideration of the action that we have taken. I think we are entirely out of order. I voted for it upon a misapprehension. We were upon the sixth order of business as I understand it, special orders.

The PRESIDENT. Yes.

Mr. SQUIRES. We had not passed unfinished business.

Mr. EVANS (Weber). We cannot go into committee of the whole until we dispose of the business of the Convention, then under the order of motions and resolutions, it might be in order to move that we go into committee of the whole, but we cannot do that at present, without disarranging the order of business. I therefore move a reconsideration of the vote by which we agreed to go into committee of the whole.

Mr. ROBERTS. Second.

Mr. SQUIRES. Mr. President, the gentleman from Weber was a member of the committee on rules and also a member of the sub-committee which drafted the rules, and was present when the rules were adopted and must have heard the explanation made by the chairman, which I noted upon my copy of the rules, that the purpose of this was not only to finish up other unfinished business, but to go into committee of the whole. I noted it upon my copy of the rules at the time. That is the reason the motion was made, Mr. President.

Mr. HART. Mr. President, I am opposed to the reconsideration of the motion or at least to decide not to take up this matter until it comes to the order of motions and resolutions, for the reason that if we do, that will have to pass to the third reading to-day without having anything to read. We go into the committee of the whole, now; reports from the committee of the whole can be considered then on the third reading and in the interests of economy of time to get down to the work we have to do, I would vote in favor of remaining in committee of the whole, or going into committee of the whole now.

The motion to reconsider was lost.

The Convention then resolved itself into committee of the whole, with Mr. Kimball, of Weber, in the chair.

COMMITTEE OF THE WHOLE.

The CHAIRMAN. Gentlemen of the Convention, the matter before the committee of the whole is file No. 83, entitled, "boundaries," reported from the committee on apportionment and boundaries. Under the rules adopted by the Convention, I will read file 83.

Reads file 83. Article one.—Boundary.

Sec. 1. The boundary of the State of Utah shall be as follows, to-wit:

Commencing at a point formed by the intersection of the thirty-second degree of longitude west from Washington with the thirty-seventh degree of north latitude, thence due west along said thirty-seventh degree of north latitude to the intersection of the same with the thirty-seventh degree of longitude west from Washington; thence due north along said thirty-seventh degree west longitude to the intersection of the same with the forty-second degree of north latitude; thence due east along said forty-second degree of north latitude to the intersection of the same with the thirty-fourth degree of longitude west from Washington; thence due south along said thirty-fourth degree of west longitude to the intersection of the same with the forty-first degree of north latitude; thence due east along said forty-first degree of north latitude to the intersection of the same with the thirty-second degree of longitude west from Washington; thence due south along said thirty-second degree west longitude to the place of beginning.

Mr. WHITNEY. Mr. Chairman, may I ask here why this is article one?

The CHAIRMAN. I am not familiar with the object of the committee in calling it article number one; it is what they reported on Saturday, with a recommendation that it be adopted as a part of the Constitution.

Mr. WHITNEY. I am under the impression that the declaration of rights is article one, I may be mistaken.

Mr. WELLS. Make it article two.

Mr. IVINS. Mr. Chairman, preliminary to a motion that I am about to make I wish to say that at the last session of the Legislature of this Territory a memorial was introduced asking the Congress of the United States to change the southern boundary line of the Territory of Utah, extending it to the Grand Canyon of the Colorado. A bill providing for this change of boundary was introduced by Mr. Rawlins, the delegate from Utah. The legislature of the Territory of Arizona is now in session and a bill is pending before that body providing for this change and asking that the boundary line of the two territories be fixed at the Grand Canyon of the Colorado. The legislature of the Territory of Arizona will adjourn on

the 26th of this month and in order that we may be advised of the action taken by them I wish to move that this file 83 be laid upon the table. It can be taken from it at a subsequent time when we shall have more fully learned what the action of the legislature of Arizona is.

Mr. ROBINSON (Kane). I second the motion.

Mr. CHAIRMAN. I desire to read the first section of the Enabling Act.

(Reads same)

I am inclined to rule that this Convention can take no action contingent upon the action of Arizona or any other territory or state.

Mr. SQUIRES. Mr. Chairman, I just want to ask an explanation from the gentleman from Washington, as to how it happens that the Territory of Arizona is going to be allowed to change this boundary line. Is that the result of a bill passed by Congress putting that power in their hands?

Mr. IVINS. I will answer, Mr. Chairman, for the benefit of the gentleman, that when a memorial was introduced in the Congress of the United States asking for this change, the only objection that was interposed was that the consent of the people of Arizona who were immediately interested in this question must first be obtained. The memorial that is before the legislature of Arizona simply memorializes the Congress of the United States to make this change in conformity with the memorial that we have already presented.

Mr. SQUIRES. Mr. Chairman, I am to understand then, from that that no final action could be taken on this memorial until the next session of Congress, and we would not be authorized to change our boundary line until the bill had passed Congress. For that reason I do not see any use in delaying our proposition until the 26th or any other day.

The CHAIRMAN. I have ruled Mr. Ivins out of order under the Enabling Act.

Mr. JAMES. Mr. Chairman, may I say a word? A similar case to this came up in Congress——

The CHAIRMAN. There is nothing pending before the house.

Mr. JAMES——Relative to the State of Nevada and the first boundaries of the State of Nevada——

The CHAIRMAN. There is nothing pending.

Mr. JAMES. I ask if I might make a statement, merely for the benefit of the house.

The CHAIRMAN. With the consent of the house, yes.

Mr. JAMES. The Convention fixed the boundary at 38 north latitude, or where Congress might thereafter fix it, and Congress did thereafter fix it at 37, and I think Mr. Ivins' proposition should be made in that way, that it could be left open so that Congress could hereafter fix the boundary in accordance with what change they might make.

Mr. IVINS. The chair having ruled my motion out of order, I shall be under the necessity of appealing from that ruling, not on the ground that we have any authority to change the boundary lines of the Territory of Utah, but upon the ground that a motion to lay this file 83 on the table is in order at this time. That was my motion—that it may be called up at any future time. It is not to finally dispose of it. I think that a motion to lay on the table is in order in regard to this or any other file that may be presented.

The CHAIRMAN. The question is on the appeal from the chair. Shall the decision of the chair stand as the decision of the committee on Mr. Ivins' motion.

Mr. EVANS (Weber). Mr. Chairman, this is debatable and I desire to be heard for a moment upon it. With all due respect to the chair, I think Mr. Ivins is entirely right. If this Convention wants it can lay the Constitution

of the United States on the table. It can lay the Enabling Act on the table. It can cease work. It is a sovereign body in itself, and for the chair to say that a motion to lay on the table is out of order, is something that is departing from every parliamentary rule ever written yet. I am entirely of the opinion that this Convention has no business to change the boundaries as fixed by the Enabling Act, and I should vote against laying this on the table. We are to be confined to the boundaries at present established. No act of Congress has been passed changing these boundaries of Utah and we are confined to that. To say that a motion to lay an estimate upon the table is out of order, I think is violating every principle of parliamentary law, and therefore, I shall vote not to sustain the decision of the chair, but when the matter comes up I shall vote against laying it on the table.

Mr. HART. Mr. Chairman, I am in favor of supporting the chair on this proposition, for the reason that the committee have no power to lay a proposition on the table: they might make a recommendation back to the Convention and have them lay it on the table, but we have no authority, as I understand it, to lay a proposition upon the table. On that ground I will vote to sustain the chair.

Mr. SQUIRES. Mr. Chairman, the only motions that are in order, are a motion to amend or to adopt before this committee of the whole, and therefore, I shall have to vote with the chair on this proposition.

Mr. RICHARDS. Mr. Chairman, I believe the decision of the chair is right, and I think the proper motion to accomplish the purpose desired by the delegate from Washington was to postpone further consideration of this matter in the committee. That I think is legitimate and proper, but I don't understand that as a committee we have the right to lay a matter upon the table. We have a right to consider, or we have a right to postpone the consideration. That, I think, should be the proper motion. I shall vote for sustaining the decision of the chair, and I desire while on my feet to read one or two lines from the Enabling Act. The first section after the enacting clause is, "the inhabitants of all that part of the area of the United States now constituting the Territory of Utah as at present described may become the State of Utah, as hereinafter provided." And I submit if we become a State under this act, we become a State with the boundaries of the Territory as they are now described.

Mr. IVINS. Mr. Chairman, I just wish to state that I am in perfect accord with the gentleman from Salt Lake, that we have in a committee of the whole the right to postpone the consideration of this question, and I also maintain that a motion to lay on the table means simply to postpone it; we can take it up at any time. It is simply to defer its consideration temporarily. It may be taken up from the table at any time, and therefore the motion is entirely in order in the committee of the whole, just as it is in the Convention.

Mr. CANNON. Mr. Chairman, I think Mr. Squires, from Salt Lake, is right when he says we cannot move anything except two motions. By turning to Roberts' rules of order on page 77 we find that in a committee of the whole, the only motions in order are to amend and adopt, that the committee rise and report; it cannot adjourn, nor can it order the ayes and the noes. I shall therefore vote to sustain the chair.

The ruling of the chair was sustained.

The CHAIRMAN. File No 83 is here still before the committee for action.

Mr. SQUIRES. Mr. Chairman, I am not sure that the gentleman who presented this article for insertion in the Constitution has properly described the boundaries of the State. I am not sufficiently up in geography to know

whether that is true or not, but I believe Mr. Crane, of Millard, has done it. I therefore move that we adopt this article as printed.

Mr. WELLS. Mr. Chairman, I have an amendment I desire to suggest; I simply want to offer an amendment that the number of the article be changed to "article number two," for the reason that I think that the declaration of rights ought to be article number one. With that amendment I have no objection to the motion. But if the motion is now pending, I assume that an amendment is out of order.

Mr. THURMAN. Mr. Chairman, I don't think we ought to adopt any number at all. Leave that to the committee on compilation and arrangement; we cannot tell where it will fall.

The CHAIRMAN. The question now is on the motion of Mr. Squires, of Salt Lake County.

Mr. VAN HORNE. Mr. Chairman, I would like to ask the chairman of the committee if that is the boundaries of the Territory of Utah as it is described in the Organic Act.

The CHAIRMAN. I so understand it, but the chairman of the committee that reported it can better state that.

Mr. ELDREDGE. No, sir; it is not, because the Organic Act provides a great deal more territory than what we find is now in the Territory. A portion of Idaho has been taken off, and a portion of Wyoming and a portion of Nevada. When Utah was formed by the Organic Act it covered a great deal larger area of country than what it does at present. For instance, all of Nevada was in Utah at one time, and a portion of Idaho.

Mr. VAN HORNE. Then I will ask the further question of the chairman of that committee, whether the description is the description that is now given in any act of Congress of this Territory of Utah.

Mr. Chairman, it is not exactly in order, but my reason in asking this is, I understand the government's survey commences from the southeast corner and runs northerly, thence west and thence south, and thence east to the point of beginning; if that is the general rule, as I understand it to be, our description not being in conformity with that, might make some trouble.

Mr. CRANE. Mr. Chairman, I will say in explanation of that, I was appointed one of the committee of three to secure the boundaries of the Territory of Utah as it is at present on the map. I secured a very good map, the best they had in the land office, and we bounded it as best we could. I afterwards went to Surveyor General Snow, of the Territory, and compared our boundaries with his; we found them exactly right. I also secured a copy of the Constitution of 1882 of the Territory of Utah, and of 1887, and I find that they correspond exactly as the boundaries are printed in the journal before us to-day. The surveyor general visited me and I visited him twice to compare the exact latitude and longitude and get the exact figures, and I find they correspond exactly.

Mr. THORESON. Mr. Chairman, I move to amend the amendment by striking out the number entirely, leaving it blank.

Seconded.

Mr. SQUIRES. As the mover of the the original motion, I will accept that amendment. I apprehend that that duty would devolve upon the committee on compilation and arrangement anyhow, and I did not consider it was important in this connection.

The CHAIRMAN. The question now recurs on the original motion as amended.

Mr. CANNON. Mr. Chairman, I do not know as it makes any difference, but personally I would have preferred seeing the preamble and declaration of rights considered first. I think it would have been a little nicer. I would have

preferred considering it that way myself, and for that reason I believe personally, it would be better to postpone action upon this. For that reason I move that we rise and report progress.

The motion of Mr. Cannon was lost.

Mr. ELDREDGE. Mr. Chairman, I thought if it were necessary to make any change in the Constitution respecting the article that that report would be within the lines of the committee on compilation and arrangement, because the fact that states generally start out with a bill of rights in the first article, does not make it necessary for Utah to do so, and if a man was inquiring where Utah was, and what our boundaries were, we thought perhaps it would be well enough to commence the first article by giving the boundaries of the State of Utah. I see, however, that modernly the bill of rights comes further along in the Constitution in some of the states, so I should favor it as it now stands.

Mr. RICHARDS. I understand that we have already stricken out that number.

The CHAIRMAN. It is a part of the original motion now.

Mr. RICHARDS. It now stands without a number—am I correct?

The CHAIRMAN. The motion is to adopt it without a number.

Mr. RICHARDS. Mr. Chairman, I am decidedly in favor of that motion, because, as I understand it, it is the peculiar prerogative of the committee on compilation to make this arrangement under our rule, and any change from that would be a suspension or change of the rule, and I think that all these articles should be adopted without a number and referred to the committee.

The CHAIRMAN. The question is now on the motion to adopt file 83, section 1, the article number being stricken out.

The motion was agreed to.

Mr. SQUIRES. I now move that we rise and report to the Convention.

The motion was agreed to.

The committee accordingly rose and the president having resumed the chair Mr. Kimball reported that the committee of the whole having had under consideration file No. 83, had adopted the same, striking out the words, "article one," and recommend that it go on file for a third reading.

The report was adopted.

Mr. ELDREDGE. Mr. President, I move that file No. 83 now go to its third reading.

The PRESIDENT. It goes without a motion under the rule here.

Mr. RICHARDS. Mr. President, I move the article be read a third time by its title.

Mr. EVANS (Utah). When we went into committee of the whole we were on unfinished business. The order of business now is special orders.

The PRESIDENT. We were on special orders in connection with this. This came up under special orders when we went into committee of the whole.

Mr. HART. Mr. President, I think there are no special orders and I think the third reading of bills is now in order.

Mr. WELLS. Mr. President, are we on special orders now?

The PRESIDENT. We are on the third reading of ordinance as I understand it.

Mr. VAN HORNE. Mr. President, I understood when we went into committee of the whole, we went there under the head of unfinished business.

Mr. RICHARDS. Mr. President, I submit that this is immaterial, because the records show there is no special order and if there is no special order, there is no use arguing it.

Mr. WELLS. Mr. Richards made a motion and I seconded it a while ago that this article be read by its title a third time.

Mr. EVANS (Weber). Mr. President, may I state a point of order?

The PRESIDENT. Yes, sir.

Mr. EVANS (Weber). This is the first time we have gone into committee of the whole and I think we are going along a little too fast. This matter is one about which we will agree so far as the boundaries of the Territory are concerned, but we ought to get it right, because if we don't in this instance, we will probably get other propositions in the same way. I want to call the Convention's attention to rule 21. The first part of the rule provides for a special calendar, for a committee of the whole, upon which all propositions to be considered by the committee shall be placed. That is something that was not done, I think so far as this proposition is concerned. But the latter part of the rule reads as follows: "After the committee of the whole has been in session, every proposition or other matter reported from the committee of the whole for a third reading by the Convention, shall be placed upon the Convention calendar and be considered and acted upon under that order of business." I also call attention to rule 33, in connection with that. Speaking of the sergeant-at-arms, he says, "he shall procure a bulletin board of suitable dimensions to be placed by him, under the direction of the president, in some convenient place in the chamber." Now, that is for the purpose of putting on this order of business. If we take up this order of business and pass this proposition respecting the boundaries of the Territory, we make a final vote upon it. Some members who are not present may desire to record their votes. In this instance I think it will make little difference, but if we are proceeding with the bill of rights in this summary matter or some other proposition to be inserted in the Constitution, it would be somewhat irregular—I think very irregular. I therefore rise to a point of order in this respect—that this proposition now having been reported from the committee of the whole should go upon the Convention calendar to be called up for its third reading at our next session.

The PRESIDENT. I think the point of order is well taken.

Mr. RICHARDS. Mr. President, I desire to appeal from the decision of the chair on this point, for this reason: if it does not say that it shall be considered at a subsequent session of the Convention.

Mr. EVANS (Weber). I think Mr. Richards——

Mr. RICHARDS. Now, the report has been made. The report was made before the chair announced the third reading of these articles. It then immediately went on the calendar of the Convention and it was instantly in order for consideration. The motion to consider was in order. The delegate from Weber has discussed the proposition as though this rule read (and I understand the decision of the chair to be based on that idea) that it go upon the calendar and be considered at some subsequent session. Now, I should have no objection to a rule of that kind. I think such a rule would be very proper, but that is not the rule. The rule is that the proposition or other matter reported from the committee of the whole for a third reading by the Convention shall be placed upon the Convention calendar and be considered and acted upon under that order of business. Now, when we went into committee of the whole we had not reached the seventh order of business, to-wit, the third reading of ordinances and propositions to be inserted in the Constitution. Consequently when it arose and reported this proposition it went on the calendar and as soon as the chair announced the third reading of ordinances and propositions to be inserted in the Constitution it was in order for consideration. And therefore, I think my motion is in order.

Mr. EVANS (Weber). In support of the chair, I desire to call attention to another rule, in rule 30, speaking of the duties of the secretary, it says, "he shall prepare and post on the bulletin board in the hall of the Convention in the morning of each day a calendar of the orders and business of the day for the Convention, and a like calendar for the committee of the whole."

Mr. RICHARDS. What relation has that to this question?

Mr. EVANS (Weber). It has this relation: here is a piece of important business. The idea is to give notice to the members of this Convention when we are about to pass a proposition to be inserted in the Constitution, that they may have notice of it. I am under the impression that this business could not be transacted on the same day. I may be in error on that, but certainly it was the intention of the committee not to take up an important piece of legislation one day and railroad it right through, but that rather all business ought to be upon the bulletin board; we have provided that the secretary shall place it there so that the members may know what is coming up the next day on all these important matters. That is what these rules have reference to, is the proposition to be inserted in the Constitution. It is not supposed that the secretary can place upon the bulletin board matters which would come up promiscuously in the Convention, but those matters of importance which we are to pass upon, which are to be a part of the Constitution, are supposed to be posted by giving the time when they will be taken up, either in the committee of the whole or in the Convention. It is simply to prevent hurried legislation. It is a parliamentary rule that a thing cannot be read a first, second and third times on the same day and passed in a legislative body, and this of course partakes of the same character as a legislature.

Mr. EICHNOR. Mr. President, I desire to ask the gentleman from Weber County a question. Do you hold that we could not pass a file or a bill, or a proposition under a suspension of the rules, if we suspended the rules?

Mr. EVANS (Weber.) Certainly not. The rules can be suspended, but as long as they are in force they should be obeyed.

Mr. EICHNOR. You hold that unless we suspend the rules we cannot pass this proposition?

Mr. EVANS (Weber.) That is the idea I had, yes, sir.

Mr. WELLS. Mr. President, I submit that this consideration of the third reading of this matter is entirely in order to-day for the reasons already stated by Mr. Richards, that we have reached the third reading of bills on the calendar and that this is the third reading of the bill, and so far as the gentleman's remarks in regard to the fact that the matter has not been placed upon the calendar, I call his attention to the fact that the bulletin board shows that file number 83, boundaries, will be considered in the committee of the whole, and I submit that that is notice enough to the members.

Mr. EVANS (Weber.) We have done, Mr. Wells. I am objecting now to considering its third reading in the Convention.

Mr. WELLS. I submit that this is the rule of the Convention at present, and if the gentleman wants it changed, he ought to move to amend the rules.

Mr. HART. Mr. President, I think under our rules, without any suspension of them, the proposition would be considered in a committee of the whole a day before being considered by the Convention, for the reason that unless resolving ourselves into committee of the whole was made a special order to come up under the sixth order of business, we will resolve ourselves into committee of the whole regularly under this eighth subdivision, which would be motions and resolutions, which occurs after the

third reading of propositions and therefore the third reading would be passed and the work of the committee would come up the next day, so I think the rules are all right; and as to the question as to whether the decision of the chair should be sustained in this case or not, I call the gentleman's attention who objected to this matter, and who I think is responsible for the ruling of the chair in this direction, that Mr. Richards' motion was that the rules be suspended. We can move to suspend our rules even if they are as he states—even if we can regularly consider these propositions on the same day, it is in order to move a suspension of the rules, and that is Mr. Richards' motion as I understand it—that we suspend the rules.

Mr. EVANS (Weber.) I did not so understand it.

The PRESIDENT. No; the chair did not so understand it.

Mr. HART. If there is any question about that I would ask the gentleman to withdraw his appeal from the decision of the chair.

The PRESIDENT. His motion did not embrace the suspension of the rules. Was the intention of the gentleman to do it?

Mr. RICHARDS. It was my intention to do it, and my recollection is that I did do it for this reason: the rule provides for third reading of ordinances and propositions to be inserted in the Constitution. That implies as I understand it a reading in full, and my motion was to obviate the necessity of a full reading and substitute a reading by title. So I think I said I moved a suspension of the rules and that it be read by its title.

The PRESIDENT. Gentlemen, the question before the house is the suspension of the rules by Mr. Richards and that we proceed to the third reading of this proposition file No. 83 by title.

The motion was agreed to.

File No. 83 was then read by its title.

Mr. RICHARDS. Mr. President, I move this article pass its third reading and be referred under the rules to the committee on compilation and arrangement.

Mr. WELLS. I second the motion.

The roll was then called, showing the following result:

AYES—96.

Allen	Larsen, L.
Adams	Larsen, C. P.
Anderson	Lemmon
Barnes	Low, William
Bowdle	Low, Peter
Boyer	Low, Cache
Brandley	Lund
Button	Maeser
Buys	Maloney
Call	Maughan
Cannon	McFarland
Chidester	Miller
Christianson	Morris
Clark	Moritz
Coray	Murdock, Beaver
Corfman	Murdock, Wasatch
Crane	Murdock, Summit
Creer	Nebeker
Cunningham	Page
Cushing	Partridge
Driver	Pierce
Eichnor	Peters
Eldredge	Peterson, Grand
Emery	Peterson, Sanpete
Engberg	Preston
Francis	Raleigh
Gibbs	Richards
Goodwin	Roberts
Green	Robertson
Hammond	Robinson, Kane
Hart	Robison, Wayne
Haynes	Ryan
Halliday	Sharp
Heybourne	Shurtliff
Hill	Snow
Howard	Spencer
Hughes	Squires
Hyde	Stover
Ivins	Strevell
James	Symons
Johnson	Thompson

Jolley	Thurman
Keith	Van Horne
Kearns	Warrum
Kerr	Wells
Kimball, Salt Lake	Whitney
Kimball, Weber	Williams
Lambert	Mr. President.

Absent or excused—9.

Mr. IVINS. Mr. President, I desire to be excused from voting, because I have not examined this description and I have not had time to do it.

Mr. Ivins was excused from voting.

Mr. EVANS (Utah). Having just come in, I don't know anything at all about it. I desire to be excused.

Mr. Evans (Utah) was excused from voting.

Mr. FARR. I will have to be excused from voting; I have not had time to examine the article.

Mr. Farr was excused from voting.

Mr. WHITNEY. Mr. President, before I vote I would like to ask if this motion, if it is carried, will preclude any further amendment, if such should be found to be necessary. The proof reader may have made a mistake. This description ought to be verified very carefully before it is finally passed upon. May the committee on compilation and arrangement verify this and change the phraseology to make it correct if need be?

Mr. ELDREDGE. I will say, Mr. President——

The PRESIDENT. The committee shall have full power to revise the language used in various propositions and arrange the same so as to be clearly expressive of the sense of the Convention, and to make the instrument complete and consistent within itself.

Mr. WHITNEY. Expressive of the sense of the Convention?

The PRESIDENT. Yes, sir.

Mr. WHITNEY. Of course the sense of the Convention is to have it correct?

Mr. EVANS (Weber). No, the sense of the Convention is just as we have it now.

Mr. THURMAN. Mr. President, I don't think that can be the rule—the sense of the Convention, just as it may be printed. Else, why have a committee on revision at all? If the instrument as printed expresses the sense of the Convention, we do not need any committee.

Mr. WHITNEY. I will vote yes, with that understanding.

Mr. Spencer was by request excused from further attendance upon the day's session.

The PRESIDENT. The article has passed and will go to the committee on compilation and arrangement.

Motions and resolutions.

Mr. SQUIRES. Mr. President, I desire to offer the following resolution to meet the contingency which my friend from Weber County has raised on the question of rule 21.

Reads:

Resolved, that rule 21 be amended by adding the words, "at the next session of the Convention," at the end of the rule.

I move that this resolution be referred to the committee on rules.

The motion was agreed to.

Mr. Evans (Weber) offered the following resolution:

Resolved, that it be the sense of this Convention that in providing for the number of public offices and the salaries to be paid therefor, the same to be as few in number and as low in amount as is consistent with the times, and the efficiency of the services to be performed.

The resolution was adopted.

Mr. Thurman offered the following resolution:

Resolved, as the sense of this Convention, that the Constitution shall contain only the general plan and fundamental principles of the State government, together with such limitations of the powers thereof as may be deemed wise and expedient for the preservation of civil, political and religious liberty.

Resolved further, that matters purely of a legislative character not intended as necessary limitations of power,

should not be inserted in the Constitution, but left to the Legislature, acting within its constitutional powers.

The resolution was adopted.

Mr. WELLS. Mr. President, I move that the draft of the preamble and bill of rights submitted to the committee to-day be made the special order for consideration by the committee of the whole for Wednesday at three p. m.

Seconded.

Mr. WELLS. The reason I make it for Wednesday is that some of the committee will not be able to attend to-morrow and they want to be here when it comes up.

Mr. ROBERTS. I would like to ask the members if printed copies of this report can be placed in the hands of the members by to-morrow.

Mr. WELLS. Yes; I will say that the matter has already been set up and the copies may be stricken off at any time. within half an hour if so ordered.

The motion was agreed to.

Mr. ELDREDGE. Mr. President, I want to move an amendment to be referred to the committee on rules—in rule 21 considered in connection with the one presented by the gentleman from Salt Lake, that in the last line after the word "upon" that he insert "at a subsequent day" and that will leave it so that we would not have to consider it on the day following.

The PRESIDENT. Will the gentleman please write it?

Mr. GOODWIN. May I be excused.

The PRESIDENT. The gentleman can be excused.

Mr. RICHARDS. I move that the committee on rules report an amendment to the rules, providing that no ordinance or proposition reported by any committee shall be considered either in Convention or committee of the whole, at the same session at which the same are reported nor until the same have been printed and at least one day has elapsed after the distribution in printed form to the members of the Convention.

The PRESIDENT. The matter will go to the committee on rules if there is no objection.

Mr. SQUIRES. Mr. President, the only objection to that that I see would be that if something would come up here on Saturday we could not consider it within twenty-four hours, unless we held a Sunday session.

Mr. RICHARDS. My motion is that it shall not be considered within twenty-four hours.

Mr. SQUIRES. Oh, I beg pardon, I didn't understand it.

Mr. RICHARDS. That is to say, the consideration shall not come up within twenty-four hours after the printing.

The PRESIDENT. I desire, gentlemen, to have read, with your consent, a letter from the Honorable Moses Thatcher, who is very sick and has sent a communication here and asked that it be read in the Convention. If there is no objection the same will be now read.

The secretary then read the following:

LOGAN, UTAH, March 18th, 1895.

Hon. John Henry Smith, President, Constitutional Convention, Salt Lake City, Utah:

DEAR SIR: Having recently undergone a somewhat painful surgical operation, I find that improper haste in resuming work has produced unfavorable results, compelling me now to keep quiet, absolute rest, and treatment for a few days, and possibly a longer period.

Will you therefore, it my behalf kindly make to the honorable members of this Convention the necessary explanation required by the rules governing such matters. I shall expect no compensation for the period covering my absence; and under no circumstances will demand remuneration, to be paid from any deficiency which the people of Utah may be required to raise through taxation on their property, should the generous appropriation of Congress prove inadequate to the expenses of the Constitutional Convention.

In the interest of committees with which you did me the honor of associating my name, I respectfully suggest the appointment of others able and qualified to do their full share of the work—

a duty under other circumstances I should feel it a pleasure to perform. Trusting that the utmost harmony and fraternal feeling may attend all deliberations of the Convention over which you have the honor of presiding, and that partisanship, local demands, and individual interests may be subordinated to the general welfare, so that a Constitution may be drafted and approved, no provision of which shall ever bring a blush of shame or feeling of regret to us or our children, and one which as a whole the voters of Utah may adopt by an overwhelming majority.

If true patriotism, a high regard for the right of the governed, sympathy for the laboring masses and producing classes, united with equity, justice, and economy in all public expenditures, shall be made basic principles upon which the fundamental law of the new State shall forever rest, that a happy result must surely follow, and the people who sent, with the fullest confidence, the honorable members of the Utah Constitutional Convention, will not be disappointed, nor have cause to regret the choice made in selecting the men best qualified to write the State charter—a law of human justice and liberty, before which all may feel equally protected, while learning that untarnished American citizenship is the highest distinction to which we or our children can aspire.

Very respectfully yours,

MOSES THATCHER.

The PRESIDENT. What will you do with the communication, gentlemen?

Mr. SQUIRES. I move that it be received and placed on file.

Mr. HART. Mr. President, if Mr. Thatcher is sick, as he states, and unable to attend and desires to be excused I think in justice to himself a record should be made of why this is done and that it should be incorporated in the minutes.

Mr. SQUIRES. I will modify my motion to make it read that way.

The motion was agreed to.

Mr. IVINS. Mr. President, I arise to a question of personal privilege, and to ask the chair for a ruling upon rule 20. To-day is the first time that we have gone into committee of the whole and I do this simply in the hope that a rule may be established, and that there will be no future confusion or question, being willing myself to conform to the ruling of the chair.

Rule 20 provides, "The same rules shall be observed in committee of the whole as in the Convention, as far as the same are applicable, except that the previous question shall not apply, nor the ayes or noes be taken, nor a limit be made as to the number of times speaking." Now, Mr. President, it was with the understanding that under this rule it would be proper to temporarily defer the consideration of any question that properly came before the committee of the whole, that I moved to lay this file eighty-three upon the table, with a view that at a later date should we learn that favorable action would be taken by the Territory of Arizona, I might have inserted an amendment that "the boundaries of the State of Utah, should be as follows, unless extended by act of Congress of the United States." Under the ruling of the chair, a motion was not in order to lay any question on the table or to temporarily suspend its consideration. I understand from this rule that the same rules that govern the Convention were to apply, except as to the previous question, the ayes and noes, or a limit to the times of speaking. Conditions may arise when more than one file will be before the committee of the whole. Now, what I want to get at is whether a measure that is brought up may be deferred temporarily, without the necessity of rising and reporting, or whether that matter may be temporarily deferred and its consideration taken up at a subsequent meeting of the committee of the whole. I know of no rule by which this can be established, and therefore ask the chair to rule, as to how far this rule 20 is to apply to the rules that govern the Convention, and whether it will embrace with propriety a motion to temporarily defer consideration or to lie on the table.

Mr. RICHARDS. Mr. President, I arise for information, is there anything before the house?

The PRESIDENT. There is nothing before the house.

Mr. RICHARDS. Then I move to adjourn.

Mr. IVINS. Mr. President, there is something before the house. I ask for a ruling on this question.

Mr. RICHARDS. I suggest that that ruling from the chair cannot be obtained by this method. I submit that ruling can only be obtained upon motions.

Mr. IVINS. I submit that any member who is in doubt and asks the opinion of the chair upon a question has the right to receive it.

Mr. EICHNOR. Mr. President, I think that is a matter that is settled in committee of the whole, and not by the president of the Constitutional Convention. The president can call any one to the chair whom he pleases or the committee can.

Mr. CANNON. I second Mr. Richards' motion.

The motion was agreed to.

The Convention then, at 4:30 o'clock p. m., adjourned.

SIXTEENTH DAY.

TUESDAY, March 19, 1895.

The Convention was called to order by President Smith.

The roll was called and the following members found in attendance:

Adams	Lewis
Anderson	Lowe, Wm.
Bowdle	Lowe, Peter
Boyer	Low, Cache
Brandley	Maeser
Button	Maloney
Buys	Maughan
Call	McFarland
Christianson	Miller
Coray	Moritz
Corfman	Murdock, Beaver
Crane	Murdock, Wasatch
Creer	Murdock, Summit
Cunningham	Page
Cushing	Partridge
Driver	Peters
Eichnor	Peterson, Grand
Eldredge	Peterson, Sanpete
Engberg	Pierce
Evans, Weber	Preston
Evans, Utah	Raleigh
Francis	Ricks
Goodwin	Roberts
Green	Robertson
Hammond	Robinson, Kane
Hart	Robison, Wayne
Haynes	Ryan
Halliday	Sharp
Hill	Shurtliff
Howard	Squires
Hughes	Stover
Hyde	Strevell
Ivins	Symons
Jolley	Thompson
Keith	Thoreson
Kearns	Thorne
Kerr	Thurman
Kimball, Salt Lake	Van Horne
Kimball, Weber	Warrum
Lambert	Wells
Larson L.	Whitney
Larson, C. P.	Williams
Lemmon	Mr. President.

Prayer was offered by Rev. J. D. Gillilan, of the Methodist Episcopal Church.

The journal of the fifteenth day's session was read and approved.

Mr. CORAY. Mr. President, I would suggest that all the matter on page 66 (of the journal) be stricken out, except the last which constitutes the signature and the motion to adjourn. It is entirely superfluous, and I think there is no sense in political buncombe being inserted in the minutes of this Convention.

The PRESIDENT. The gentleman's motion is out of order. It will take a motion to consider this, inasmuch as it was passed upon, as I understand it, by the Convention previous to being entered upon the record.

Mr. EVANS (Weber). Mr. President, I think an explanation is due from the

gentleman from Juab for the disrespectful language he has used toward one of our sick delegates. I do not know what he means when he says it is political buncombe. There is nothing in it of a political nature that I can conceive. Moses Thatcher is suffering with severe physical infirmities. He wrote a respectful letter to the president of the Convention, in respectable language. It in a spirit of justice was printed, and why one member should stand upon this floor under these circumstances and brand it as political buncombe, is something I am unable to understand. I think the gentleman ought to explain. If he can point out the politics in it, I would like to hear it.

Mr. SQUIRES. Regular order.

Presentation of petitions and memorials.

Mr. Call presented a memorial from the women of Davis County, praying for equal suffrage.

The same was read and referred to the committee on elections and rights of suffrage.

Mr. HYDE. Mr. President, I have a petition from the women of Juab County which I desire to have read and referred to the committee on elections and rights of suffrage.

The same was read by the secretary as follows:

GENTLEMEN: We, your petitioners, women residents of Juab County, Utah Territory, being over the age of eighteen years, respectfully ask your honorable body to insert into the Constitution to be by you framed for the new State of Utah, such provisions as will give to the women the same rights of suffrage as now possessed by the men of the Territory, and your petitioners will ever pray.

The PRESIDENT. It will go to the committee on elections and rights of suffrage.

Reports of standing committees.

Mr. PIERCE. Mr. President, I have the report of the committee on education and school lands which I desire to present.

Convention Hall, March 19, 1895.

MR. PRESIDENT:

Your committee on education and school lands report that they have had under consideration the various petitions and propositions referred to them, and herewith submit to you a substitute proposition, and they recommend that the substitute be put upon its passage and become a part of the Constitution.

PIERCE,
Chairman.

The PRESIDENT. Under the rules this will go to the committee of the whole.

Mr. THORESON. I would like to ask the chairman of this committee if it is reported unanimously.

Mr. PIERCE. Yes, sir; there were no objections to it.

The PRESIDENT. It will go upon the calendar.

Mr. WELLS. Mr. President, under the rule, as I understand it, this matter is referred to the printing committee and then goes to the committee of the whole; when it comes from the committee of the whole it goes on the calendar for third reading. Now, I want to know when it receives its second reading.

Mr. PIERCE. Mr. President, in order to relieve the difficulty that Mr. Wells suggests, I now move you that it be read the first and second time by its title, and then referred to the committee of the whole.

Mr. SQUIRES. Mr. President, if that is in accordance with the rule under which we are working, I do not see the necessity of any motion. It should be read the first and second times now.

Mr. HART. Mr. President, it will already be considered as having been read the first and second times for the reason that it is a substitute for bills that have been read a first and second time; otherwise, any amendment made to a bill upon the third reading or a substitute offered upon this floor of the house, presented upon the third reading, would have to be read a first and second time.

Mr. PIERCE. Mr. President, I do not see the necessity of this motion, but inasmuch as the gentleman from the fourth precinct of this city suggested it, I thought perhaps that I would relieve the difficulty, and it strikes me that the remarks made by the gentleman from Cache are pertinent to the question, and that it would now simply go to the committee of the whole under the rules.

Mr. THURMAN. Mr. President, it depends altogether upon how this measure is reported by the committee. Has the committee reported it as a substitute?

The PRESIDENT. That was the statement.

Mr. THURMAN. Then it has passed its first and second reading?

The PRESIDENT. It will go to the committee on printing and be printed, and under the rule, go to the committee of the whole as I understand it.

Mr. THURMAN. Let me ask one question, Mr. President. This matter that has just been referred to the committee of the whole—does it state what it is a substitute for?

The PRESIDENT. It says under the proposition presented to the committee for consideration.

Mr. THURMAN. It ought to state what it is a substitute for, it seems to me, and mention that. Men here have a right to know what has become of their propositions. The house has a right to know whether they have been considered or not. If it states that it is a substitute for propositions, naming them, it shows that the committee has considered the proposition.

The PRESIDENT. Did you call for the reading of the committee report?

Mr. THURMAN. I would like to hear the report read.

Mr. SQUIRES. Mr. President, before this reading, I would like to ask consent of this Convention to allow Mr. Westerfield and Mr. Wenger, of Salt Lake, seats on the floor of this Convention.

The PRESIDENT. If there is no objection the gentlemen will be permitted to occupy seats upon this floor.

Mr. LUND. Mr. President, I would like to ask the privilege for the superintendent of schools from Sanpete, Mr. Green.

The PRESIDENT. The privilege will be granted if there is no objection.

Mr. HILL. Mr. President, I would like to have the privilege extended to Col. Sells to occupy a seat on the floor of this Convention.

The PRESIDENT. Permission will be granted without there is objection.

The secretary will read this report.

The PRESIDENT. It has gone to the proper committee.

Introduction of ordinances and propositions for insertion in the Constitution.

Mr. Green introduced a proposition on irrigation.

Mr. CANNON. Mr. President, I move that the rules be suspended on all propositions introduced to-day, and that unless the reading be called for, they be read twice by their titles and referred to the appropriate committees.

The motion was carried.

The proposition of Mr. Green, above referred to, was read by the secretary as follows:

IRRIGATION.

Section 5. The water of every natural stream, not heretofore appropriated, within the State of Utah, is hereby declared to be the property of the public, and the same is dedicated to the use of the people of the State, subject to appropriation as hereinafter provided.

Section 6. The right to divert the unappropriated waters of any natural stream to beneficial uses shall never be denied. Priority of appropriation shall give the better right as between those using the water for the same purpose; but when the waters of any natural stream are not sufficient for the service of all those desiring the use of the same, those using the water for domestic purposes shall have the preference over those claiming for any other purpose; and those using the waters for agricultural purposes shall have preference over

those using the same for manufacturing purposes.

Section 7. All persons and corporations shall have the right of way across public, private, and corporate lands for the construction of ditches, canals, and flumes, for the purpose of conveying water for domestic purposes, for the irrigation of agricultural lands, and for mining and manufacturing purposes, and for drainage, upon payment of just compensation.

Section 8. The general assembly shall provide by law that the board of county commissioners, in their respective counties, shall have power, when application is made to them by either party interested, to establish reasonable maximum rates to be charged for the use of water, whether furnished by individuals or corporations.

The above proposition was read a first and second time by its title and referred to the committee on water rights, irrigation and agriculture.

Mr. Francis introduced a proposition on bills and amendments of law, which was read a first and second time by its title and referred to the committee on legislative.

Mr. Robison, of Wayne, introduced a proposition on public indebtedness, which was read a first and second time by its title and referred to the committee on revenue, taxation and public debt.

Mr. Johnson introduced a proposition on water and water rights, which was read.

The proposition of Mr. Johnson was read a second time by its title and referred to the committee on water rights, irrigation and agriculture.

Mr. Hammond introduced a proposition, which was read by the secretary as follows:

No appropriation shall be made for charitable, industrial, educational, or benevolent purposes, to any person, corporation, or company in or under the absolute control of the State, nor to any denominational or sectarian institution or association.

Said proposition was read a second time by its title and referred to the committee on revenue, taxation and public debt.

Motions and resolutions.

Mr. PAGE. Mr. President, as chairman of the committee on federal relations, I wish to state that the committee on federal relations find that their duties conflict somewhat with those of the committee on ordinances, and in the interest of the saving of time, especially on the floor of the committee, they have concluded that it would be best to act together with reference to any such matter that may be brought before them, and ask that the consent of this Convention be given that they may so consider such matters and report jointly thereon.

Mr. HEYBOURNE. Mr. President, in relation to the matter that the gentleman has just spoken on, I would say that the committee on ordinances have had this matter under advisement and are very near ready to report upon the subject matter that was entrusted into their charge, but have learned that there was likely to be a little conflict between them and the committee on federal relations, and as the gentleman has stated I believe I voice the sentiment of the committee in this regard, that it would be a matter of economy as well as the saving of time to allow these two committees to report together upon the subject matters that have been entrusted into their hands. Therefore, if the gentleman has made the motion, I wish to second it.

The PRESIDENT. If there is no objection, these committees will be permitted to act in harmony with each other.

Mr. Squires offered the following:

Resolved, that after the 25th day of the session no proposition for insertion in the Constitution shall be received.

Mr. SQUIRES. I think it is time to limit this flood-tide of propositions that seems to be surging into the Convention. So far as the committee that I am on is concerned, propositions are coming in daily upon matters that we

have discussed and passed upon and I think if we extend the limit ten days longer, that ought to be sufficient time for everybody to get their matters before the Convention. I move the adoption of the resolution.

Mr. RICKS. Mr. President, as I understand it, the majority of the committees have advanced their work very materially, in fact, many of them are just about ready to report, and believe it would be proper to limit to a less time than the gentleman has mentioned, and I will move to amend the proposition by naming the 20th day instead of the 25th.

Mr. SQUIRES. Mr. President, in preparing that resolution I had written the 20th day, but on consultation with some of the gentlemen around here, they thought that was cutting off some of the statesmen a little too early and so the resolution extended the time five days for the benefit of those who have not had time to examine all the constitutions of the forty-four states.

Mr. EVANS (Weber). Mr. President, I would like to support the motion, but I would like to have a little amendment to it: "Unless by the consent of the Convention;" I do not think the rule ought to be made iron-clad, so that it would absolutely preclude the introduction of any matter. That would practically cut everything off, unless the Convention consented that something else might be included. I therefore move to amend with the words, "without the consent of the Convention," be added to it.

Mr. SQUIRES. Mr. President, I accept the amendment of the gentleman on my right, but I want the rule made iron-clad. I think we will get enough propositions here by the 20th to frame constitutions for three or four states.

Mr. JAMES. My reason for seconding the amendment, Mr. President, is this; it does not bar any gentleman in this Convention from bringing before a committee any report on any matter that he wishes to call the committee's attention to, and the matter going to the Convention simply gives to it another form and finally lands in the committee.

Mr. HART. Mr. President, I move that we refer the question to the committee on rules.

Mr. ANDERSON. I would like to ask if this resolution is adopted if it would prevent a person from introducing an amendment when the committee should report?

The PRESIDENT. No, it is only on the introduction of more matter, or the presentation of new matter to be inserted.

Mr. EVANS (Weber). I fully agree with the idea of the gentleman about these general propositions being introduced, and I think they ought to be cut off. But, we will find when we come to make up the Constitution that perhaps something has been omitted that is not reported from any of the committees at all, which ought to be inserted in the Constitution—something that is required by the Enabling Act. That would be a proposition for insertion in the Constitution, and yet if we take this action, we would be precluded from introducing it. But, in matters of absolute necessity I say, where something might have been overlooked, I think that ought to be introduced. It may be the only way by which we could get it into the Constitution, because the committees may not report upon it at all.

Mr. SQUIRES. Mr. President, I cannot see the necessity of the remarks of the gentleman from Weber. The report of my committee of an article of the Constitution is subject to such an amendment, and if anything in the report of that committee has been omitted either by carelessness or negligence, or any other way, it can certainly be substituted and added to the report of that committee and made a part of the Constitution. I want to shut off

this tide of propositions that are coming in here every day from other state constitutions. If nothing had been presented except new matter, I would have been the last man to arise and attempt to check it, but these propositions mostly are copied by the parties out of books that we have access to, and every committee has access to, and it only lumbers up our details and consumes the time of the committees, and I hope the Convention will see it in the same light and make this rule iron-clad, that after the twentieth day's session no new propositions shall be presented to the Convention for adoption. If there is any new matter it can be presented to the committees after that date and considered by them.

The PRESIDENT. The question is on the motion of Mr. Hart to refer to the committee on rules.

Lost.

The PRESIDENT. The question is on the amendment offered by Mr. Evans.

Lost.

The resolution was adopted.

Mr. EVANS (Weber). Mr. President, I desire to introduce the following resolution:

Resolved, that the delegate from Juab county, Mr. Coray, be called before the bar of this Convention by the President to explain what, if any reason, he had for using disrespectful language in his statement wherein he said in substance that the letter of a fellow delegate, Mr. Moses Thatcher of Cache, should be stricken from the minutes for the reason that the same is political buncombe, and if no sufficient reason be given therefor, said delegate be required to withdraw the language used.

I move the adoption of the resolution and if I can get a second I will state the reason.

Mr. ROBERTS. I second the motion.

Mr. EICHNOR. Mr. President, I move to lay the resolution on the table.

SEVERAL DELEGATES. Second the motion.

The PRESIDENT. Gentlemen, you have heard the motion to lay this resolution on the table. All in favor say aye.

Mr. CREER. Mr. President, I call for the ayes and noes upon that.

The PRESIDENT. The ayes and noes are called for.

Mr. EVANS (Weber). Mr. President, the chair had recognized me, I had a second to the motion, and I had the floor. I desire to make some remarks upon it. The gentleman simply took me from my place and interposed a motion before any remarks had been made. I now ask respectfully the attention of the chair to the place which I occupied. I had been recognized and was waiting for the chair to put the motion so that I might make a remark.

Mr. EICHNOR. Mr. President, I arise to a point of order. In the first place, this motion to lay a proposition or resolution upon the table is not debatable. In the second place, I was recognized by the president. I was standing here, and waited until the president recognized me, and then I made the motion. I think my motion is properly before the house, and I claim the gentleman from Weber County is out of order.

Mr. EVANS (Weber). I arise, Mr. President, to a question of personal privilege. I admit the motion to lay upon the table is not debatable, but I had the floor; I was recognized.

The PRESIDENT. The gentleman had taken his seat.

Mr. EVANS (Weber). The gentleman simply rose in his place while I had the floor. There was nothing——

Mr. EICHNOR. You don't dispute that I was recognized by the president?

The PRESIDENT. This is all out of order. This thing has been passed upon.

Mr. BUYS. Mr. President, I would like to hear the resolution read again before passing upon it.

The PRESIDENT. It has been tabled.

Mr. CREER. I called for the ayes and noes before the result was announced.

The PRESIDENT. I had not announced the result. The ayes and noes were called for. The secretary will call the roll.

Mr. EVANS (Utah). Mr. President, I would like to know if the ruling of the chair is that when there is a proposition introduced, or resolution properly seconded, while the mover of that resolution has the floor, if a member has the right to jump up and move that it be tabled. Do I understand that that is the ruling of the chair upon this question?

The PRESIDENT. The ruling of the chair is——

Mr. SQUIRES. Mr. President, I arise to a point of order. There is nothing before the house but the roll call. This is a hypothetical question the gentleman is trying to get a decision on, just as a gentleman did yesterday, who was called down by a member of his own party.

Mr. EVANS (Utah). Mr. President, I simply ask for information.

Mr. EVANS (Weber). Mr. President, I rise to——

The PRESIDENT. The ayes and noes are called for.

Mr. EVANS (Weber). Mr. President, I simply arise to a question of personal privilege before the roll call, and I desire to explain to the chair and my fellow delegates that the summary treatment which I have received I think is unmerited. I do not desire anything of a political nature in this thing. My idea was simply to remove any idea which any delegate might have entertained respecting that matter; and since I have not been permitted to speak, I want to say this, further, by way of personal privilege, that——

Mr. SQUIRES. I admit that the gentleman is arguing the main question——

Mr. EVANS (Weber). I do not intend to.

Mr. SQUIRES.——Under the cloak of a personal privilege. He is not in order, clearly.

Mr. EVANS (Weber). I am not doing it. Gentlemen, if you want to throttle me, you can do it. You have the power. Proceed, if you desire. If you don't want to treat a gentleman here upon the floor with respect, I can stand it, if you can. Here is a man lying sick, and suffering. He was insulted——

The PRESIDENT. I think the gentleman should not discuss this proposition. It has been passed upon. The question is the vote by the ayes and noes—the calling of the roll.

Mr. THORESON. Mr. President, I call for the reading of the resolution. Let us know what we are voting on. We could not hear the reading from here.

The PRESIDENT. The question being called upon is the tabling of it.

Mr. BOYER. I call for the reading of the motion we are about to vote upon.

Mr. JAMES. I call for the regular order of business.

The PRESIDENT. The ayes and noes are the regular order.

Mr. HART. Mr. President, I would like to have a ruling on that before the secretary calls the roll. I would like the chair to give a ruling upon that—whether the gentlemen are to be compelled to vote upon a question without knowing what they are voting upon. I think it is a personal privilege of every member here before he votes, to know what he votes for.

The PRESIDENT. He is voting upon the proposition of tabling the resolution of Mr. Evans.

Mr. HART. I ask to have the resolution read, Mr. President.

The PRESIDENT. The resolution shall be read.

The secretary then read the resolution.

Mr. BOYER. Mr. President——

The PRESIDENT. The secretary will proceed to call the roll.

Mr. BOYER. As I now understand the proposition, the ayes is to table the resolution?

The PRESIDENT. Yes, sir.

The secretary then called the roll and the vote was as follows:

AYES—54.

Adams	Kearns
Allen	Kimball, Weber
Anderson	Lambert
Bowdle	Larsen, L.
Brandley	Larsen, C. P.
Button	Lowe, Peter
Cannon	Lund
Chidester	Mackintosh
Christianson	Miller
Clark	Moritz
Coray	Murdock, Beaver
Crane	Murdock, Summit
Cushing	Page
Driver	Peterson, Grand
Eichnor	Peterson, Sanpete
Eldredge	Pierce
Emery	Ricks
Farr	Robinson, Kane
Gibbs	Ryan
Goodwin	Shurtliff
Green	Squires
Haynes	Stover
Hill	Strevell
Hyde	Symons
James	Thompson
Jolley	Van Horne
Keith	Williams.

NOES—44.

Barnes	Lowe, Wm.
Boyer	Lowe, Cache
Buys	Maeser
Call	Maloney
Corfman	Maughan
Creer	McFarland
Cunningham	Murdock, Wasatch
Engberg	Nebeker
Evans, Weber	Partridge
Evans, Utah	Peters
Francis	Raleigh
Hammond	Richards
Hart	Roberts
Halliday	Robertson
Heybourne	Robison, Wayne
Howard	Sharp
Hughes	Snow
Johnson	Thoreson
Kerr	Thorne
Kimball, Salt Lake	Thurman
Lemmon	Warrum
Lewis	Whitney.

The PRESIDENT. The resolution is tabled.

Mr. SQUIRES. Mr. President, I move we adjourn.

Mr. ELDREDGE. Before that motion is put, I would like to ask to be excused to-morrow from attending the session.

The PRESIDENT. If there is no objection the gentleman will be excused.

The Convention then adjourned.

SEVENTEENTH DAY.

WEDNESDAY, March 20, 1895.

The Convention was called to order by President Smith.

The roll was called by the secretary and the following named members were found in attendance:

Adams	Lemmon
Allen	Lewis
Anderson	Low, Wm.
Barnes	Low, Peter
Bowdle	Low, Cache
Boyer	Lund
Brandley	Maeser
Button	Mackintosh
Buys	Maloney
Call	Maughan
Cannon	McFarland
Chidester	Miller
Christianson	Morris
Clark	Moritz
Coray	Murdock, Beaver
Corfman	Murdock, Wasatch
Crane	Murdock, Summit
Cunningham	Nebeker
Cushing	Page
Driver	Partridge
Eichnor	Peters
Eldredge	Peterson, Grand
Emery	Peterson, Sanpete
Engberg	Pierce

Evans, Weber	Preston
Evans, Utah	Raleigh
Farr	Richards
Francis	Ricks
Gibbs	Roberts
Goodwin	Robertson
Green	Robinson, Kane
Hammond	Robison, Wayne
Hart	Ryan
Haynes	Sharp
Halliday	Shurtliff
Heybourne	Snow
Hill	Spencer
Howard	Squires
Hughes	Stover
Hyde	Strevell
Ivins	Symons
James	Thompson
Johnson	Thoreson
Jolley	Thorne
Kiesel	Thurman
Keith	Van Horne
Kearns	Varian
Kerr	Warrum
Kimball, Salt Lake	Wells
Kimball, Weber	Whitney
Lambert	Williams
Larsen, L.	Mr. President.
Larsen, C. P.	

Prayer was offered by Rev. D. R. Lowell, chaplain of the 16th Infantry.

The journal of the sixteenth day's session was read, corrected and approved.

Mr. WELLS. I ask the unanimous consent of the Convention to introduce a resolution in regard to the stenographer, and I will read it.

(Reads.)

Whereas, Frank E. McGurrin is the official and sworn stenographer of this Convention, and

Whereas his daily and continuous presence is necessary to the orderly proceeding of the Convention; and

Whereas, the said officer has been required to attend the sitting of the third district court in this city as a witness, therefore, be it

Resolved, that the said court be, and is hereby respectfully requested to discharge the said Frank E. McGurrin from attendance on said court at the earliest convenience, and, be it further

Resolved, that a committee of two be appointed by the president to forthwith present a copy of this resolution to said court.

Mr. EVANS (Weber). There ought to be an addition to that resolution. I see his brother is present here to take his place during his absence. I move that F. T. McGurrin act as the official stenographer in the absence of Mr. F. E. McGurrin.

Mr. WELLS. I have no objection to that.

Mr. JAMES. I understand this to be an addition.

Mr. EVANS (Weber). Yes, sir; that his place is being filled during his absence by his brother.

Mr. SQUIRES. I think, if we accept that, it would show by this resolution, a copy of which will go to the court, that Mr. McGurrin's place is occupied, and they might not be willing to excuse him from the court. If that is put in as a separate resolution, I think it will accomplish the same end, without notifying the court that his place is filled.

Mr. EVANS (Weber). We would not have any official stenographer in the meantime.

Mr. THURMAN. What is the use of this resolution. The gentleman is the official stenographer of this Convention and he simply will get back here just as quick as he can get away from the court, and he will represent to the court that his duties are here; it seems to me that it is entirely unnecessary to encumber the record with a resolution of this kind; his excuse has been made and he has been excused for non-atttendance. I am opposed to the resolution for the reason that it is unnecessary; wholly unnecessary.

Mr. VARIAN. As I understand it, the court does not know anything about it. That the prosecuting attorney has subpenaed Mr. McGurrin and he is in attendance there as a witness waiting. If this matter can be brought to the attention of the court I doubt not but some arrangement can be made whereby he would be put upon the stand and re-

lieved at once. It is not out of the ordinary course to do that, and, moreover, I believe that if the Convention insisted upon it, the court would not insist upon the attendance of its officers any more than one of its members.

Mr. KIMBALL (Weber.) I move an amendment to the amendment of the gentleman from Weber, that the official stenographer of this Convention, in case of his absence unavoidably, that he be authorized to appoint a competent reporter to take his place.

The motion was agreed to.

Mr. VARIAN. Inasmuch as the resolution as it now stands is contradictory and absurd upon its face, and the proposition or resolution is lost, I move to lay the whole matter upon the table.

The motion was agreed to.

Mr. BUTTON. I would like to ask if it does not take two-thirds majority to carry an amendment like that?

The PRESIDENT. I think not.

Mr. CORAY. I would like to make a statement in regard to what occurred here on the floor yesterday in respect to one of the delegates; it was my understanding from a statement of Mr. Thatcher's that he was but slightly ill and would be here in a few days, but I have since learned that he is seriously ill. Had I known that, I would have made no such remarks as I made here yesterday, and on that condition, I would like to withdraw those remarks. I did not know that Mr. Thatcher was dangerously ill.

The PRESIDENT. If there is no objection the gentlemen will be permitted to withdraw his remarks.

Mr. CHIDESTER. I have a resolution here to offer, and in explanation I will say that the committee on election have investigated the matter in regard to another clerk, and when the resolution was offered——

Mr. THORESON. I think the resolution is out of order.

The PRESIDENT. Petitions and memorials are in order now; the point is well taken.

Reports of standing committees are in order.

Mr. EVANS (Weber). In the absence of Mr. Varian, who is the chairman of the sub-committee on rules, the committee on rules met and considered the propositions which were submitted, as to the amendment of rule 21, and beg leave to submit the following report:

Your committee on rules, to whom was referred several propositions to amend rule 21, beg leave to report that we have had the same under consideration, and recommend that rule 21 be amended by adding at the end of said section the words, "upon a subsequent day."

D. EVANS,
For Committee.

Mr. EVANS (Weber). I move you, Mr. Chairman, that the report of the committee be adopted and the amendment be made to the rules.

The motion was agreed to.

Mr. EICHNOR. As chairman of the committee on municipal corporations, I beg leave to submit our report of the various propositions that have been submitted to us. We have framed a report which might be termed a composite report.

The PRESIDENT. The report will be read and referred to the committee of the whole.

Said report was then read by the secretary as follows:

Your committee on municipal corporations respectfully report for your consideration the accompanying article on municipal corporations and recommend its adoption.

We also report back the following propositions reported to us—some of the provisions of which we have utilized, in part or in whole, and some we have not:

File No. 10, by Eichnor, of Salt Lake City.

File No. 11, by Chidester, of Garfield County.

File No. 18, by Thoreson, of Cache County.

File No. 43, by Allen, of Piute County.

File No. 62, by Cushing, of Salt Lake County.

File No. 64, by Elchnor, of Salt Lake County.
File No. 75, by Peters, of Box Elder County.
File No. 79, by Francis, of Morgan County.
File No. 81, by Francis, of Morgan County.
File No. 106, by Cushing, of Salt Lake County.
File No. 107, by Cushing, of Salt Lake County.
File No. 108, by Shurtliff, of Salt Lake County.
File No. 116, by Thoreson, of Cache County.
We also recommend that files No. 18 and 107 be referred to the committee on revenue and taxation.

EICHNOR,
Chairman.

Mr. VARIAN. Is that a proposition to be inserted in the Constitution?

The PRESIDENT. Yes, sir; as I understand it. It is a matter to be referred to another committee.

Mr. VARIAN. I call the attention of the chair to the rule which evidently contemplates those matters should go to the committee of the whole and not take up the time of the Convention by reading them.

The PRESIDENT. That is where they are going, but this is a separate report.

Mr. VARIAN. I call your attention to it; it is unnecessary to read every report. If every report is read in that way, the object of the rule is done away with.

The PRESIDENT. That goes to the committee of the whole.

Mr. RICKS. I have a report on schedule, miscellaneous and future amendments, which I would like to have read.

The secretary then read said report as follows:

MR. PRESIDENT:

Your committee on schedule, miscellaneous, and future amendments beg leave to report that we have under consideration for insertion in the Constitution an article on prohibition, and as the article is one in which the larger cities, Salt Lake and Ogden, are directly interested, and as neither of the cities mentioned are represented in our committee, we would recommend that the membership of the committee be increased to eleven members, and that Salt Lake and Ogden be allowed representation.

RICKS,
Chairman.

Mr. SQUIRES. I move that this matter, as it really is in the form of an amendment to the rules, be referred to the committee on rules without consideration. Every proposition to change, alter, or add to the standing rules of the Convention shall be referred to the committee on rules and debate, and their report thereon shall lie over one day before action thereon. I submit that this is an addition to the rules, by increasing the number of the committee; it should go to the committee on rules.

The PRESIDENT. Under the rule, it goes to that committee. That is correct.

Mr. CANNON. I desire, as chairman of the committee on revenue and taxation and public debt, to return file No. 100 with the recommendation that it be referred to the committee on legislative.

The PRESIDENT. If there is no objection it will go to the committee on legislative.

Mr. CANNON. As chairman of the same committee, I desire to return file No. 109, a proposition by Mr. Stover, of Tooele County, relating to poll tax, with the recommendation that it be referred to the committee on elections and rights of suffrage.

The PRESIDENT. If there is no objection this will go to the committee named.

Reports of select committees.

The next is the introduction of ordinances and propositions for insertion in the Constitution.

Mr. CHIDESTER. Mr. President, I move the rules be suspended and that all propositions presented be read a first and second time by their titles and referred to the appropriate committee.

The motion was agreed to.

Mr. Hughes, of Cache, introduced file No. 126, a proposition relating to irrigation and water rights. Said proposition was read a first and a second time by its title and referred to the committee on water rights, irrigation and agriculture.

Mr. FARR. I have a communication from the Utah Metric Society. I move it be presented to this Convention and referred to the committee on public and state institutions.

Said proposition was read a first and a second time by its title and referred to the committee on public buildings and state institutions not educational.

Mr. William Low, of Box Elder, introduced a proposition on water rights and irrigation, which was read a first and a second time by its title and referred to the committee on water rights, irrigation and agriculture.

Mr. Kimball, of Salt Lake, introduced file No. 129, referendum proposition, providing that all important laws and amendments to the Constitution shall be referred to the electors, which was read a first and a second time by its title and referred to the committee on legislative.

The PRESIDENT. Unfinished business.

Mr. WELLS. Before we reach the special order, I desire to call attention again to a matter that has already been referred to, and that is the articles introduced by standing committees for insertion in the Constitution, under the rules, do not receive their first and second reading, but are read the first and second time by titles. Now, I do not know whether it is contemplated by the committee on rules to have that amended or not, but it seems to me that it ought to be. Before we resolve ourselves into committee of the whole, I move that the preamble and declaration of rights be read the first and second time, the first time in full and the second time by its title. After we emerge from the committee of the whole the rule says it goes direct to the committee on revision or it goes on the calendar, but it does not provide anywhere that it shall receive its first and second reading. I therefore move that the preamble and declaration of rights be now read the first time in full and a second time by its title.

The motion was agreed to.

The PRESIDENT. I believe there was a request, if I remember, that Mr. Whitney should read it first.

Mr. WELLS. I did make that request. I would like, by a unanimous consent, to withdraw it.

Mr. KIMBALL (Weber). I arise to an inquiry now. Under the rule, reports of the standing committees with propositions go to the committee of the whole to be considered there. By the motion just passed we take this report up with the propositions reported and read it a first and a second time as I understand. I want to understand now and I ask for information, whether it is subject to amendments as it is read at this time. My opinion is that any gentleman on this floor has the right to get up and amend it, and I certainly object to any procedure of that kind, until the matter has been considered in the committee of the whole. But, as it now stands, the Convention having adopted Mr. Wells' motion, my opinion is that any gentleman can get up and move amendments and have the whole discussion on that subject right at the present time on the floor of this Convention, and I ask for information whether that is the proposition now that it can be amended and read the first and second time.

Mr. WELLS. I move that it be decided to be the sense of the Convention that on the first and second reading of this matter it be not subject to amendment.

Seconded.

Mr. VARIAN. I arise to a point of order; this resolution that has been carried is certainly an amendment to

the standing rules of the Convention. I don't see myself its expediency.

Rule XIX provides:

(Reads rule 19.)

I assume that that action has been taken as to this particular matter. I know it has been printed, because I have seen it, and I presume it has been referred to the committee of the whole, and it has been indicated in the journal of this Convention, fixing the hour for the consideration of that report. Now, the Convention, by resolution, inadvertently it seems, has attempted to displace or at least interfere with the operation of this standing rule, which has, so far as this particular matter is concerned, gone into execution. It has passed from the Convention and gone to the committee of the whole.

The PRESIDENT. The point of order is well taken. The matter had already been referred to the committee of the whole.

Mr. WELLS. I submitted the motion and asked for a suspension of the rule.

The PRESIDENT. The question of suspension was not mentioned.

Mr. KIMBALL (Weber). I arise to a point of order. The gentleman from Salt Lake is out of order. The matter has been referred to the committee of the whole, it is not before the Convention, and there can be no motion made with regard to it.

The PRESIDENT. Shall this part of the record, made in this motion, be effaced?

Mr. VARIAN. Is there anything before the Convention?

The PRESIDENT. No, sir.

Mr. VARIAN. I move we take up the special order.

The PRESIDENT. Special order.

Motions and resolutions are in order.

Mr. CHIDESTER. I believe this should come in in the report of the standing committees, but I ask the consent of the Convention to introduce this resolution. Now, it is a verbal report of the committee on elections, with regard to the clerk—the hiring of an additional clerk:

Resolved, that the committee clerks confine their labors to reports of committees and the balance of their time under the direction of the chief clerk, and that the engrossing clerk shall be required to devote his time to the assistance of the chief clerk when he is not actually engaged in enrolling and engrossing.

It appears there are ample clerks to do the work of this Convention, or at least the committee has so considered it; and we believe that the committee clerks are occupied a great deal of the time doing the typewriting for members of this Convention that they should do themselves, and if this was done by the members of the Convention, and if they wrote their own letters and their own propositions that are brought and submitted to be inserted in the Constitution, then the clerks would have time to devote to the assistance of the chief clerk, and if that is done, there would be no need, as we believe, in having an additional clerk.

The PRESIDENT. What will you do with this report?

Mr. CHIDESTER. I move that this be adopted.

Seconded.

Mr. THORESON. I understand that on one of the first days of the session, the motion was made and carried that the enrolling and engrossing clerk be an assistant to the chief clerk; we are now going over the same ground.

Mr. CHIDESTER. It may be a fact, as the gentleman states, but it may, nevertheless, be misunderstood by the engrossing clerk, and also by the committee clerks and the members of this Convention.

Mr. SQUIRES. I would like to have that report read once more.

Said report was again read by the secretary.

Mr. SQUIRES. I think the best service we could get out of these clerks

will be lost if they have to divide their time between two masters. If we make them subject to the chief clerk and subject to the chairmen of the committees, I think their best service would be lost. I move that that report be amended in that particular, and the amendment will be, when not engaged in committee work.

Mr. CHIDESTER. That is just exactly what I oppose. The committee clerks will not know anybody who is their master and it will be just the same as it has been for the past two weeks. They will be at the call of any one. The object is to get it so that their time will be first to the committee work and then the balance of the time that they have to spare will be under the chief clerk's management.

Mr. KIMBALL (Weber). I move that the resolution and the whole matter pertaining to it be laid on the table.

Seconded.

The motion was agreed to.

Mr. KERR. I move the adoption of the following resolution:

Resolved, that the report of the committee on education and school lands be made the special order for consideration by the committee of the whole on Friday at 3 p. m.

The motion was seconded.

Mr. CANNON. I would like to ask the gentleman why not take it up to-morrow?

Mr. KERR. I understand that it is probable the report of the committee on preamble and declaration of rights will not be disposed of to-day, and I understand also that there are a number who desire to consider the report of the committee on education and school lands further before it is brought before the Convention. There are some who object to some provisions in the report. Personally, I am willing that they should be given an opportunity to look up the subject before it is considered. The report has been printed.

Mr. SQUIRES. I ask the gentleman why he fixes the hour? We have an order of business, which is a special order, and if we reach that order of business before three o'clock, we could take it up at that hour. I don't think it is necessary to fix the hour.

Mr. KERR. I am not particular as to the hour.

Mr. SQUIRES. I move that the hour of three p. m. be stricken out.

The motion was agreed to.

The PRESIDENT. It will be referred to the committee of the whole on Friday.

Mr. RICKS. I move we now take up the consideration of the preamble and declaration of rights as a committee of the whole.

Mr. SQUIRES. That motion scarcely covers the ground. I now move that we resolve ourselves into a committee of the whole, to consider the report on preamble and declaration of rights.

Mr. EVANS (Weber). I want to call attention to rule 20 on that question, the latter portion of it. "A motion to rise and report progress shall be in order at any time and be decided without debate." "A motion to rise is not in order until each section and the title have been considered, unless the limit of time has expired."

It seems to me the time ought to be stated, that we go into committee of the whole to consider the report on preamble and declaration of rights for an hour and a half, otherwise we will be in a committee of the whole and unable to get out of it, unless we complete the section entirely. I therefore ask that it be amended and that one hour and a half be inserted.

Mr. SQUIRES. I accept that amendment.

The motion as amended was agreed to.

The Convention then resolved itself into committee of the whole, with Mr. Squires in the chair.

COMMITTEE OF THE WHOLE.

The CHAIRMAN. The secretary will

ead the report of the committee on reamble and declaration of rights by ections.

Mr. WHITNEY. May I interrupt to ffer an amendment?

The CHAIRMAN. I should think not.

Mr. VARIAN. I was going to make motion that we read it by sections nd have the matter open to amendnent as read. What purpose is to be ained by reading this matter twice?

The CHAIRMAN. If there is no obection, the report will be read by sections and amended.

The secretary then read section one s follows:

Section 1. All men have equal, inerent, and inalienable rights, among which are these:

To acquire, possess and protect property; to worship according to the dictates of their conscience; to peaceably assemble, protest against wrongs, and petition for redress of grievances. To freely communicate their thoughts and opinions, being responsible for the abuse of that right.

Mr. WHITNEY. May I offer an amendment now?

The CHAIRMAN. Yes, sir.

Mr. WHITNEY. I wish to amend section 1 of article 1 of the declaration of rights. The first and second line of section one reads now: "All men have equal and inherent and inalienable rights, among which are these." I wish to amend by inserting the following lines in lieu of those two lines, "All men have the inalienable right," so that the section will then read, "All men have the inalienable right to enjoy and defend their lives, and liberties," etc.

The amendment was seconded.

Mr. WHITNEY. My attention has been called to the fact that the section as it now stands involves what is called tautology in rhetoric, and the amendment I suggest will improve the rhetorical construction, without changing the meaning. It would be proper the way it now stands, if we should read it, "all men have equal, inherent, and inalienable rights," and it would be proper to enumerate these rights by saying, "the enjoyment and defense of their lives and liberty, the acquiring, possession, and protection of property," etc., but to obviate that change I suggest this other, "all men have the inalienable right to enjoy and defend their life and liberty." I have another amendment to the same section. May I present that also?

The CHAIRMAN. I think we ought to pass upon each amendment as it is made.

The amendment was agreed to.

Mr. WHITNEY. The other amendment I wish to suggest in that section is merely a transposition of the last two clauses so that it will read, "To freely communicate their thoughts and opinions, being responsible for the abuse of that right. To peaceably assemble, protest against wrongs, and petition for redress of grievances."

I think this reading makes the clause more consecutive and strengthens it. I move that change be made, merely the transposition of the clauses.

Mr. FARR. I would like the reading of that motion.

The CHAIRMAN. It is just merely a transposition of the last two clauses.

Mr. VAN HORNE. It seems to me that the present order it is in is the most consecutive. I take, that the right to peaceably assemble and protest against wrongs and petition for redress of grievances contemplates the assembling for the purpose of communicating their thoughts freely to each other on the subject of the petition for the redress of the grievances, and on that of assembling where they communicate their thoughts, they are only responsible for the abuse of the right. It seems to me that the order as it is in at the present is the logical one and had better stand.

Mr. IVINS. I would like to ask if that is not a matter that should be properly left to the committee on compilation and arrangement? The amendment provides for no change of any word.

No change in the language, it is simply a transposition, and properly, in my opinion, should be left to the committee on compilation and arrangement. Therefore, it seems to me, that the amendment is unnecessary.

The amendment was rejected.

The secretary then read the second section as follows:

Section 2. All political power is inherent in the people, and all free governments are founded on their authority and instituted for their equal protection and benefit, and they have the right to alter or reform their government as the public welfare may require.

Mr. SNOW. I move to amend section 2 by striking out the words on page 2 and line 5, "their government as" and insert in lieu thereof the words "the same whenever," and insert the word "good," and after the word "require," upon the same line, to insert the word "it," so that the section as amended, would read, "all political power is inherent in the people, and all free governments are founded on their authority and instituted for their equal protection and benefit, and they have the right to alter or reform the same whenever the public good may require it."

The amendment was seconded.

Mr. WELLS. I oppose this amendment and hope it will not prevail. I think it is very much stronger the way it is put now.

Mr. VARIAN. I would like to ask the chairman of the committee what is the necessity of a declaration like that; it is simply affirming and reaffirming a principle that there is no necessity of. There is no necessity for the whole declaration.

Mr. WELLS. I will state probably one-half of the constitutions of the states in the United States have the same provision; I think when it comes to a matter of a declaration of rights, that it is very pertinent to provide that all political power is inherent in the people.

The amendment was rejected.

Mr. VARIAN. Permit me to suggest—I understood, at least, in the reading of these various sections, it was not necessary to adopt them; if there is no amendment offered we pass on to the next section. When we have concluded, I suppose the motion will be that the committee rise and report progress, and report these articles, as amended by the committee, to the Convention for recommendation, and the Convention may or may not adopt them.

The secretary then read section 3 as follows:

The State of Utah is an inseparable part of the Federal Union, and the Constitution of the United States is the supreme law of the land.

The secretary then read section 4 as follows:

The rights of conscience shall never be infringed. Perfect toleration of religious sentiment is guaranteed. The state shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; no religious test or property qualification shall be required for an office of public trust, or for any vote at any election; nor shall any person be incompetent as a witness or juror on account of religious belief or the absence thereof. There shall be no union of church and state, nor shall any church dominate the state, or interfere with its functions. No public money or property shall be appropriated for or applied to any worship, exercise, or instruction, or for the support of any ecclesiastical establishment.

Mr. ROBERTS. In line 10 of that section, I move the insertion of the following after the word "thereof:" "No person shall be compelled to attend, erect, or support any place of worship, or maintain any minister against his consent."

The section, as it now stands, provides for no union of church and state, and that no public money or property shall be appropriated for or applied to any religious worship, exercise, or instruction, and as this is a declaration of rights affecting particular individuals, it seems to me that this addition ought to be made to that section—"No

person shall be compelled to attend, erect, or support any place of worship, or to maintain any minister against his consent." I wish to say it is a clause from the constitution of Tennessee in the bill of rights.

Mr. FARR. Will not that open up a loophole so that if a man promised to help pay for the erection of a church and the building was started and partially completed, could he not avoid his promise by pointing to the declaration here, and fall back on this part of the Constitution? There is a question there.

Mr. WHITNEY. That is provided for in the first part, "the rights of conscience shall never be infringed."

Mr. CHIDESTER. I offer the following amendment to line 8, by adding——

Mr. ROBERTS. I arise to a point of order; I think that the matter that I presented to the committee is before the committee and no disposition has yet been made of it.

The CHAIRMAN. The gentleman is correct.

Mr. EICHNOR. I am opposed to the amendment. This view, as presented by Mr. Roberts, is taken from various constitutions of the United States. It arose in Massachusetts; Massachusetts framed the first constitution in 1780; in the constitution of Massachusetts and several of the other eastern states, they made it compulsory for a man to belong to a church. Now, I do not think there is anything of that kind west of the Mississippi river. If we insert that amendment as proposed by the gentleman from Davis County, why, we give it out to the world that we have that kind of people here. I think it is unnecessary here and I am opposed to the amendment.

The amendment was rejected.

Mr. IVINS. I propose as an amendment the insertion in line eight, after the word "election," the following, "except at elections where taxes are levied for special purposes, in which case the Legislature may provide for a property qualification."

The motion was seconded.

Mr. ANDERSON. I will make an amendment to Mr. Ivins' motion, by striking out "or property qualification" in line 6, and at the end of the section, make another section to read like this: "No property qualification shall ever be required for any person to vote or hold office, except in elections levying a special tax, or creating indebtedness." In elections of that kind I think there should be a property qualification.

Mr. VARIAN. I second the amendment.

Mr EICHNOR. I move as a substitute for the first and second amendment this provision:

"No property qualification shall ever be required of any person to vote or hold office, except as provided in this Constitution," and the committee on elections, if they have any other article, it will not conflict with this or whatever will be placed in the declaration of rights.

The substitute of Mr. Eichnor was seconded.

Mr. EICHNOR. If it is to be understood that a measure is to be submitted at a later day, which will cover this ground, I will withdraw my proposed amendment.

Mr. VARIAN. I don't know what you other gentlemen will think about this question. It is a general proposition. I don't remember about the exact wording of it. I don't believe the people of this coming State ought to tie themselves upon this question in the Constitution. The restrictions upon the power of the Legislature ought to be just those that are deemed necessary and no more. As I understand the substitute offered by the gentleman from Salt Lake, the provision is very stringent; I would like to have the clerk read it once more.

The secretary then read the substitute offered by Mr. Eichnor.

Mr. VARIAN. The inquiry suggested by my friend from Washington County, seems to me to be very pertinent. Why should the Legislature be prevented, if it is in accord with the temper of the people, from prescribing certain property qualifications in certain classes of cases? Why should not the fixing of indebtedness upon the property of the State be determined by the men who have to pay the taxes? I confess for one, I cannot see. I think it is a very appropriate power. It should exist in the Legislature in the absence of any constitutional restrictions. Why should any special taxes be levied upon the property and not upon the ballots of the people? It should be levied upon the real and personal property which is owned in the State.

Why should not that encumbrance, levied upon my property and my brothers' property, be determined by me and them, in accordance with the exigencies and necessities of the occasion? I think you are making a mistake, if you are going to attempt to restrict the future legislation of the State in that all important matter. I think the Legislature ought to be left free and untrammelled in that matter. I think the Legislature coming fresh as it does from the people every two years may be safely relied on to represent the people, and their views and their ideas, in accordance with the particular changes and necessities of the time.

The world does not stand still. The law of its being will be progress and improvement in accordance with the universal law, and to encumber it with such a restrictive clause as that—tie up the Legislature for all time, or at least until a two-thirds majority of the voters, or whatever numbers you may in your wisdom pass upon, be received so as to amend the Constitution—I hope the committee will vote that down.

Mr. WELLS. I wish to state in behalf of the committee that their intention was that this restriction should only apply to general elections, and not to these special elections or to school elections; the matter had been already called to my attention by a member of the judiciary committee and the committee on elections and suffrage, and they said that they expected to bring in a provision here which will be almost the same as this, except that it will provide in school elections, and in elections involving the expenditure of money, that a property qualification may be exacted of the voter. I have no objection to that, and I think that the amendment proposed by the gentleman should carry.

Mr. VARIAN. I only wanted to test the sense of the committee on the proposition as made by the amendment—the second amendment of Mr. Anderson, I think it is.

Mr. THURMAN. I cannot agree with the honorable gentleman from Salt Lake, last upon the floor, that this matter should be left to the Legislature. I think if there is any power that the government may possess where a restriction should be placed in the Constitution itself it is upon the very subject now under consideration. I am fully in accord with the views of those who are willing to leave to the Legislature the right to fix a property qualification where the thing to be voted for is relating to money and money obligations.

Mr. VARIAN. Will the gentleman pardon me a moment? I did not mean to be understood in any other way. I was simply speaking as to the proposition now under discussion.

Mr. THURMAN. I understood the gentleman in a different way. I favor, however, the proposition of the gentleman from Salt Lake, Mr. Eichnor; probably the reason I do that is because being a member of the suffrage committee, and understanding the proposition that they

have under consideration, and the fact that it meets with the views of that committee and will be adopted, it seems to me the proper place is in the Constitution for this matter to rest. And it provides for that very thing. That is that no property qualification shall be exacted as a right to vote for candidates for office, which should exist in the State; but a property qualification may be established by the Legislature in cases of special taxes, or in such a case as the election in Salt Lake County last Monday for an indebtedness. I think the amendment proposed by Mr. Eichnor ought to prevail for the reason that it will be put into the Constitution in another and more appropriate place.

Mr. VARIAN. Is there any motion before this committee?

Mr. ANDERSON. If my second objects, I hold to my original amendment.

Mr. CANNON. I favor the amendment offered by the gentleman from Beaver County. I think the provision that he adds there, "no property qualification shall ever be required of any person to vote or hold office, except in elections referring to special tax or creating an indebtedness," covers the ground as it should be covered. I think that in all general elections no property tax should be required or provided for, but where the people who pay the taxes are the most deeply interested in the matter, I think it should be submitted to them and to them alone. I think that those who do not pay a property tax should have no voice in what indebtedness should be incurred, what liabilities should be placed upon the property of the county or State, as the case may be. For this reason, I shall support the amendment offered by the gentleman.

Mr. EICHNOR. I desire to speak now to my substitute. In the first place we have been the recipients of many admonitions not to place too much in our Constitution. In the second place, that we shall frame a Constitution which is symmetrical in all respects. Now, I hold this: From my experience of the various constitutions I have not found a constitution where in the declaration of rights the word special tax is mentioned. That belongs to the committee on elections, that is where it belongs.

This provision, no property qualification shall ever be required of any person to vote or hold office except as provided in this Constitution, does not state that that person shall vote to create the indebtedness, when he is not a property holder; that is not the idea of it, but it is this, if you please, put in the constitutional language, and I have followed the declaration of rights of a number of states in the United States, and if you examine them, you will find it so. Mr. Anderson's amendment is all right, only it is in the wrong place. It belongs to the committee on elections and rights of suffrage. I do not dispute the merits of that amendment, but in the declaration of rights avoid going into that business, as much as possible, and this I think meets the requirements of the general rule in the declaration of rights.

Mr. VARIAN. The gentleman who last spoke admits the fact that in dealing with this question some qualification should be specified. At least some such distinction should be made as suggested by my friend from Beaver County, but in opposition to this the gentleman from Salt Lake informs us that we are going to do something in the future which will make this all right; now, we cannot deal with these matters in that way. It will simply create confusion. We might just as well deal with this proposition when it is presented to us; we can get the sense of the majority of the Convention upon it, the sense of their views by getting this matter into shape, and when the other matter shall come in, if it shall be deemed necessary, a transposition of this in the declaration of rights can be made into some other part of the Constitution. Our rules provide for that, and that doubt-

less will have to be done in many instances, and you will observe that this very objection will be continually coming up; we will be met by the proposition from gentlemen from some committee that "our committee is considering that question and when we get ready to make a report, we propose to present the matter in the way that you wish to have it." You cannot deal with these questions in the future. The question before us is simply a proposition embodied in this section of the article as it is suggested. It may be amended, lost, or disposed of, but let that be done now, and not be waiting for some other committee that may have some question under advisement to bring on in the future. Therefore, I think we ought to pass upon this right now. If the committee on elections shall report that they have the same matter, then that question will probably be referred to the committee on arrangement and compilation.

Mr. EICHNOR. May I ask Mr. Varian a question?

The CHAIRMAN. Yes, sir.

Mr. EICHNOR. Do you hold that the amendment as offered by the gentleman from Beaver County has a proper place in the declaration of rights?

Mr. VARIAN. I see no objection to it. I make no question about that. We are only wasting time in a discussion of this kind. If it comes up from some other committee and we want to put it in some other part of the Constitution, it is just as effectual in one article as the other; it is just as binding upon the people and the Legislature. That is what I mean and that is what I claim, but we should not refuse to act upon the question because we are informed the matter will come in in another shape from another committee.

Mr. ANDERSON. This same thing is included in the declaration of rights of Idaho; that is a precedent.

Mr. BOWDLE. I am in sympathy and accord with the gentleman from Salt Lake; I believe that this amendment ought to be made. If we are to leave each individual thing as it comes up with the prospects that it will go in somewhere else in the Constitution, we cannot make the Constitution unless we have the whole thing at our disposal at once. We must dispose of each section as it comes up and if that section should be offered later or a more appropriate one, it can be put in some other place by the committee on compilation and arrangement; they can dispose of that, but it has been well said if we allow a suggestion that some of the committee is cutting out this timber and framing it together, and is going to report upon it, and we delay our action in this matter, why, we do not know really where we are at any time. The suggestion that it may come from some other committee when their report may be brought in will not do.

Mr. EICHNOR. I do not wish to take the time, but, however, I would like to ask Mr. Bowdle if we are going to put this property qualification in the declaration of rights, why not put in the woman suffrage clauses?

The CHAIRMAN. Read Mr. Eichnor's amendment.

The amendment was thereupon read by the secretary.

Mr. KIMBALL (Weber). I think we had better pass on one proposition at a time and get rid of it.

Mr. HOWARD. I am certainly in favor of the change to be made in this section. We have heard a great many times that we should try to shut out lengthy articles. It appears a simple amendment is offered to this by striking out the words, "for any vote at any election," without doing anything to the rest, and it is left open for the Legislature. If any other committee of this Convention should bring in some article on the property qualification—if it would be in order I would make a motion——

The CHAIRMAN. It would be out of order.

Mr. IVINS. I shall ask now if I am right in the supposition that the question will be upon Mr. Eichnor's amendment?

The CHAIRMAN. The question will be upon the substitute offered by Mr. Eichnor.

Mr. IVINS. I wish to say, before the vote is taken—do I understand the vote is taken upon his substitute if in any way carried the amendments—I was willing to waive my amendment, believing that the substitute offered by Mr. Eichnor will place this question of qualification to vote right where it belongs.

In the report of the committee on elections, however, if the matter is to be voted upon, I still adhere to my amendment in preference to the amendment offered by the gentleman from Beaver County, from the fact that in the amendment which I have offered, it is provided that the Legislature may, if they deem proper, provide for a property qualification where a vote is to be taken upon matters that refer directly to the assessment of property taxes. In the amendment offered by the gentleman from Beaver it is simply stated that there should be no property qualifications except in the election where taxes are to be levied for private purposes. That in these cases it would be necessary and proper if there should be property qualification. I shall vote for Mr. Eichnor's substitute, upon the ground that I believe that it will place the matter where it properly belongs. I believe that the whole reference to property qualification ought to be stricken out in this bill of rights.

The CHAIRMAN. Do I understand you, Mr. Eichnor, that you desire to strike the words "property qualifications" out?

Mr. EICHNOR. In the sixth line; yes, sir.

The CHAIRMAN. I think your amendment comes at the end of the section.

Mr. EICHNOR. Yes, sir; I ask that the substitute be read again before the vote is taken.

Mr. VARIAN. I misunderstood that; that certainly makes it very binding. It certainly does not leave it open to the Legislature if the Constitution should fail to provide for a property qualification. If the Constitution should be adopted the Legislature would not have power, and I cannot see, under the circumstances, why my friend from Washington County can support that amendment.

Mr. EICHNOR. I will state my position. When the committee on election reports either Mr. Ivins' amendment or Mr. Anderson's amendment, as I claimed before, and no attorney on the floor can gainsay it, that it does not belong here; properly it belongs in another place.

Mr. VARIAN. Will the gentleman state why we cannot gainsay it?

Mr. KEARNS. I must agree with Mr. Varian; we cannot provide or look to the future. This Constitution is binding upon the future Legislature of the State. We would not have any use for legislatures for the next three hundred years if everything is provided for in this Constitution, and is binding upon them. I do not approve of that at all.

The CHAIRMAN. The vote will be taken on the substitute of Mr. Eichnor of Salt Lake.

The question was then put on the substitute of Mr. Eichnor and agreed to.

Mr. KIMBALL (Weber). I move to amend section four by striking out all of the section after it and including the word "no" in line two and inserting in lieu thereof the following——

Mr. HART. I rise to a point of order, for the reason we have just voted on that proposition and we cannot strike that out without reconsidering the vote of Mr. Eichnor, which inserted that clause.

Mr. CHAIRMAN. I decide the point

is well taken, and a substitute can only be acted upon by a reconsideration of the vote.

Mr. KIMBALL (Weber). I appeal from the decision of the chair.

The CHAIRMAN. The gentleman has appealed from the decision of the chair. Shall the decision of the chair remain as the decision of the committee?

Mr. VARIAN. I want to submit to the gentleman from Cache County, and also to the chair, what the effect of such a proposition of parliamentary law as that would be, if that is the law. This is not an amendment, covering the same ground. When the matter incorporated by way of amendment at the end of the section became a part of the section, the section as a whole is still open to amendment. We cannot move to strike out particular words of the clause which has been adopted by the vote of the committee, but by adding something to the section as it originally stood, we change the entire subject matter in character to a more or less degree; in some instances it may be changed to a very marked degree. I think it has been in this case. It presents an entirely different question. Now, when you come to move to change the section still further by an amendment, simply because that amendment includes a word or two words or three words of a section or clause that had been previously added by way of amendment, we are not precluded by that; otherwise you see how easy it would be to forestall all possible action by the Convention in putting into shape other matters in the section. I don't understand there is any authority upon that proposition. It certainly is not a good sensible proposition. Of course I do not speak with any personal reference. I am speaking of it as an abstract question. Now, the Convention adopted a certain proposition and they still adhere to that. It cannot be amended. is that right? I think if they so desire it can be amended in accordance with the suggestion of the amendment offered by the gentleman from Weber. But you see that this amendment as proposed and which the chair ruled out of order, covered not only the particular matter which had been adopted, but some other matters upon which the sense of the Convention is entirely to be taken. If there is anybody here that voted to pass upon this as a whole, they can, by amendment, move to divide the question. They can offer an amendment to as much of this section commencing with line so and so and by striking out up to and including the matter offered and admitted by the committee at the suggestion of Mr. Eichnor.

Mr. HART. I believe in the argument of the gentleman from Salt Lake as made, but not the application. I understand when a part of a clause is inserted you may afterwards, by motion, strike it out and also any other part of the clause, but in this case the question is an entirely different one. Here is an independent sentence that was inserted by the substitute of Mr. Eichnor. It was a particular proposition in regard to property qualifications. We assented to that proposition, as an amendment to this clause, but while I feel that we could reject the clause as a whole, I can tell that this part that has been adopted cannot be rejected, otherwise, there would be no end to it.

Mr. VARIAN. May I be permitted to ask the gentleman a question?

Mr. HART. Yes, sir.

Mr. VARIAN. Would not it be perfectly competent to ask to strike out the entire section 4?

Mr. HART. That is what I said.

Mr. VARIAN. And yet we have agreed to adopt certain propositions. Now, that is another question. If it is competent to move to strike the entire section as amended, why is it not competent to move to strike out a proposition of the clause as amended?

Mr. HART. I would like to answer by saying this proposition contains a

number of distinct topics, and it is almost a separate and distinct item from that passed upon by the proposition of Mr. Eichnor. It is a question of property qualification. Now, the gentleman comes along with a proposition of a different and distinct kind. If I understand the subject matter of it, he comes along with a different proposition entirely and moves to strike out that part of it which we have formally passed upon and moves to insert matters in regard to what property shall be exempt from taxation. I submit that this motion is out of order.

Mr. KIMBALL (Weber). I would like to ask you this question. Section 4 has not been passed upon by the committee, has it? When Mr. Eichnor's amendment is adopted it becomes a part of section 4, does it not?

Mr. HART. Yes, sir.

Mr. KIMBALL (Weber). Section 4 was still open to amendment and is, isn't it?

Mr. HART. Yes, sir.

Mr. KIMBALL (Weber). That is what I propose now, to still further amend section 4 by striking out a part of what Mr. Eichnor proposed and inserting this.

Mr. HART. The section is and would still be open to amendment, but to change it in regard to what Mr. Eichnor offered is a matter that we have already passed upon. It is a proposition that we have already passed upon and you now offer in its stead a distinct and separate proposition.

The CHAIRMAN. Shall the decision of the chair be sustained?

The question was then taken on the appeal from the decision of the chair, and the decision was sustained.

Mr. KIMBALL (Weber). I move now to insert in addition to section 4, the matter that I handed to the secretary, as an amendment to section 4. I move now to insert it as an addition to section 4, leaving out the words, "strike out all section 4," and insert this as an addition.

Mr. EVANS (Weber). I would like to ask the gentleman from Weber County where he secured that amendment which he proposes.

Mr. KIMBALL (Weber). I do not suppose I am under any obligation to inform the gentleman where I get my knowledge. I get it anywhere I please and it makes no difference to this Convention or to the gentleman either, and I decline to answer.

Mr. EVANS (Weber). I simply ask respectfully, Mr. Chairman, for the purpose of obtaining information. I have some constitutions and they don't seem to have it, and if I could get the particular constitution from which it was taken I might perhaps investigate it.

Mr. KIMBALL (Weber). I will reply to that that I was not sent down here to be tutor to the gentleman.

Mr. EVANS (Weber). Will the gentleman inform me whether he found it in a letter on his desk?

Mr. KIMBALL (Weber). I won't answer any of your questions.

Mr. EVANS (Weber). I am opposed to this amendment simply because it would be hasty legislation. The provision may be good, but it was found upon the desk of some of the members. I am free to confess I found one on my desk, and I am not ashamed to say it, and I suppose the gentleman from Weber did the same thing, and I did not think it was right for this gentleman to put this thing on this committee as original, because others have received the same information.

Mr. KIMBALL (Weber). There is nothing original but sin, and you have that.

Mr. ROBERTS. I understand that this is a motion to add matter placed before us by Mr. Kimball and is now before the house.

The CHAIRMAN. Yes, sir.

Mr. ROBERTS. I desire to call attention to the second clause of this mat-

ter, which involves a very serious question. I take it no property, real or personal, in this State, except cemeteries, in use for private gain shall be exempt from taxation, or the title to which is vested in the State or in some county, municipality, or school district, in the State. I am of the opinion that if this clause should pass by the Convention, it would make taxable church property and property held for charitable institutions. That, sir, I believe is a very grave subject and should not be passed upon hastily at least.

I do not believe that this is a proper place for it. If it should be the sense of this Convention to tax church property, I do not believe its place would be in the bill of rights. I cannot vote to sustain this clause, because I am of the opinion that church property that is devoted wholly for the purpose of worship, or that property held by strictly charitable institutions, from which there is derived no profit to those who hold it, should be taxed at all; therefore, I cannot sustain this part of a proposition to add this clause to the bill of rights, and I therefore move you, Mr. Chairman, that that clause be stricken out.

Mr. KEARNS. I second that motion. I quite agree with my friend, Mr. Roberts. While I am not speaking for any church, we have charitable institutions that surround us here and I don't know what humanity would do if they did not exist. Take the old gray-headed, venerable men that fortune has not favored; they that have embraced the storms of winter and at the end are penniless, where could we send them, but to the hospitals, to be taken care of? We take the children that are left homeless—orphans, who have nobody to protect them; if we do not have an institution to take care of them, what are they going to do? I am sorry that an associate of mine would indorse such a clause as that. Yes, I am ashamed of it. If these institutions do not exist, what is poor humanity going to do? I, for one, will not vote for anything of that kind, and I trust that any man who would will hang his head in shame forever.

Mr. IVINS. I just want to state in a brief way that while I see no reasons why this amendment offered by the gentleman from Weber should not prevail, the only sufficient reason in my mind is that to be inserted in this bill of rights, it would be a place where it should not be. This very same question came up and was referred to by the gentleman from Salt Lake. This question of exemption from taxation—well and good. If it is in its proper place, it should be in the report of the committee on revenue, taxation and public debt, and I maintain that this bill of rights is not a proper place for it. Therefore, this amendment should be voted down and this matter left to come in its proper place and time.

Mr. KIMBALL (Weber). We are considering now a proposition that is to be reported from the committee. We cannot anticipate what some other committee is going to do. As my friend Mr. Varian says, it may do various things. There may be conflicting reports come in here, and undoubtedly will, and the committee on revision and compilation has got to reconcile them. When a proposition comes before the Convention or the committee of the whole for action, it is a poor argument to say that some other committee may report some different proposition or some similar proposition. We cannot anticipate what they are going to do. As to my friend from Summit County, I regret his sorrow and hope he will never have to hang his head for shame. As for my part, I believe that all the property in this Territory, except such as is exempt in that article, should be taxed regardless of whether it belongs to a religious society or a charitable society, or any other people. It should bear its proportion of the expenses of the public at

large, and if they own real estate or personal property, they should pay their proportion of the taxes whether it is a shame or whether it is not a shame. I say I am not ashamed of that proposition and I think it should pass this Convention.

Mr. CHIDESTER. There is no use of my saying much on that, because I do not believe in such a proposition and I hope it will not be adopted. In the first place, I am not in favor of putting into the bill of rights every proposition that should be considered by other committees and the proposition that is sought to be put in here, as I understand, is a proper subject matter to be handled by another committee, and if we continue to adopt such measures as this we will have the whole Constitution in our bill of rights.

Mr. VAN HORNE. As I understand this proposition, there are distinct matters involved in the motion. I ask for a subdivision or division of the motion that it may be acted upon section by section.

The CHAIRMAN. How will you have it divided?

Mr. VAN HORNE. By section.

Mr. KIMBALL (Weber). I consent.

Mr. VAN HORNE. My reason for doing that is that I see nothing whatever objectionable in the first two sections. I think that that section is one that is a part of the declaration of the bill of rights and comes properly under that head in our Constitution. The report of the committee on that subject is a matter for consideration by this Convention. I maintain in some respects it is better than the draft of the declaration of rights. for this reason, the report of the committee provides that no public money shall be given to such institutions. The draft, as submitted by the gentleman from Weber in this first section, provides that no public funds or property in this State——

The CHAIRMAN. I desire to understand, if the gentleman will answer my question. What are you speaking to? I understood you were making a motion to divide. After we have passed upon Mr. Roberts' motion, the motion to divide can well be in order.

Mr. VARIAN. Does the chair rule that a motion to strike out part of the amendment that is offered is proper?

Mr. KIMBALL (Weber). His motion is to strike out my motion and in that way dispose of my motion.

Mr. ROBERTS. Excuse me, as I understand it, you submitted these three clauses as an amendment to the fourth section?

Mr. KIMBALL (Weber). The chair ruled that out of order and then I moved to insert it as an addition.

Mr. ROBERTS. Your proposition is to make these three clauses an addition to section 4. I moved to amend that amendment by striking out clause second of your matter. That was the amendment as I understood it.

The CHAIRMAN. The chair decides that the amendment is in order.

Mr. ROBERTS. It is the entire second clause that I desire to strike out. If I may again speak on this question before it goes to the house, I would like to. I want to urge again the importance of members considering the effect of that section if it shall be adopted. It means the taxation of church property of all sects and denominations in this Territory, and it means the taxation of all property held by charitable institutions. It is a fact that every church property used for public worship carries no material consideration of that sect, but they contribute their means to the establishment and support of such institutions, and I claim, sir, that property that is held for such laudable purposes and from which there accrues no material gain to those who have established it, this should be of right exempt from taxation, and I sincerely hope that members of this Convention clearly understand this proposition proposes to

leave that kind of property taxable in the proposed new State, and I sincerely trust for one that that part of the proposed addition to section 4 shall not prevail.

Mr. VAN HORNE. I understood that I had the floor and it was a point of order that took me from the floor. I have been standing here ever since. I am speaking now on the question whether that amendment of Mr. Roberts' shall prevail or not. I shall also speak on the other question. I say that the second section in my opinion is a perfectly proper one and one that should be guarded by this Convention. I believe that the whole people are interested in the fact that there should be exemption for property from taxation. I believe we have put into it and into our Constitution the most absolute liberty. By that I mean not only a man should believe in any so-called religion that he may choose, or that his conscience may dictate, or if that conscience is such that it does not believe—that is, recognize as a religion, that he have the freedom to believe that also. We have it put in all our constitutions that I have seen, and we have it here in the Territory. Now, the fact that a man can affirm, where he does not even believe in a God, and that his affirmation under pains and penalty of perjury, if he should falsely testify, the same as if he had sworn and called God to witness the truth of his testimony—is direct in line. We have to follow directly from that that there is no right in the State without absolute religious toleration, relief from the burden of taxation of property owned by those who believe in any creed or all creeds; the individual who has no creed, who knows nothing about the future, what is termed an atheist, is entitled to have the burden of taxation lessened upon him and his property by just so much as the revenue derived from the taxation of property of those who do not believe in a God will lessen it. It affects me personally in no way whatever; but I have known of cases where church property in a great city went up in millions of dollars and under a rule like this was not subject to taxation. I do not think that this Convention should put itself upon record as relieving from taxation the property used by churches. I think they might as well exempt from taxation the lecture hall of the unfortunate infidels as to relieve from taxation this property or that cathedral of the devout believer. That is my idea of absolute toleration.

Mr. WELLS. I submit that this question at this time belongs to the committee on taxation and public debt, and should not be in the bill of rights. The gentleman from Weber says that we must not anticipate what they may do; the original result of that would be the whole Constitution would be headed, "declaration of rights." It is a question in regard to taxation pure and simple, and is as to whether church property shall be taxed or not. It has no part in the bill of rights. It does not belong here. The bill of rights as I understand it, is to determine and define the fundamental rights of the people of Utah, and this is a question of taxation. I submit that it should not be considered now.

Mr. KIMBALL (Weber). I differ with my friend from Salt Lake. It is true it may be a question of taxation, but it is also a question pertinent to the declaration of rights. We are now declaring what the Legislature can do. We are declaring what the State can do. We are giving notice that we adopt this proposition to the committee on revenue and taxation, as to what it can do in that respect. I say we have no right to wait for the action of that committee. We are to declare here what can and what cannot be done, and we are declaring, if we adopt this proposition, that the State shall tax all of that property equally. This is a declaration and it is not a matter of

legislation. It is not a matter that comes to the committee at all. It is a matter that should be declared here so we know when a state is organized that that property is subject to taxation.

Mr. VARIAN. I move to lay both amendments on the table.

The motion was seconded.

Mr. EVANS (WEBER.) I move a point of order. The motion to lay on the table cannot prevail.

The CHAIRMAN. The chair will call the attention of Mr. Evans to rule 20.

Mr. EVANS (Weber). Permit me to make a personal explanation. That exact question was before this Convention when the chairman of the committee, Mr. Kimball, occupied the chair and he raised the point of order himself.

The CHAIRMAN. The chair has not yet decided the point of order.

Mr. EVANS (Weber). Excuse me.

Mr. VARIAN. In such a matter, I think it has been decided here before and the gentleman had an opportunity to make a suggestion. May I make a suggestion right to the chair?

The CHAIRMAN. Mr. Evans has desired to offer his suggestion. The chair will accept suggestions from both of you.

Mr. VARIAN. I want to call attention to the fact that our rules provide that this question, not being excepted, applies in the committee of the whole. It is true that Roberts' rules of order are always made applicable, but so far only when not otherwise provided in these rules, and we cannot do it in any other way. That was the intention so far as I was concerned. I thought I understood it thoroughly when I participated in these rules to allow the committee of the whole to entertain this motion.

Mr. EVANS (Weber). I simply called attention to what occurred the other day. I took exactly the same position then that Mr. Varian takes now and insisted upon it, and cited our rules and he overruled it. I simply want to know now, whether the rule is going to be changed, because in the other case it was a member from our side of the house who moved to lay on the table and in this case it happened to be a member from the other side of the house.

Mr. VARIAN. If there is anything of that kind to be brought here, I will withdraw the motion.

Mr. KIMBALL (Weber). It is not the same motion that was pending when the question was asked the other day at all. There was a proposition to lay on the table; not an amendment, not a purposed alteration of a particular law, but to lay itself upon the table in the committee of the whole. I ruled at that time that that was out of order. I still maintain it is out of order, for a committee of the whole to lay a proposition itself upon the table, but an amendment pending before the committee is allowable to be laid on the table.

The CHAIRMAN. I will have to rule the point is not well taken and the motion to lay upon the table is in order.

Mr. ROBERTS. I would like to ask if the motion to lay upon the table applies to the amendment or to the whole?

The CHAIRMAN. The chair decides that the motion to lay upon the table is all right.

Mr. ROBERTS. I simply ask to what extent the motion to lay upon the table goes. Whether the proposition to lay upon the table includes the amendment offered by myself and the whole as proposed in the addition to section 4.

Mr. VARIAN. The whole matter goes to the table.

Mr. CHAIRMAN. The whole matter goes to the table.

Mr. WELLS. Do I understand that if this is carried it will lay the amendment offered by Mr. Kimball to the amendment offered by Mr. Roberts upon the table only?

The CHAIRMAN. That is all.

Mr. WELLS. But the section itself is not laid on the table?

The CHAIRMAN. No.

Mr. VARIAN. I would like to be heard for one moment, if you will. In this rule 20, it does not say that the only things that are not in any other way——

Mr. IVINS. I submit that this discussion is entirely out of order. The point of order was raised. The chair sustained it. The question now recurs to Mr. Kimball's amendment, as to whether it shall be laid on the table. The gentleman is discussing the question that has already been decided.

The CHAIRMAN. The chair decides the point of order well taken.

Mr. HART. I rise to a question of personal privilege. I don't understand the decision of the chair is final. I do not desire to speak upon this at all, but if the chair has not finally decided upon that matter, I would like to be heard.

The CHAIRMAN. I shall have to declare all these matters out of order.

Mr. EVANS (Weber). I desire to appeal from the decision of the chair.

The CHAIRMAN. Shall the decision of the chair be sustained?

Mr. HART. I think this is a ques- of some importance because if a matter can be laid on the table, then debate can be kept in the committee of the whole and there will be no purpose in going into a committee of the whole, if you can take propositions in that way, and cut the debate off——

The CHAIRMAN. I think this is all out of order.

Mr. EVANS (Weber). I desire to say a word or two upon this proposition and I want to correct myself as to the remarks of a gentleman from Salt Lake, from which I inferred that he had the idea that I proposed to throw some feeling into the question. I assure him I did not intend to. I occupied the same position the other day that the gentleman from Salt Lake now occupies. I believed at that time I was right and at that very time, it will be remembered that the gentleman from Washington County, Mr. Ivins, moved to lay on the table, and I proposed the matter respecting the settlement of the boundaries of the new State. The then chairman of the committee ruled that this motion to lay on the table was out of order and gave the most excellent reason why the motion to lay on the table should not have been voted down. I think, without any disrespect to the present chairman of the committee, it was the chairman of this committee who sustained the decision of the chair when we appealed from it.

Mr. VAN HORNE. The time having expired for which we went into a committee of the whole, I move we rise and report progress.

Mr. EVANS (Weber). I will be through in three minutes.

Mr. VAN HORNE. There is nothing excepting the time has expired.

The CHAIRMAN. I will call your attention to the fact we cannot possibly extend the time. I will have to entertain the motion from the gentleman of Salt Lake that the committee arise and report progress.

The committee then arose and reported to the Convention as follows:

The committee of the whole desire at this time to rise and report progress, having under consideration the adoption of the bill of rights.

The report was adopted.

The Convention then, at 4.40 o'clock p. m., adjourned.

EIGHTEENTH DAY.

THURSDAY, March 21, 1895.

The Convention was called to order at 2 p. m. by President Smith.

The roll was called by the secretary and the following members were found in attendance:

Adams	Larsen, C. P.
Allen	Lewis

Anderson
Barnes
Bowdle
Boyer
Brandley
Button
Buys
Call
Cannon
Chidester
Christianson
Clark
Coray
Corfman
Crane
Creer
Cunningham
Cushing
Driver
Eichnor
Eldredge
Emery
Engberg
Evans, Weber
Evans, Utah
Farr
Francis
Gibbs
Goodwin
Green
Hammond
Hart
Haynes
Halliday
Heybourne
Hill
Howard
Hughes
Hyde
Ivins
James
Johnson
Jolley
Kiesel
Keith
Kearns
Kerr
Kimball, Salt Lake
Kimball, Weber
Lambert
Larsen, L.
Low, Wm.
Low, Peter
Low, Cache
Lund
Maeser
Mackintosh
Maloney
Maughan
McFarland
Miller
Morris
Moritz
Murdock, Beaver
Murdock, Wasatch
Murdock, Summit
Nebeker
Page
Partridge
Peters
Peterson, Grand
Peterson, Sanpete
Pierce
Preston
Raleigh
Richards
Ricks
Roberts
Robertson
Robinson, Kane
Robison, Wayne
Ryan
Sharp
Shurtliff
Snow
Spencer
Squires
Stover
Strevell
Symons
Thompson
Thoreson
Thorne
Thurman
Van Horne
Varian
Warrum
Wells
Whitney
Williams
Mr. President.

Prayer was offered by the Rev. R. Carson, of the African Methodist Episcopal Church.

The journal of the seventeenth day's session was read, corrected and approved.

A communication was received from the Y. M. C. A. Debating Society, inviting members of the Convention to attend the debate of that society on the question of prohibition.

The same was declined with thanks.

The PRESIDENT. Presentation of petitions and memorials are in order.

Reports of standing committees are in order.

Mr. VARIAN. There will be a report from the committee on rules in a moment.

A report from the committee on rules was received and read by the secretary as follows:

The committee on rules, to which the report from the committee on schedule, miscellaneous and future amendments, recommending that the membership of that committee be increased by adding thereto two members from the cities of Salt Lake and Ogden, was referred, beg leave to report the same with the recommendations that said committee be so increased.

C. S. VARIAN,
Acting Chairman.

The PRESIDENT. What will you do with the report of the committee?

Mr. VARIAN. I believe that has to lie over one day.

The PRESIDENT. Yes; under the rule it will.

Reports of select committees.

Mr. RICKS. If you will permit me, I would like to offer the report of a standing committee.

The PRESIDENT. If there is no objection, the gentleman may submit his report.

The secretary then read the report as follows:

Your committee on schedule, future amendments and miscellaneous respectfully report for your consideration the accompanying article on future amend-

ments to the Constitution. We also report the following propositions and recommend that they be filed:

No. 50, by D. C. Eichnor, of Salt Lake.

File No. 53, by J. F. Childester, of Garfield.

RICKS,
Chairman.

The PRESIDENT. If there is no other report from the standing committees the introduction of ordinances and propositions for insertion in the Constitution is now in order.

Mr. BOWDLE. I have a proposition here I wish to offer and have it referred to the committee on legislative. It is a proposition for insertion in the Constitution, and I move that the rules be suspended and the whole proposition be read the first and second time by its title and then referred to the proper committee.

The motion was agreed to.

Said proposition was read a first and second time by its title and referred to the committee on legislative.

Mr. Maloney introduced a proposition relating to irrigation and water rights, which was read a first and second time by its title and referred to the committee on water rights, irrigation and agriculture.

Mr. Bowdle introduced a proposition against lotteries which was read a first and second time and referred to the committee on legislative.

Mr. Buys introduced a proposition providing for income tax, which was read a first and second time by its title and referred to the committee on revenue, taxation and public debt.

Mr. L. Larson introduced a proposition relating to salaries of public officers, which was read a first and second time by its title and referred to the committee on salaries of public officers.

Mr. Maloney introduced a proposition relating to the election of representatives, which was read a first and a second time by its title and referred to the committee on apportionment and boundaries.

The PRESIDENT. Are there any other propositions for insertion in the Constitution?

Unfinished business is now in order.

Mr. SQUIRES. I move we now resolve ourselves into a committee of the whole.

The motion was agreed to.

COMMITTEE OF THE WHOLE.

The Convention then resolved itself into a committee of the whole with Mr. Squires in the chair.

Mr. EVANS (Weber). Mr. Chairman, I would desire with the consent and permission of my second to withdraw my appeal which I put on yesterday from the decision of the chair. I do it in the interest of hastening business. I think it is unnecessary to carry it to a vote.

The CHAIRMAN. If there is no objection the appeal is withdrawn.

Gentlemen, we still have under consideration section 4 of this article.

Mr. VARIAN. The question before the house is to lie on the table, is it?

The CHAIRMAN. Yes, sir.

The question was then taken on the motion to lie on the table and the motion was agreed to.

The CHAIRMAN. Section 4 is still open for amendment.

Mr. SNOW. I move to strike out the word "is" in the third line, and insert in lieu thereof the following, "the rights of conscience shall never be infringed. Perfect toleration of religious sentiment shall forever be guaranteed." All through the section the word "shall" is used; for the sake of uniformity and harmony, I think "shall" ought to be inserted there. It does not make it any stronger, but it makes harmonious.

Mr. VAN HORNE. It seems to me the provision is better as it stands here. "Shall be" is the negative, and it is a limitation of the power of the Legislature to guarantee, and it is in the present tense and is guaranteed. I am opposed to the motion to amend it.

Mr. WHITNEY. I am also opposed

notion to amend it. I think it is as it is, and it is on the funda- law of every state, that it should tee that important matter.

question was then put on a mo- amend, and the amendment was l.

ELDREDGE. I move to strike of section 4 after the word "no" 12, and insert in lieu thereof, ublic funds or property in this whether accruing from taxation erwise, shall be apportioned or or the purpose of founding, main- g, or aiding, directly or indirectly, hurch, religious denominations, us or secular society, or institu- ociety, or undertaking, which is or in part under sectarian, eccle- al, or secular control."

THURMAN. I ask that the reso- or motion to amend be read for the information of the Con- on.

secretary re-read the resolution.

VARIAN. I would like to hear esolution that was laid on the concerning the same matter read was offered in yesterday's pro- ngs.

secretary then read the resolution ed to.

BUYS. I would like to ask the eman from Summit County if he ds that this will also strike out mendment that was passed yes- y that no property qualification ever be required in order to vote old office?

. ELDREDGE. Not being present erday, I was not aware there was amendment offered, but that this on was reached to-day.

. BUYS. The section was amended erday as I understand it. I wanted now whether it carries that with it?

r. ELDREDGE. I was not present erday. I was not aware there was amendment attached to that sec- . My idea was to get the substance verything in this amendment.

The CHAIRMAN. The chair will ex plain that yesterday a matter was of- fered in regard to this section, and it was purposed to add it to this section. Mr. Buys wants to know whether you want to strike out of this section the last sentence as printed. They were printed yesterday.

Mr. ELDREDGE. I will say in ex- planation my motion was only ap- plied to that portion which is printed in the original bill of rights.

Mr. EVANS (Weber). Mr. Chairman, I desire to support the amendment offered by the gentleman from Summit; I would like to be permitted to have it so I can refer to it in more detail. I think, Mr. Chairman and gentlemen of the committee, that this amendment is important and will result, if adopted, in very much good to our future State. I have no particular objection to the matter which is sought to be stricken out. All that matter and substance is included within the amendment. But there are additions in the amendment which cover every class of societies and which, if adopted, would prevent the appropriation of any public funds by future legislation to such associations. In order to make myself more clear, the portion which is sought to be placed therein, "No public money or property shall be appropriated or applied to any religious worship, exercise, or institu- tution, or for the support of any eccle- siastical association." It will be ob- served that the particular class named in the matter sought to be stricken out is ecclesiastical establishments. In fact, it all applies to a particular class of institutions, that is, a religious class. Mr. Eldredge's amendment seeks to go further and to prevent the appropria- tion of any public funds to secular so- cieties or institutions. It would seem to me that this is right in principle. I see no reason why there should be a re- striction upon the Legislature to ap- propriate public funds for religious in- stitutions, and the Constitution be left

open so that such funds may be appropriated to secular institutions. Of course that would cover atheistic and infidelic institutions. If we should happen to have a Legislature in the future, who were of that particular class, there would be no restriction upon the members of the Legislature to appropriate to an atheistic class. Were we to prevent by putting a restriction upon any future Legislature, prohibiting them from appropriating our public funds—these funds drawn from the people by universal taxation, and giving it to a class of that character already named, I can see no harm in this, if we do it; in fact, everything seems to me to be embodied in it in the right direction. It covers church, religious institutions, religious or secular societies, or any institution or society or undertaking which is wholly or in part under sectarian or secular or ecclesiastical control. Now, gentlemen, let me explain to you a little further in respect to this matter. The function of a constitution is to put restrictions upon future legislation. If this were not true, it would be wholly unnecessary to make any Constitution at all. The Legislature would have the plenary power, and indeed, the Legislature of the State would have supreme power to legislate upon all matters certainly not inhibited in the Constitution of the United States. We say in the latter part of section 4 that the Legislature shall be restricted from appropriating any public funds to religious sects or societies. That is a matter to which we are all agreeing. Now, if that be true, can any gentlemen put forth any reason why there should not also be a restriction upon the Legislature from appropriating its funds to secular institutions—to those who make no pretense of religious sentiment? A secular society might organize, or anti-religious or anti-Christian society might organize and derive the benefits, unless there are some restrictions of this character, and there is nothing I might say in the way to prevent the Legislature from appropriating or making appropriation of public funds for the purpose of supporting such societies. I admire the amendment. I think its spirit is right. I think it is right, and I think it ought to be supported and succeed and be carried by our votes.

Mr. VAN HORNE. I think that some of the gentlemen must either have misinterpreted the effect of those words or else I do. I do not know which it is, but it seems to me we should forbid the appropriation of money to any of the purposes for which money is actually appropriated. For instance, I think the State, if affairs are under secular control—I take in the way this reads in the proposition, that it will forbid the Legislature from ever granting a bounty. Whether that is to be the sense of the Convention or not, I think it should be understood. I think it should be understood thoroughly what we are voting upon. In voting upon such an amendment, if they feel and wish to include bounties and if that carries in the Constitution—I think it does. I think if they do not want to do it, they should not pass such an amendment as that.

Mr. THURMAN. I suggest this, that if any gentleman on this floor sees any danger in the proposed amendment, that can be obviated by amendment to be proposed by himself, he ought to move to amend—to put in a saving clause; but, gentlemen, if you don't want to do so, don't place yourselves here in the position of desiring to exclude the appropriation of funds to religious organizations and leave it open to be appropriated to anti-religious organizations and societies of secular nature, of a thousand and one kinds, which exist in the country. I think it is just as proper, however, and I want it to be understood, but I deem it as improper to appropriate money to an ecclesiastical organization, as to one which is not of an ecclesiastical organi-

zation. I think it is just as proper to appropriate money to an Odd Fellows' society, or to any other society to which one part of the people belong, as to religious societies. I believe in the amendment offered by the gentleman that no society or institution or organization, which is ecclesiastical, religious, or secular, has any right to any appropriation. I am in favor of the amendment. I don't see now in the word secular how the matter suggested by the gentleman of Salt Lake could honestly be construed in the language he puts, unless in what he proposes, he is in favor of making ecclesiastical organizations the only subject to which this legislation is directed. Go on with your amendment, gentlemen, so far as I am concerned. I wish it did include bounties and I would vote for it, but it seems to me that it is not included in the language as it now stands.

Mr. GOODWIN. I reckon there is no great division of sentiment on the principle that Mr. Eldredge is trying to express. It is only a doubt. It is only how the supreme court, for instance, would construe this paragraph as it is put in the bill of rights of Utah. If the resolution is changed, so it would include all benevolent societies making it specific, Odd Fellows, Masons and other societies of that kind, I would very cheerfully support it, and I would hate to vote for something here that, after a little while my friend from Weber, Mr. Evans, would be able to go to the Legislature and when the proposition was made to carry forward some great needed public improvements in which the people would be interested, and in which the people of the State needed help, have this gentleman say, "if you only had your eyes open when the Constitution was being made, you could have fixed it, but as it was you blindly voted for it, and now we have you. It is against the Constitution; if the peo- of this State should not have their own faults on that subject to appropriate their money for a purpose of that kind. I am clear that the language is all right but as I understand the word secular, it means anything besides religious causes. I am free to say that it covers the whole majority of this house and I would like to have the word changed or some explanation put on it, or have it continued for a day or two until we could have time to think it over, or vote it down.

Mr. ELDREDGE. I would say there is no objection to having this proposition continued for a day or two and have it printed for the further consideration of the Convention. The section that is being considered did not exactly reach my views. While I am sorry to say I was at a loss to be present here yesterday, and hear the argument yesterday, without that I have to express my sentiment as I do relative to this question. Now, considering societies, whether they are under the head of secular or whether they are under the head of ecclesiastical, or whether it may be, all ought to have equal privileges and equal opportunities, and no restrictions should be placed upon one that should not be placed upon the other, and that is what I still have in view. I would favor that the amendment go over until to-morrow to give the gentlemen of this Convention further time to consider the construction of this amendment, and I now move you, Mr. Chairman, if it be in order, to leave the consideration of this until our next sitting.

The CHAIRMAN. It is not in order.

Mr. BUTTON. Is not it in order to make a motion to pass this section and take up the next one?

The CHAIRMAN. I should say not.

Mr. BUTTON. And not act upon it at all?

The CHAIRMAN. No, sir; and we shall have to consider the amendment offered by the gentleman from Summit.

Mr. ELDREDGE. Rather than have it go to a vote while the house seems to

be in doubt relative to the full meaning of the amendment, I will ask the privilege of withdrawing it for the time being.

The CHAIRMAN. If there is no objection——

Mr. EVANS (Weber). I second the motion of the gentleman from Summit, and I do object to it being withdrawn. I would like, however, for it to go over a day and it will give everybody an opportunity for considering it.

Mr. VARIAN. I will draw the gentleman's attention to the fact that there can be no objection to letting this matter go over; before the final submission of this article, when it is reported, an amendment can be offered on the third reading, in the Convention.

Mr. CHAIRMAN. If there is to objection the amendment will be withdrawn.

Mr. EVANS (Weber). I do object.

Mr. ANDERSON. I move we lay the amendment on the table.

The motion was agreed to.

Mr. FARR. I call for the ayes and noes on that.

The CHAIRMAN. You can not do that in the committee of the whole.

Mr. EVANS (Weber). The chair is right for once.

Mr. FARR. I would propose an amendment to that section. I wish to commence at the word "no" in the twelfth line and have it read in this form: "No public money or property shall be appropriated for or applied to any religious or secular society," leaving out the word "worship"—"or for the support of any ecclesiastical denominations;" so it shall read in this way, "no public money shall be applied to any religious or secular society for the support of any ecclesiastical society." I wish to amend it to read in that way which I think covers the main object of the previous motion.

The motion to amend was seconded.

Mr. VARIAN. Not out of any disrepect to my friend from Weber County in order that the whole matter can be considered, my friend, Mr. Eldredge, has his motion to amend laying on the table. I move to lay this on the table.

The motion was agreed to.

Mr. EVANS (Weber). I rise to a point of order. That motion to lie on the table is not in order in the committee of the whole, and I make a further point of order that the effort to lay this amendment on the table lays the whole of section 4 upon the table. I read from page 45 of Roberts' rules of order.

Mr. VARIAN. I call the gentleman to order. There is nothing pending before the house now upon which can be based the point of order. He permitted the question to pass the judgment of the chair and it has been determined by a vote which has been executed.

The CHAIRMAN. I think the point of order is well taken.

Mr. EVANS (Weber). I appeal from the decision of the chair upon that question.

The CHAIRMAN. Gentlemen, you hear the appeal, the question is shall the decision of the chair be sustained?

Mr. EVANS (Weber). I desire to make a few remarks. I read from Roberts' rules of order, on page 45, "the effect of this motion is intended to place on the table——

Mr. VARIAN. I again call the gentleman to order. The only matter which he is discussing now is the subject matter of my point of order, which was that the gentleman had no standing. I raised the point of order because there was nothing pending before the house. He is now proceeding to discuss the merits of his original point of order.

The CHAIRMAN. Mr. Varian's point of order is well taken.

Mr. EVANS (Weber). I did not appeal from that point of order.

The CHAIRMAN. You are out of order.

Mr. EVANS (Weber). Does the chair refuse to hear me?

The CHAIRMAN. Yes, sir. You are not discussing Mr. Varian's propositions.

Mr. EVANS (Weber). I wish to say again, I desire to read from page 45 of Roberts' rules of order. The effect of this motion is intended to place on the table all that adheres to the subject.

The CHAIRMAN. That is the very argument which Mr. Varian objects to and makes the point of order upon again.

Mr. EVANS (Weber). Does the chair rule me out of order?

The CHAIRMAN. The chair rules you out of order on that line. The question is, shall the decision of the chair be sustained on the point of order of Mr. Varian?

The question was then taken and the decision of the chair was sustained.

The CHAIRMAN. The question is now upon the point of order raised by Mr. Evans. Are you ready for the question upon that point?

Mr. VARIAN. That has been decided. You overruled his point of order.

The CHAIRMAN. All right.

Section 4 is still open for consideration.

Mr. BUYS. In the sixth line, I move to insert after the word "required," in the sixth line, as a qualification, "No religious test shall be required as a qualification for any office of public trust or for any vote, at any election." And I think that is necessary to complete the meaning of this clause. It is a qualification to hold office that we are speaking of. No religious test shall be required as a qualification for any person to hold office, and I think the other is a proper amendment to that section.

Mr. JOLLEY. How will that read then? In view of the amendment made yesterday striking ont the words, "property qualification."

Mr. BUYS. The words were stricken out, "or property qualification;" it read then, no religious test or property qualification shall be required for any office of public trust or for any vote at any election. Now, "property qualification," was stricken out yesterday and it will read with my amendment now, "no religious test shall be required as a qualification for any office of public trust."

Mr. EVANS (Weber). I rise to a point of order. This appears to be an amendment to section 4. I make the point of order that an amendment to section 4 was, by the decision of the chair, laid upon the table, which carries with it the section itself, and everything relating to it. I read now from page 45 of Roberts' rules of order in support of my point of order.

Mr. VARIAN. I again call the gentleman to order. In another way he is attempting to revive the executed judgment of this Convention. He cannot be permitted to do it. We never would conclude if that can be done. He raises the same point of order that was ruled out and is making it again.

The CHAIRMAN. To facilitate business, the chair decides it is not well taken.

Mr. EVANS (Weber). I appeal from the decision of the chair. I desire to be heard. I now read from page 45 of Roberts' rules of order.

Mr. VARIAN. The gentleman must be confined to the question.

Mr. EVANS (Weber). I am going to confine myself to the question.

Mr. VARIAN. The question, if the chair please is this——

Mr. EVANS (Weber). I move to a point of order; Mr. Varian is not in order.

The CHAIRMAN. Mr. Varian rises to a point of order. The gentleman from Weber will take his seat.

Mr. VARIAN. The gentleman is not speaking to the question before the house. It is simply upon this former ruling of the chair. It is simply upon

this appeal from the ruling of the chair, which is based upon this fact: That no point of order was made, first, until the judgment of the Convention had been executed. Second, he is making a point of order now after the whole matter raised upon the first point of order was decided, and he is going back to that. He is reciting and re-affirming the same proposition.

Now, it is utterly unimportant as to what the merits of his proposition might be. It might be important if he got it in in time. The question here is whether the chair was right in ruling that the point of order, however good it might be, should rule.

The CHAIRMAN. I decide the point of order well taken by Mr. Varian. You will confine yourself to the discussion that is before the house.

Mr. EVANS (Weber), May I arise to a point of personal privilege?

The CHAIRMAN. Yes, sir.

Mr. EVANS (Weber). It seems to me that I ought to be permitted at least to state my reasons for this appeal. If the house does not sustain the chair, of course my point is not well taken. But I never have yet upon the floor of this Convention been permitted to say one word to a conclusion upon the questions which I have raised. I have been trodden upon and oppressed by the majority, simply because they have a right and have the strength to do it. All I ask now is the right to——

The CHAIRMAN. The gentleman must confine himself to the question.

Mr. EVANS (Weber). May I proceed to do that?

The CHAIRMAN. If you proceed to do that, yes.

Mr. EVANS (Weber). The question which I desire to state is this: Mr. Varian made a motion to lay an amendment to section 4 upon the table, it was carried. Then an amendment was made by the gentleman from Wasatch County to section 4, and I then made the point of order that section 4 could not be considered under the rules. To that question Mr. Varian rises to a point of order and the chair sustained him. I appeal from the decision of the chair and I now desire to state my appeal, so that the house may intelligently vote upon it, that is all I ask, and nothing else. May I be permitted?

The CHAIRMAN. Go ahead.

Mr. EVANS (Weber). I desire to state that we have a precedent for this matter, not only in the rules, but one which came from the gentleman from Salt Lake himself. At the time when the report of the committee on printing came before the Convention a portion of it was read and upon motion of Mr. Varian it was laid upon the table. He then declared that that laid the whole subject matter upon the table, and he was sustained by the Convention. Then the Convention had seen that a mistake was made—that the intention was not to lay it all upon the table; he moved a reconsideration of the vote by which it was laid upon the table, and the Convention again took it up. Now, this question was to the exact point. We have adopted Roberts' rules of order, which expressly state that that is the mode of procedure. Mr. Varian was right then. Now, in Roberts' rules of order it provides on page 45, the effect of a motion of that kind is generally to place on the table everything that adheres to the subject, so that if an amendment be adopted to lay on the table, the subject itself goes there with it. I was proceeding to try to read from page 45 of Roberts' rules of order—I don't like to say it again, for I fear I might be called to order. Now, Mr. Chairman, in all good will to the chairman and to the gentleman on the other side of the house, I submit if I am not right, upon this position. Mr. Varian was right when he made the same point and we all conceded he was right.

The CHAIRMAN. The motion stands like this: The gentleman from Wasatch offers an amendment to section 4. Mr.

Evans of Weber raises the point of order that section 4 lies upon the table, because an amendment which was offered was laid upon the table and carried section 4 with it. The chair ruled that the amendment did not carry section 4 on the table. The question comes now whether the decision of the chair shall be sustained.

Mr. THURMAN. I desire to say just one word in reply to Mr. Varian, on one point, which Mr. Buys did not touch. Mr. Varian made the point that this was an indirect way of trying to reconsider a point already ruled upon by the chair. Now, I only wish to call the attention of the Convention to this fact, that the new point may be raised every time there is a new proposition presented. Since the chair ruled upon the question referred to by the gentleman from Salt Lake, the gentleman from Wasatch proposed another amendment, so it is not an indirect way of getting at the question at all. It is simply raising it for the first time upon a question presented to this Convention for consideration. So far as that is concerned in other respects, it seems to me the gentleman from Weber is right in his position.

Mr. VARIAN. Perhaps I misunderstand the situation. I understood Mr. Evans raised his point of order after the Convention had tabled the amendment—after the decision had been made.

The CHAIRMAN. That is his first point of order.

Mr. VARIAN. And I had in mind he was renewing that same point of order in another way and was not considering the question at all—that is the effect of laying the amendment on the table. I called Mr. Evans to order upon that question. I do not understand that I presented any other question, any other point of order. It was simply that he had raised the point of order when it was too late.

The CHAIRMAN. The reason the chair has made this ruling is, if Roberts' rules of order apply to the committee of the whole no motion to lay on the table would be proper at all. Now, the committee have decided for that reason that only the proposition of Mr. Buys of Wasatch will go the table, and not the whole section.

Mr. HART. I did not understand we passed upon the question that a motion to lay on the table was in order in a committee of the whole. We simply permitted it. I understand that question had not been raised. Roberts' rules of order, so far as they are applicable to the matter, are certainly in force in a committee of the whole the same as in the Convention. Of course there are some provisions which are not applicable to the committee of the whole. While I am on my feet, I desire to understand the question before the house. I understood the question to be that we voted on and the one upon which I voted to sustain the chair was that the point of order was not properly raised. As I understand it, this is the first time this question has been before the house. As to whether an amendment, if laid on the table, takes with it the main proposition. On that proposition I shall have to vote in the negative. My reason for voting in the affirmative before was, I thought the point of order made by Mr. Varian was that the point of order raised before was not raised at the proper time.

Mr. VARIAN. Does the chair rule upon the motion that the amendment going to the table did not carry the section?

The CHAIRMAN. That was the ruling of the chair, and I stated when I made it, it was to facilitate business. I would like to cut off some of these points of order business. Shall the decision of the chair be sustained?

The question was then taken and the decision of the chair was overruled.

The CHAIRMAN. Section 4 then lies upon the table.

Mr. THORESON. I move that we take section 4 from the table.

No second.

The secretary then read section 5, as follows:

Section 5. The privilege of the writ of habeas corpus shall not be suspended, unless, when in case of rebellion or invasion, the public safety imperatively demands it.

Mr. EVANS (Utah). I move you Mr. Chairman, that we take up section 4 from the table.

The motion was seconded.

Mr. VARIAN. That will have to be done by reconsidering the vote. I hope that will not prevail, It is taking from the table these amendments, and we would be in the situation that we were a few minutes ago. My friend, Mr. Eldredge, desires to have this amendment lie over a sufficient length of time, in order to give the members an opportunity of considering it, and it will doubtless be printed and published to-morrow and it can be taken from the table then and also these amendments, to be considered.

Mr. EVANS (Utah). May I be permitted to give the reasons for the motion? When it is desired to take up the question, a motion is made either to take the question from the table, or to now consider such and such a matter. I simply wanted to put myself right.

Mr. CORAY. I hope we will vote this question down, so we may proceed to attend to the work before this committee. It seems to me there can be no possible objection raised to having the question brought before the house to-morrow.

Mr. EVANS (Utah). By permission, and with that view, I am perfectly willing to withdraw the motion.

The CHAIRMAN. If there is no objection, the motion to take section 4 from the table will be withdrawn.

The secretary again read section 5.

Mr. BUYS. To section 5, I move to amend it by striking out the words "imperatively demands it," on the third and fourth lines, and inserting in lieu thereof, "may require its suspension."

Mr. EVANS (Weber). I move an amendment to that amendment, that the word, "imperative" be stricken out: It is an unusual word there. It is not found in the other constitutions.

Mr. BUYS. I accept that amendment.

The question was then taken on the amendment of Mr. Evans and the same was agreed to.

Mr. VARIAN. I have not examined the subject of the several constitutions of the states in reference to this particular thing. I would like to ask the chairman of the committee who reported this, whether the word "war" was intentionally omitted from the third line of this section? Its provision is in case of rebellion or invasion. My impression was it was usual to include the word war.

Mr. WELLS. I have not seen it in any of the constitutions I have examined, and I have before me Montana, Idaho, Washington and other states, and it is just the same as this. In case of rebellion or invasion. I have never seen the word war in that connection.

Mr. MALONEY. I wish to amend section 5 by adding "in such manner as shall be prescribed by law."

Mr. VARIAN. I do not think that amendment ought to prevail. That is, unless there is some reason for it that does not occur to us now. The writ of habeas corpus is an extraordinary matter. It only ceases in times of danger and public peril. It is only permissible at all when the public safety requires it. It is an extraordinary invasion or, perhaps, I might say suspension of the rights of the citizens which are made to yield, because of the exigencies of the occasion, for the good of the whole people. Now, this amendment, as I understand it, will contemplate the Legislature in advance seeking out and prescribing the conditions and the limitations surrounding and restricting the

exercise of this writ. Its efficacy would be certainly impaired if not done away with. Why cannot it be safely left to such occasions and to be exercised in accordance with the general precedent and history of its exercise in this country? As I said before, unless there is some reason, I cannot see why this should prevail.

Mr. MALONEY. The section is taken literally from the Idaho statute. The privilege of the writ of habeas corpus shall not be suspended unless in case of rebellion, or, unless the public safety requires it, and then only in such manner as shall be prescribed by law. By what Mr. Varian says, the Legislature ought to prescribe by law how the writ of habeas corpus shall be suspended. That is all I ask.

Mr. EICHNOR. I will state to the gentleman from Weber County, that I have examined the provisions in forty-four constitutions and the majority of the states do not require the Legislature to make the provision. As the section has been amended, it is in strict accordance with the provisions in Washington, Wyoming, California, and many other states. I think the section ought to stand as amended. I think the amendment offered by the gentleman from Weber County should not prevail under any circumstances.

Mr. VARIAN. I question the accuracy of the gentleman from Weber County in the statement that it is in nearly all the constitutions. It certainly is not in the Constitution of the United States. It is not in the constitution of the State of New York.

I know it is a new provision—it strikes some of us as being new, and it strikes at this principle that in time of war or public danger, all the laws are silent. The necessity of the people overrides everything. Now, the gentlemen say that the Legislature ought to prescribe the means of regulating this matter, but supposing it does not? That is the situation as presented to me. Supposing it does not do so? Then we are confronted with a paragraph in the Constitution against every other department in the government, and the hands of the present authorities to suspend it might, by this amendment, be tied. That is my objection to it.

Mr. THURMAN. I favor the amendment. I think it ought to be made the duty of the Legislature to determine by law in what manner and by whom the suspension of this extraordinary privilege shall be made. Who is to determine it now? Take it without law? We have the declaration here that it shall not be suspended except in case of rebellion or invasion. When the public safety requires it. Who determines that condition? A time and under circumstances in which the citizen may be deprived of his liberty and there is no redress. It is an extraordinary thing to deprive an American citizen of his rights to demand by what authority he is detained in prison, and I say that it is a right that ought to be regulated by law. Let the Legislature in time of peace determine how this deprivation of this privilege may take place, and how it may be done. It is not a convincing argument to my mind the fact that some other constitutions may not have this provision. We are legislating or framing fundamental law for the people of Utah. If every time we have the question of the rightfulness of your incarceration determined, it is a matter we can regulate by law and then the citizen will know and will understand under what circumstances this extraordinary writ or power to deprive him of his liberty without that particular redress can exist. I am in favor of it.

Mr. VAN HORNE. It seems to me that the amendment should not prevail. We provide only two instances in our Constitution under which the writ of habeas corpus may be suspended. Those two are rebellion and invasion. It is well known, it could not escape

the notice of anybody, or any person in the city or State when there was rebellion, or when the State was being invaded by foreign enemies. The object of providing that in those two cases the writ of habeas corpus may suspend, is that those may be imprisoned who are secretly giving aid and comfort to the enemy. The reason for it is the safety of the State. The safety of the people also. If we put in a provision that the Legislature shall provide in what way and in what manner the writ of habeas corpus may be suspended, the action of that Legislature will limit the suspension of the writ in all other cases than those specified by the Legislature. It destroys the whole object of the suspension of the writ of habeas corpus by specifying special cases and leaving nothing open to the authorities of the State when a case arises that is not within the special laws of the Legislature. The object is the perpetuation of the State, the maintenance of its local government. We trust something to the people and to the men whom the people put in charge of the State. It is the genius of our country that when the people have chosen their officers they lay them under the duty of protecting the public welfare and entrust in their hands in the two special instances of invasion and rebellion the power to suspend the writ. That is right in every case, a right of freemen; it is done for the welfare and safety of the State and that welfare and safety is endangered when you leave it to the Legislature to fix certain cases only in which the writ of habeas corpus may be suspended, and leave open possibilities of the enemies of the State who are still citizens of the State in rebellion to the same; that it is not one of the cases that the Legislature has provided for, and consequently you cannot suspend it in this case.

Mr. THURMAN. May I ask you a question?

Mr. VAN HORNE. Yes, sir.

Mr. THURMAN. Who did you understand has the right to suspend the use of this writ?

Mr. VAN HORNE. I understand the executive department suspends it. It usually precedes the declaration of martial law.

Mr. THURMAN. One further suggestion to explain my question. If it is still provided here that the Legislature may not suspend it except in certain cases, I am willing to vote for it, without the amendment of the gentleman, but if the executive may do it, or if the judiciary may refuse to act when it appears to them there is a case of rebellion or invasion, I am opposed to such a power being exercised.

Mr. VAN HORNE. I think I said all that I care to say. I think still the amendment is one that is against the genius of our institutions. I think the executive of the State, when, if it comes necessary in case of invasion or rebellion, has the power entrusted in his hands to suspend it and it is the genius of our institutions to entrust in his hands the temporary suspension of that right.

Mr. EVANS (Weber). I am opposed to the amendment and I desire to call attention to the provision in that respect in the Constitution of the United States, "The privilege of the writ of habeas corpus shall not be suspended unless when in cases of rebellion or invasion public safety may require it."

This section, which the committee has recommended, is in the exact language of the Constitution of the United States with the exception of "demands it," instead of "requires it." The word imperatively having been stricken out, the section now stands without the amendment just as it ought to stand and just as many of the states of the United States have adopted it. I cannot share in the opinion of my friend from Utah County upon this question and use of the writ of habeas corpus to the extent

to which he carries it. It is quite true that this principle is one of the jewels taken from the casket of liberty, wrung from tyrannical old John at Runnymede, but when that principle was secured by barons upon that battlefield, it was not only for the safety of the individual, but it was also applied and became necessary for the safety of the state, as well as the individual. When the individual rebels against the state, or in case of invasion, he ought not, under those circumstances, to have the same right that he has when he is loyal to the state, and in those exciting moments when conspiracies might be formed, at times when rebellion may be rife, this high prerogative secured and handed down to us through posterities and ages should only be given in times when there is peace and quiet and not in times when there is invasion, rebellion, or conspiracies, but only at such times as when the public safety may require a suspension of the writ should it be suspended. Now, gentlemen of the committee, suppose we were to have rebellion in the State; suppose it should be determined that some people were conspiring against the interest of the State? Suppose war were rife? Suppose it were utterly impossible for the authorities of the State to determine what would be the result and support, the public safety required that this high prerogative should not be exercised upon the part of the citizen? Then, under such circumstances it ought to be taken away. But not in time of peace when those conditions of things do not exist. Then it is one of the highest prerogatives and one of the highest rights which the individual citizen may have.

In times of war, in times of public danger, when the government itself is struggling for its supremacy, it becomes necessary to take away this high prerogative from the individual and it ought to have that right; it ought to have that authority. It has it by the Constitution of the United States, one of the grandest ever drawn or adopted. It has it by a majority, in fact nearly all of the constitutions of the Union. It is not necessary that the Legislature should prescribe the method by which this writ should be suspended. They may do it, I believe, under this section, that the Legislature in times of peace might prescribe a method by which this right should be suspended and in this time of danger it might be considered inadequate upon the part of the Legislature. New amendments or provisions might be necessary to be obtained and the Legislature could not be convened for that purpose. This is not a mere experiment. It has been tried by so many states and by the great government of which we are a part; to make the amendment would be an innovation upon other constitutions or a majority of them all, at least which have been adopted by the states of the Union. I therefore do not support the amendment.

Mr. GOODWIN. Mr. Chairman, this is supposed to be a perfectly free country, but this country has a nucleus at least of an army and all the rules that govern that army make them simply an imperial machine as strong as any in the world could make it. When, in times of great peril, it is necessary for the chief officers of the state to use their best judgment, they being under oath, the men entrusted by the people of the state to protect and defend that state, when war comes or invasion, there are then times when these men in that position cannot afford to explain why they act. It would excite unnecessary fear among the people or it would give unnecessary notice. It is for that reason that all the laws of this country through all the constitutions of the states, have reached that point where they in fact say there may be times when those in charge of the state must for the safety of the state use absolutely their own judgment. They must use their judgment, and it is for that purpose that

this provision is made and to add to it simply neutralizes the intention of the preamble. Some of us are old enough to remember that when for four years through all of the northern states, and for all I know through the southern states, there was a great class of newspapers who declared the governors of the states usurpers, and the courts as executing laws in a way never intended by the Constitution. Now, the position of my friend from Ogden would fix this State in the same way. The Legislature would put in some clause, and then, if it was necessary to suspend this writ, it should be done arbitrarily as it always is. There would be a low class of men sympathizers with the men in rebellion who would be declaring that the governor was a usurper, and that we might just as well be given over absolutely into the hands of some pirate.

The object of this is to give those in authority the use of their best judgment, and if the emergency is grave enough, not to be forced to give any reason for their acts. That is an imperial government or military government for the time being. The article is all right as it is. There is no occasion for the coming statesmen of this Territory to fix on the statute what will be in the way of governors and others who may have charge of this State by and by in case there is an invasion or rebellion here. We elect men to office; they take the oath; if we do not elect the best men it is our mistake. When they are in that position, their best judgment sometimes has to be used. That is in time of great danger. The gentlemen who formed the Constitution of the United States had been through very trying times for a good many years. They fixed it and considered it sufficient. Without being at all sarcastic, I do not believe we, as a body, can, without at least a day's consideration, improve on that original instrument. I oppose the amendment.

Mr. MALONEY. If Mr. Van Horne's idea is correct, then I hold no imperial or any power of that kind should be placed in the hands of the governor of Utah or any other state. If the right is to be left to the Legislature then I withdraw the amemdment, but I do not believe in centralizing power in the hands of any one man. Now, I regret to hear my friend from Weber talk so. I supposed he was lawyer enough to know that the writ of habeas corpus provided for in the Federal Constitution was not in any way applicable to the state authorities. In reply to my friend from Salt Lake, Mr. Varian, in regard to the provisions in the various constitutions of the various states, I shall simply call attention to a few of them that have it in them. Connecticut for instance; there the legislature has the power, and I would not object to leaving it that way. Georgia has it; Michigan has it also; Massachusetts has it also; Missouri has it also; Nebraska has it also; North Carolina has the same provision; Rhode Island has it. I might go on and cite some others. I submit, gentlemen, that this amendment is proper and right, and I submit that it ought to carry.

Mr. ROBERTS. I think that we are all agreed upon the proposition that the suspension of the writ of habeas corpus is perhaps the highest power conferred upon the governor, and is more likely to interfere with individual liberty, and that it is susceptible of very grave abuses. Those considerations convey to my mind the conviction that above all power this is one which ought to be most carefully guarded by the provisions of the law. If I have got the spirit or genius of the American government, its first consideration is to preserve the liberty of the individual and guard against the abuse of power, and I can see no objection, after listening to all the gentlemen have said upon this proposition, to conferring or guarding the exercise of this very high power of suspending the writ of habeas cor-

pus by the provisions of the law, and I certainly do not believe in granting to the officers of the government arbitrary powers unless you shall very carefully guard against the abuse of those powers. And I think, above all provisions in these constitutions, that the exercise of this power should be guarded by regulations of law and not leave it to moments of peril and excitement to determine under what circumstances this writ shall be suspended, but, in cool judgment, and when men may be governed by reason and not by passion, fix the limitations of their power, and for that reason, I favor the amendment that has been offered by the gentleman from Weber.

The question was then taken on the amendment and the same was rejected.

Mr. WHITNEY. I have a slight amendment to offer to the same section in line 2 of section 5; the word "when" seems to be unnecessary. I move it be stricken out as surplusage, so it shall read, "shall not be suspended unless in case of rebellion or invasion or the public safety demands it."

The question was taken on the amendment of Mr. Whitney and same was agreed to.

Mr. EVANS (Weber). I now move to strike out the words, "demands it," and insert in lieu thereof "requires it." I just want to say that is the exact language of the Constitution of the United States and this might be considered in a different way. The words, "requires it" have a well understood meaning by the construction of the courts. Now, it may be considered differently if we use the words "demands it," because it might be that there should be some demand made upon the authorities whenever the public safety requires it. For that reason, I think it would be better to use the usual language.

The question was taken upon the amendment of Mr. Evans, and same was agreed to.

Mr. BUTTON. I move that this section pass.

The CHAIRMAN. That is not necessary.

The secretary then read section 6, which was adopted without amendment.

The secretary read section 7 as follows;

Section 7. No person shall be deprived of life, liberty, or property, or be outlawed or exiled without due process of law.

Mr. VAN HORNE. I move you that the section be amended by striking out the words, "or be outlawed or exiled."

Seconded.

Mr. WELLS. I will state that that clause was copied from one of the constitutions, I don't remember which, but I think it is covered in the liberty clause, and I have no objection to it being stricken out.

The question was taken on the amendment to strike out and was agreed to.

The secretary then read section 8, which was agreed to without amendment.

The secretary read section 9 as follows:

Section 9. Excessive bail shall not be required; excessive fines shall not be imposed; nor shall cruel and unusual punishment be inflicted. Persons arrested or imprisoned shall not be treated with unnecessary rigor.

Mr. VARIAN. I don't know what the purpose of that last phrase or clause is. It seems to me it is a matter of legislation. The section as it stands prior to that, "excessive bail shall not be required; excessive fines shall not be imposed, nor shall cruel or unusual punishment be inflicted," seems to cover the whole ground. I don't want to raise any unnecessary question, and I suggest to the chairman of the committee whether there is any particular reason for putting that in there.

Mr. WELLS. The object to protect persons in jail if they shall be treated inhumanely while they are in prison.

Mr. THURMAN. I would like to ask

the chairman of that committee if this is copied from any other constitution?

Mr. WELLS. I will answer the gentleman that I don't think it is, in that language, but there are plenty of provisions in regard to the humane treatment of prisoners.

Mr. THURMAN. I don't think we ought to adopt this unless it is copied from some other constitution; for that reason I shall favor the motion to strike out.

The motion to strike out was agreed to.

The secretary then read section 10 as follows:

Sec. 10. The right of trial by jury shall remain inviolate, but the Legislature may provide for a jury of any number less than twelve, in courts not of record, and for a verdict by nine or more jurors on civil cases in any court of record and for waiving the jury in civil cases where the consent of the parties interested is given thereto in open court.

Mr. EVANS (Weber). I have an amendment which I desire to offer to section 10. I desire to explain to the committee, Mr. Chairman, what the meaning of the section now is and what it would mean if the amendment were to prevail. As the section now reads, in all criminal cases there could be no less than twelve men forming a jury, with a unanimous verdict, and the Legislature might provide for a number less than twelve not of record, that is it would empower the Legislature in justice's courts or other inferior courts not of record, to fix the number of a jury at less than twelve; in other words, in all courts of record or in the district courts the Legislature should be required to make a law that would give a man upon trial twelve jurors, but in justice's court, it might provide a law which would give a less number than twelve for the trial of such cases; and also it further provides that there must be a jury trial of twelve men in civil cases and that a majority of nine might give a verdict. The balance of the section simply provides for waiving a jury providing the parties give their consent. Now, in the course of my remarks I will say the judiciary are considering a question of a less number than twelve jurors, both in civil and criminal cases, and we are maintaining the right of trial by jury for any person charged with crime, and that the same shall remain inviolate, but in civil cases a less number might be employed by an act of the Legislature. I appreciate that upon entering into the discussion of this question that it is an invasion upon the time-honored institutions, or the institution known as the jury system. From time immemorial the jury system has always consisted of twelve men, both in civil and in criminal cases. Many of the states in civil cases have made an advance in this respect. They say that in civil cases they still retain twelve men, but permit a less number than twelve to render a verdict, but in all the states, so far as I am acquainted, the number twelve is retained by every one of them, except in justice's courts. Now, gentlemen of the committee, we have considered this question, some of us, and I do not know how it will meet with the views of the committee, but, in the first place, I am one of those who believe, at least in civil cases, that the Legislature might provide a less number of jurors than twelve. We have clung to the old idea of twelve men sitting in judgment upon every little controversy which may arise in the district court. Our jury system in this Territory costs us somewhere in the neighborhood of about forty-five thousand dollars per annum. I think that expense can be very materially lessened, and at the same time, that the efficiency of the jury system shall not be impaired. Why is it, I may ask you, gentlemen, we retained in the trial of our civil cases twelve men in courts of record? Can any gentleman give you any reason for

t? Doubtless there will be many reasons given, but let me ask you this one question, if you or I, or any of our neighbors or friends were to take it upon themselves to refer their matters of contentions to some board of arbitration, how many men are usually selected? Scarcely ever more than three, many times one, but when it comes to the question of juries sitting in court we cling to the old idea that we ought to have twelve. The public pays the expense anyway, and we all like to have twelve men sit in judgment upon our matters of civil differences. The idea of the committee, I think, will be that in civil cases a jury of nine will be sufficient, any six of whom may render a verdict. If this amendment, which I have proposed, be adopted, then such an article would be in order in the judiciary article; otherwise it would have no place in it. If we succeed in reducing the number of the jurors in civil cases, we thereby save one-quarter of the expense which we have heretofore had, and wouldn't it be just as well to do that, if the efficiency of the service would not be impaired? In other words, gentlemen, can any sufficient reason be advanced why nine men cannot sit in judgment upon our civil differences and determine as correctly our rights as twelve men can do it? I believe that you will all agree that the majority of the jury may render a verdict, because, in my opinion, it is nothing more nor less than absolute barbarism to require nine or twelve men to arrive at a unanimity of opinion upon any particular question. Even when they are required to do it, in our present system, a time-honored system we have had for so many years, we know that a few strong-minded, intelligent men upon a jury control the balance of them, and the verdict after all is but the verdict of a few jurors. I think that has been the experience of every man. Another idea I have with respect to this jury system, requiring a majority verdict in courts of record, which I think will be agreed to, and that is that the opportunity for corruption in our judicial system is largely removed. In a unanimity verdict, where all jurors are required to find the same, some unscrupulous client or attorney or some one interested in the cause might secure quietly the attention of one of the jurors; if so, the trial might be continued for weeks. Its importance might be such that such time would be required and that in the end, this individual, whose services have been secured, makes it so that the entire expense of a re-trial is necessary and incurred. On the question of the trial of a person accused of crime, I see no sufficient reason so far as I am individually concerned, why there should not always be a less number than twelve. I am in favor of that only. I believe with that kind of a jury there ought to be a unanimous verdict, because the liberty of the individual is so sacred and ought to have so many safeguards placed around it; then, when there is required to be a unanimous verdict, the jury will stop and think and inquire into every particular and circumstance surrounding this. But I see no reason why in the trial of ordinary criminal cases, there might not be a jury of nine, as well as in civil cases, with a unanimous verdict, except possibly in the case where the punishment might be capital. A case so grave as that, some provision might be made why the time-honored system of the jury might be unchanged. I introduce this amendment, so it will raise these questions, and I doubt not but that it will be discussed with calm deliberation, but for the best interest of the new State, and also from a point of economy, if the service can be retained the same. I hope it will be carried.

Mr. VARIAN. I wish to offer an amendment to that amendment by striking out, commencing in line 2 of the substitute, the words, "a jury of any

number less than twelve," and for a majority of verdict in civil cases and to insert "a verdict by nine or more in civil cases in any court of record." I move the adoption of that amendment, if some gentleman will second it.

Seconded.

Mr. THURMAN. Will the gentleman from Salt Lake have it read as it will read?

Mr. VARIAN. I will. If it shall be carried as amended it will read in this wise. "The right of trial by jury shall remain inviolate, but the Legislature may provide for a verdict of nine or more in civil cases in any court of record." Now, I call the attention of the committee to the fact that there are several propositions in the section as reported by the committee on preamble, which are unnecessary. First, the provision that the Legislature may provide for a jury of any number less than twelve in courts not of record. There is no need of that provision being in the Constitution. It is a matter of settled law under all the constitutions that they can provide for a jury of six, or two, or ten, in courts not of record, under constitutional provisions similar to those provided. The right of appeal exists and the trial on appeal can be had. Neither is it necessary to provide for the waiving of jury in civil cases. That is a matter that has been determined and become the settled law of the land. The Constitution of the United States—I was going to say—from the time the judiciary act of 1792 went into force, it goes as without saying in all federal courts where the constitutional provision is ever strict requiring a jury of twelve, and a unanimous verdict, in both civil and criminal cases, a stipulation by the parties in open court always does away with the constitutional requirements; that is, you say upon the theory that it may be waived, as being for their benefit, of course that is not necessary to declare in this Constitution, which is designed to be only a limitation upon the power of the Legislature. What is the purpose or use of interpolating in every section after section the matter that will exist or be recognized, whether it is there or not.

But, on the motion principally involved in this amendment I have a decided opinion. I do not believe that the jury system is a work of barbarism in any sense. I believe it has been a part of the bulwark of human liberty from the days in which our English forefathers battled for human rights down to the present time.

It is the only branch of the judicial system which is in touch with the people. It is the only voice that the people have in the administration of justice; it is the only security that the common people have. It is the jury drawn from the body of the people, who, in times past, have stood out against the aggressiveness of courts and executive, in the defense of liberty, and for the protection of human rights. In that view, I would not vote to reduce the jury by one man in criminal cases; never. In civil cases I shall never vote to reduce the number of the panel by one man.

I am willing to concede in my own mind, in accordance with the experience and history of modern times, that it is in aid of justice that in civil cases nine of the jurors may be permitted to find a verdict. They still have the benefit of the argument, and the contention and division of those who do not agree with them. The jury, as a jury, is still there as a whole jury, representing the people in the jury box. I fear, Mr. Chairman, that this tendency in the last few years towards the abolishment of the entire jury system comes from certain influences; from certain quarters, which are in the nature of things antagonistic to the rights of the people.

The tendency in modern times is in all of the great litigation involving vast corporate interests; involving vast capital; and sometimes that money carries them before the tribunal of the judge—

a single judge sitting as a tribunal. I have no objection to that, if they care to do it by their own consent—the consent of both parties where their interests are conflicting, and they are fighting, and the contest is between them. If they choose to do that, and waive the constitutional privilege, it is their right, but I would not put a word either in the Constitution or upon the statute book that in any degree would impair the efficiency of the jury system, against the will of a single citizen of the commonwealth when he is brought into court there, either as a plaintiff or as a defendant, that he be given the right which his father had and their fathers before him, to demand under the Constitution the right that he has that his claim should be decided by twelve men coming from his own people, in touch with humanity, and representing its thought, and that he should be given all the protection that he ought to have. It is in that view that I present this amendment. I want the trial by jury to remain inviolate. You may do away with your grand jurors if you please. You may reduce them in numbers. You may give the prosecution of criminal cases to magistrates, or to district attorneys, but when you come to a trial jury, that last safeguard, that last barrier, that has always stood and always will, I believe, between the people and oppression, whether of executive power or corporate wealth; I say, when we come to that, we should act slowly, and wait, I think, long before we invade in the slightest degree or particular. We are consuming so much time that we can do no more than to allude in passing these various questions, making suggestions. There are a good many of the people here who have a right to talk. I could not pursue this argument as I would like to do. I can only say that this matter should not be hastily passed upon, but I hope that it will be duly considered by this Convention, and that this amendment may find favor with the members of this body.

Mr. GOODWIN. I would like to offer a substitute for both amendments, to strike out all after the word "provide" in line second, and substitute the following: "In all civil cases for a jury of nine or less, two-thirds of whom may find a verdict," I wish to say to the house a few words. It is a question that I have thought over a good deal. I never saw a gentleman when he wanted to plead his case go and pick out twelve men. I do not believe they would have ever have thought of thinking of it if it had not been established away back. I do not think you, Mr. Chairman, or any other gentleman here, would care to have more than five men decide a case for you; but the main object is to save expense to the State. If the gentlemen read the report of District Attorney Judd, published in the papers two or three days ago, they will get an idea how burdensome the jury system has been on the Territory, and how burdensome it will be in the new State. We have had that matter under consideration. We have thought in all civil cases, if the jury was honest, that nine men would be just as good as twelve. If they were dishonest there is no occasion to compel either the plaintiff or defendant to purchase over nine of them. I have great reverence for the system. It was founded at a time when the people had very few rights and when those in power were very arbitrary. It was founded at a time when there were not many free schools in the country, and it is venerable with age and deserves the same respect that a broken-down old wall covered with ivy demands. At the same time, what we want in the framing of the Constitution of this new State, is to do exact justice by the people, if we can, and do it at the least possible expense.

Taking that view, the committee believe that in the most important civil

cases, nine jurors would give a cause just as deliberate and careful attention as twelve, and it would be better not to bind the jury to all agree to what the majority thought, but to give them some free exercise of their minds and their judgment all around, and to let the majority find a verdict, and that is more in accord with the genius of our country and our institutions, because majorities rule; they rule in the election of officers; they rule all the world over. There is no reason on earth why the the same principle should not apply in the jury system. The chief object, however, over all is, without reducing in the slightest the protection upon the citizen, it will save the expense of a great host of jurors to the State.

Mr. ROBERTS. This is a question, it seems to me, of very great importance and it is one upon which I have some very decided views. But we are now in position that I don't think we can intelligently discuss the amendment that we have here before us. We have here, first, the section—section 10, and it appears in print. There are three amendments proposed to this section and I move that the further consideration of this section be postponed until the next meeting of this committee, and that in the meantime the propositions that have been presented for amendment be printed and furnished to the members so that we may discuss it intelligently and be able to arrive at a proper conclusion.

Seconded.

Mr. IVINS. I would like to ask the gentleman from Salt Lake, if he will include in his motion any other amendment that might be proposed?

Mr. ROBERTS. That we postpone it? I am willing to withdraw this if any gentleman has a further amendment to propose. Of course, I realize it would be out of order, but in the form I suggest I think the committee might receive it.

Mr. VARIAN. I offer an amendment to his substitute.

The CHAIRMAN. Mr. Goodwin offers an amendment to the original article as printed.

Mr. VAN HORNE. I would like to ask a question for information, from Mr. Varian. I understood this amendment included to strike out waiving a jury by consent of parties?

Mr. VARIAN. I simply called attention to that because if left my amendment, if adopted with the other portion of Mr. Evans' substitute, would leave out this provision, found in the original section as reported by the committee.

Mr. THURMAN. I would like to ask the gentleman a question for information, whether or not the effect of the amendment that he proposes is not merely to require a jury of twelve in all cases, but a unanimous verdict in criminal cases and a verdict of nine or more in civil cases?

Mr. VARIAN. Yes, sir; I so understand it. If the section stopped in the first line that would be considered to mean a jury of twelve and require a unanimous verdict. It is not necessary to provide for a unanimous verdict in criminal cases. That would be so only when expressly provided otherwise.

The question was then taken on the motion of Mr. Roberts to postpone, and the same was agreed to.

The committee of the whole then rose and reported as follows:

Mr. President, your committee of the whole have had under consideration the preamble and declaration of rights, and beg to report progress, and recommend that the pending amendments to sections 4 and 10 be printed.

The report was adopted.

The Convention then, at 5 o'clock p. m., adjourned.

NINETEENTH DAY.

FRIDAY, March 22, 1895.

The Convention was called to order at 2 o'clock p. m. by President Smith.

The secretary called the roll and the following named members were found in attendance:

Adams	Larson, C. P.
Allen	Lemmon
Anderson	Lewis
Barnes	Low, William
Boyer	Low, Peter
Bowdle	Low, Cache
Brandley	Lund
Buys	Maeser
Button	Maloney
Call	Maughan
Cannon	McFarland
Chidester	Morris
Christianson	Moritz
Clark	Murdock, Beaver
Corfman	Murdock, Wasatch
Creer	Murdock, Summit
Crane	Nebeker
Cunningham	Page
Cushing	Partridge
Eichnor	Peters
Emery	Peterson, Grand
Evans, Utah	Peterson, Sanpete
Eldredge	Preston
Engberg	Raleigh
Francis	Ricks
Gibbs	Roberts
Goodwin	Robertson
Green	Robinson, Kane
Hart	Robison, Wayne
Halliday	Ryan
Hammond	Shurtliff
Haynes	Snow
Heybourne	Spencer
Howard	Squires
Hughes	Stover
Hyde	Strevell
Ivins	Symons
James	Thompson
Jolley	Thoreson
Keith	Thorne
Kearns	Thurman
Kerr	Van Horne
Kiesel	Varian
Kimball, Salt Lake	Warrum
Lambert	Williams
Larson, L.	Mr. President.

Mr. MURDOCK (Beaver). Mr. President, Mr. Coray wished to be excused; he was obliged to be away.

Prayer was offered by Rev. Joseph McClain, of the Presbyterian Church.

The journal of the eighteenth day's session was read and approved.

Mr. Call then presented a petition, signed by 1875 citizens of Davis County, praying for the adoption of the first article of the committee report on elections and right of suffrage.

Mr. Bowdle presented a petition, signed by 250 citizens of Salt Lake County, for the submission to the legal voters at the same election at which the proposed Constitution is submitted, an article on prohibition.

Referred to committee on manufactures and commerce.

Mr. BUYS. Mr. President, under the ruling of the chair the other day, this is not the proper place to introduce that resolution. It is a resolution or proposition for insertion in the Constitution. It is exactly the same thing that was presented from Wasatch County and it was ruled that day that it should come in under the head of propositions for insertion in the Constitution.

Mr. BOWDLE. Mr. President, that is not a proposed article for the Constitution; it is simply a memorial, as I understand it. I have not read it over.

Mr. BUYS. Mr. President, it is the same article that was presented the other day from the citizens of Wasatch County, and under the rule that time it was laid over to come up under the head of propositions and the next day the presentation of it under this order of business, was stricken from the minutes.

The PRESIDENT. I think it will have to be ruled out to come in under propositions. It is a proposition for legislation.

Mr. IVINS. Mr. President, I do not wish to detain this Convention with unnecessary questions, but I do maintain that this petition which has just been introduced, signed by a large number of citizens of this city or county, or a petition coming in that form from the citizens of any other county, is a petition. They petition and ask that we take such action as will result in the insertion of an article similar to this in the Constitution. I claimed the other day, and I claim now, that this is a petition, and this is the proper time to dispose of it. A proposition for insertion in the Constitution comes from some member of this Convention, and it comes in the form of a petition which the citizens of this Territory have a right to make. They may petition for any action and this properly comes under the order of business we are now considering.

The PRESIDENT. There is nothing before the house. The chair has ruled on that.

Reports of standing committees.

Mr. CHIDESTER. Mr. President, the committee on elections and rights of suffrage have a report. If it is proper at this stage of the proceedings, I would ask to have that made a special order for Tuesday next.

Mr. KIESEL. Mr. President, I move that this report be not received just now, until the minority report is ready. This is the report of elections and right of suffrage, is it not?

Mr. CHIDESTER. Yes, sir.

Mr. KIESEL. Under the rule he will have to wait until the minority report is ready.

Mr. CHIDESTER. I desire to state that a minority report will be presented and in my opinion that will give them ample time to prepare their minority report, and I would like to have it made a special order for Tuesday next at 2 o'clock p. m.

Mr. KIESEL. Mr. President, the gentleman is out of order. I made a point of order. My point of order is this: that if we give notice that there will be a minority report, the majority report cannot be acted upon. I believe that was the rule.

Mr. ROBERTS. Have you given such notice to the committee?

Mr. KIESEL. I have given that notice to the committee.

Mr. THURMAN. Mr. President, I do not know whether the suggestion advanced by the gentleman from Weber is in order or will be entertained or not, but I trust not. The committee—a majority of them—are here with their report. If the minority of that committee who have known all the time everything that the majority have done and propose to do, are not ready with their report, that is their fault. We want this report read to-day. I want this made a special order as quickly as the business of this house will permit, and the matter disposed of. This minority may never report for all we know. They are not bound to.

Mr. VARIAN. Mr. President, under the rules, the report of the committee is referred, first, of course, to the committee of the whole. I do not understand that this Convention as such will undertake to regulate the sitting of that committee.

But there is still another proposition underlying. It does seem that it would be a matter of grave discourtesy to the members of any committee, who have not been able to express their views in writing, on the request made not to extend that privilege, if it be a privilege, but a suggestion that there is nothing to do under the rules but to refer this report to the committee of the whole, without an order.

The PRESIDENT. There is no order necessary. It goes there under the rule.

Mr. VARIAN. Mr. President, I would like to send up a report from the committee on rules. I call attention of the chair to the fact, that I believe there is a report laid over from yesterday,

which, under the rules, would come up to-day.

Mr. CHIDESTER. Then I understand that to be the case, but I understand also, that this committee is not obliged to lie still and wait for a minority report; we simply ask to have this made a special order for Tuesday—if this is the proper time. I did not understand the chair's ruling upon that.

The PRESIDENT. This is the proper time. Reports of the committees are in order, and under the rule, it has gone to the committee and there is nothing before the house.

Mr. VARIAN. I understand, under the rule, it goes to the committee of the whole, and there it will be brought up again probably.

Mr. THURMAN. Mr. President, we think the report ought to be read and referred.

The report was read by the secretary as follows:

Convention Hall, Salt Lake City,
March 22, 1895.

MR. PRESIDENT:

Your committee on elections and right of suffrage, appointed to draft and present an article on that subject, to whom was referred:

File No. 1, introduced by Evans, of Weber.

File No. 2, introduced by Eichnor, of Salt Lake City.

File No. 3, introduced by Evans, of Weber.

File No. 17, introduced by Page, of Sanpete.

File No. 24, introduced by Thoreson, of Cache.

File No. 37, introduced by Strevell, of Weber.

File No. 69, introduced by Thurman, of Utah.

File No. 109, introduced by Stover, of Tooele.

And also divers memorials and petitions presented by the ladies of Weber, Utah, Juab, Wasatch, Salt Lake, and Davis counties, and the Woman Suffragists Association of Utah Territory, respectfully report that we have carefully considered all of said propositions and memorials and hereby return the same, together with a draft of an article upon the subject referred to us and recommend it as a substitute for said propositions and as the responses to the said memorials.

Your committee do not claim absolute perfection for the draft herewith presented, but state that such as the instrument is, it is an expression of the best judgment and most candid deliberation of the majority of the committee. The committee in performing their labors have endeavored to be governed and controlled by the principle that in a republican form of government every citizen of the United States of reasonable intelligence, not convicted of crimes which strike at the foundation of popular government, should be eligible to vote, and exercise in addition thereto such political privileges and honors as their fellow-citizens see fit to confer upon them, keeping in mind that taxation without representation is not only unjust but contravenes and comes in conflict with the very genius of our political institutions. The committee by this article have conferred upon women the right to vote and exercise political privileges equal with men. The difficulty with the committee in considering this subject has been to find a reason why women should not have this privilege, rather than why they should. Not being able to find any logical reason why they should not, and deeming the political discriminations heretofore existing in this respect as unreasonable and unjust, a majority of the committee strongly favor the adoption of that portion of the article which in terms establishes the political equality of the sexes; upon this subject we have adopted literally the language of the Wyoming constitution, in which state woman suffrage, after twenty-five years' experience, has been demonstrated to be a pronounced success. Upon all other portions of the article herewith presented the committee have been and are practically unanimous.

Respectfully submitted,
J. F. CHIDESTER, Chairman,
A. S. ANDERSON,
JOS. E. ROBINSON,
PARLEY CHRISTIANSON,
PETER LOW,
J. D. MURDOCK,
CHESTER CALL,
A. ENGBERG,
A. H. RALEIGH,
WM. HOWARD,
F. A. HAMMOND,
S. R. THURMAN,
Members of the Committee.

Mr. KIESEL. Mr. President, I wish to state that the committee—that part of it which intends to bring in the minority report, has not had time to make their minority report, because this matter was only acted upon in our committee this morning a little before

noon. We have not had time to prepare our minority report. I venture to say that there is much to be said upon this subject, and that the conclusions that are embodied in the report are confusing to my mind. For this reason I want to bring in, together with my colleagues, a minority report, and I ask in all fairness that we shall be given ample time. There has been a great deal of time used in other matters. I do not see why we should not have time to prepare a minority report.

Mr. VARIAN. Mr. President, I arise to a point of order. This whole matter is out of order unless you suspend these rules, and there is no rule preventing this gentleman from bringing in a minority report. There is going to be plenty of time. I don't suppose we are going to consider all of these questions in an hour or a minute.

(Reads rule 19.)

The committee has a calendar. Another rule provides that when that committee reports it goes back upon the Convention calendar for a third reading and then is the time to make special orders. I now call, under the rule, for the reading of the report of the committee on rules which went over from yesterday. It has precedence.

The PRESIDENT. The point of order of Mr. Varian is well taken.

Mr. THURMAN. Just one moment. I did not understand one thing the gentleman said, and that was, when is the proper time to make a special order?

Mr. VARIAN. Propositions are read in the Convention a first and second time and referred to the standing committee, then to the committee of the whole; after which they go on the Convention calendar for a third reading. I submit to the gentleman from Utah.

Mr. THURMAN. Mr. President, permit me to say one thing in relation to the matter.

The PRESIDENT. There is nothing before the house, gentlemen. This matter has gone to the committee.

Mr. THURMAN. Well, Mr. President, is there anything wrong in having an understanding about the matter?

The PRESIDENT. No; if there is a misunderstanding it is perfectly legitimate.

Mr. THURMAN. Of course there is a misunderstanding, or I would not ask. I want to understand the time for this reason; I want to make a special order if now is the proper time.

The PRESIDENT. It was fixed for Tuesday after we get through the regular order.

Mr. VARIAN. I did not understand that order passed the Convention.

The PRESIDENT. No; the gentleman asked that it be fixed for Tuesday directly after the regular order.

Mr. VARIAN. I did not understand that order passed the Convention.

The PRESIDENT. No, the gentlemen asked that it be fixed for Tuesday direct after the regular order.

Mr. VARIAN. Who suggested that? That was a violation of the standing rule. No motion was put and it was not carried,

The PRESIDENT. All right.

Mr. RICHARDS. Mr. President, I move that the consideration of this article may be the special order before the committee of the whole for Tuesday.

Mr. VARIAN. Mr. President, I make the point of order that it is not in order for this Convention to make special orders for the committee of the whole without suspension of the rules.

(Reads rule 21.)

There is a standing rule. There is no pressing necessity for exigency in this matter.

Mr. CHIDESTER. Mr. President, I move an amendment to the motion by suspending the rules and making it the special order for Tuesday at 2 o'clock p. m.

Mr. RICHARDS. I accept the amendment.

Mr. CANNON. Mr. President, I see no reason why we should attempt at

this time to make this a special order. I think we should go on with our business and when we have considered the bills that are before the committee of the whole—two bills are already there—we then would consider what time would be the most convenient to take this matter up. I am opposed to the motion for that reason.

Mr. THURMAN. Mr. President, the reason we want the matter determined now is this, that these reports will be coming in every day; as fast as they come in they take their regular place in the committee of the whole, and this matter would be crowded to the background. Now, we want it disposed of. I can speak freely on this for it is not a party question. All of us want this thing. We have agreed to have it and let us dispose of it.

Mr. ROBERTS. Mr. President, I am opposed to making this a special order for Tuesday next at this juncture. I think that if the majority of this committee making this report has any due regard for the rights of the minority of that committee, since they only concluded this morning to make that report, and have had notice served upon them that the minority desired to make a report, I think the majority are treating the minority with scant courtesy, to say the least of it, when they do not permit that minority to make its report and accompany their majority report, which could doubtless be done at an early date; and if they are so sure of their position, I think they would manifest a little more confidence in it, if they would grant this privilege asked for on the part of the minority. There seems to be unusual haste in rushing this. I understand also, sir, that the question includes not only the suspension of the rules but the fixing of this matter for Tuesday, and I am trying to argue that part of the proposition that it ought not to be done, and this report of the majority ought not to be placed here until a reasonable time at least has been granted to the minority of that committee to make its minority report, and have these two propositions or these two reports come together and not separate them. And I take it the gentlemen manifest undue haste in refusing to grant to the minority an opportunity to make their report to stand side by side with the report of the majority. Therefore, I am opposed to the proposition.

Mr. ELDREDGE. Mr. President, I am opposed to this motion on two grounds. In the first place, I think the majority can consistently wait at the request of the minority, to give them a reasonable opportunity to present a minority report. And, secondly, there will be reports coming in from the committees perhaps each day from this on, until the committees have all reported, and I am in favor of the reports taking their turn upon the calendar just as our rules provide. They provide that every proposition shall be considered and acted upon in the committee of the whole in its order upon the calendar. This will go on to the calendar and let it come up in its turn. There is no such thing as making a delay by letting it go on the calendar, or crowding it to the wall. It simply takes its place in common with other reports. Therefore, Mr. President and gentlemen, I am opposed to the motion.

Mr. ANDERSON. Mr. President, I would like to correct an impression that seems to be had by some of the members. The only section that there is any opposition to is the first section, and this was passed upon by the committee on the second day that we met, which was nearly two weeks ago, and yesterday every section of the article that we proposed to adopt was passed upon separately, and a minority have had the last two weeks to make up a report on this section that they are opposing, and they knew that we were going to make up our report.

Mr. THURMAN. Mr. President, I

would like to ask one question for information before the vote is taken. I would like to ask the gentleman from Weber when the minority will report?

Mr. KIESEL. We will consume a reasonable time only.

Mr. THURMAN. You cannot give the Convention any satisfaction?

Mr. KIESEL. It depends upon my colleagues. I have not had any conference because this matter was only passed this morning as I stated, and I have not had any time for conference with these gentlemen, and we shall not take any advantage. Mr.——

The PRESIDENT. That is all out of order.

The motion was lost by a vote of 37 ayes to 55 noes.

The PRESIDENT. It goes to the committee of the whole in its regular order upon the calendar.

The report of the committee on rules was then read by the secretary as follows:

MR. PRESIDENT:

The committee on rules herewith report and recommend that the standing rule 20 be amended by striking out all after "debate," in line seven of the printed rule. C. S. VARIAN,
Acting Chairman.

Mr. VARIAN. That lies over one day under the rules. There was another report presented yesterday that ought to be read.

By request Mr. Hatch and Mr. Higginson were granted the privilege of the floor.

The following report from the committee on rules was read:

MR. PRESIDENT:

The committee on rules, to which the report from the committee on schedule, miscellaneous and future amendments, recommending that the membership of that committee be increased by adding thereto two members from the cities of Salt Lake and Ogden, was referred, beg leave to report the same with the recommendation that said committee be so increased.

Mr. VARIAN. I move the adoption of the report.

Seconded.

Mr. BOWDLE. What is the purpose of this amendment. The report does not show.

Mr. VARIAN. I will state, Mr. President, for the benefit of the gentleman, I do not know except that the committee on schedule and other things made the request of the Convention that it should be done, and out of courtesy to that committee our committee acceded to it.

Mr. BOWDLE. Was there any request stating what subject they were contemplating or discussing?

Mr. VARIAN. Not at all, that I know of. It did not come to my committee. It might be in the minutes.

Mr. EVANS (Weber). Mr. President, that was the reason given in the Convention.

Mr. RICKS. Mr. President, it was before stated they had under consideration an article on prohibition and that Salt Lake City and Ogden were not represented on the committee and we thought it advisable to increase the committee so as to give them representation inasmuch as they were directly interested in that question.

Mr. CANNON. Let me ask the chairman of the committee if the entire committee asked for that increase?

Mr. RICKS. No, sir. It was just a majority of the committee.

Mr. CANNON. Was the minority opposed to the increase?

Mr. RICKS. They were opposed but they made no minority report.

Mr. ROBERTS. I would ask the chairman of the committee if there was any votes against the proposition to so increase the committee in the committee meeting?

Mr. RICKS. I don't recall whether there was any vote against it or not.

Mr. MURDOCK (Wasatch). Mr. President, I voted against it.

Mr. RICKS. Mr. President, I did not

favor the report myself, but I did not report against it.

Mr. VARIAN. I found that report. I will say that the clerk was unable to find the original document, and we had nothing before us except that this committee had recommended it. I believe it is signed by Ricks, Chairman, as the report of the committee.

Mr. ROBERTS. Mr. President, the committee on schedule, future amendments, and miscellaneous will have before them—indeed they have before them now the question of prohibition. All the resolutions and memorials on that subject have been referred to that committee. We discovered that Salt Lake and Ogden, two locations in the Territory, which will be most affected by the action of this Convention on that subject, had no representation on that committee, and we were of the opinion that in fairness and justice to the proper regard for those whose interests are involved in this question, they ought to have representatives present there to set forth before the committee the reason why this course or that course ought to be taken in that matter, and to have the advantage of their knowledge and information on the subject from these two important localities. I take it that in the discussion of committees and in the discussion of these subjects that are up for consideration nobody desires to take any advantage of anybody else, or take snap judgment upon them, and it is only fair and right that these two localities in this Teritory so deeply interested on this question, ought to be represented on that committee, and for the benefit of the committee itself, that we would have gentlemen there acquainted with the conditions existing in these two localities, to give us the information that the committee required in dealing with the proposition, and for that reason I hope this rule will be adopted and the committee increased as suggested by the committee on schedules, by the appointment of the gentlemen from Ogden and from Salt Lake City.

Mr. CANNON. Mr. President, and gentlemen of the Convention, I am opposed to the increase that is proposed at this time, for the reason that I do not believe that it is a proper thing to do at any time when a measure is presented before the committee, to canvass that committee and find out whether or not the opponents of the measure have sufficient strength to defeat it or not, and if not, to come into a Convention and ask to have the committee increased to such an extent that they may defeat the proposition before the committee. Whether or not I favor this proposition that is up for consideration has nothing to do with the question. I will take the position that I please on that when it comes before the Convention. But I do not think that it is right for the opponents of any measure to go and find whether they have sufficient strength, and immediately upon discovering that fact, to come in and ask that they may have more members added to the committee, in order that they may smother any bill that may be presented there. For this reason and believing that is a status of the case there, I am opposed to any increase.

Mr. IVINS. Mr. President, looking over the rules I find that this committee on schedule, future amendments and miscellaneous is composed of nine members, all men of ability, all men of good judgment, and I cannot see—I cannot conceive that there is a necessity at this stage of the game to add other members to that committee, in order that this question should have proper and careful consideration. It has been stated that the design is to give opportunity to Salt Lake City and Ogden to be heard upon this important question. I wish to ask, Mr. President, if the fact that there is no member of that committee who is a resident of Salt Lake City or Ogden will debar any

citizen from Salt Lake or Ogden from appearing before the committee and giving them the benefit of their views—the benefit of their wisdom? No, they can get all the information they want just as well with a committee of nine as they can with a committee of eleven. I can see this, Mr. President, that to increase this number, placing upon this standing committee a member from Salt Lake and another from Ogden, might have a very material effect on the vote. The knowledge that they have could be used to no better advantage by the committee, than it can be if the gentlemen appear and make their statements before the committee. But it adds two other votes, and I ask myself in a moment, is this a design? It has not been stated here, and if it is not such a design, then I will stand corrected. But information has come to me so direct that I cannot doubt that this is a design to increase the strength of the members of that committee who are opposed to this question of prohibition. It is because of this, gentlemen, that I shall oppose it—that I shall vote against it. And I wish to call the attention of those delegates to the fact that it will require two-thirds vote to add these two members to the committee and I trust that that two-thirds vote will not be obtained.

Mr. VARIAN. The gentleman is mistaken. It only requires a majority.

Mr. IVINS. I would like to read, in answer to what Mr. Varian says, rule 37. (Reads.)

Mr. VARIAN. Read the next rule.

Mr. JAMES. Mr. President, I arise to a point of order. This matter is not before the house for discussion whether that rule is correct or whether it is not.

Mr. IVINS. Without further reference then to the rules, I simply wish to call attention to that fact. Now, I believe in fairness and I do not see any fairness or any necessity of increasing this committee. I believe the nine men are just as capable of making the report to this Convention as eleven will be, and when it comes here we have got to take action upon it. It is all going to come before the Convention anyhow, and I am opposed to any rule by which this committee may be consistently increased in order that some particular design should be accomplished.

Mr. ELDREDGE. Mr. President, I am in favor of this proposition to concede to those the privilege of adding two more members to that committee and, in brief this is my reason; in the first place, I believe in a proper representation, and as expressed by the chairman of that committee it was in order to give Salt Lake City and Ogden City a voice in that committee, and with that view I will support the measure, that those may be heard in that committee before it comes to this floor, and I am very pleased to note that my friend from Davis County stands with us for representation.

Mr. RALEIGH. Mr. President, if it was in the interest of fairness, I would be very pleased to accord the opportunity of placing two more members in that committee. But I am persuaded that it is not in the interest of fairness. I think I am posted on this matter and I shall express about the same views as have been expressed by Mr. Cannon and Mr. Ivins. Now, if I had no confidence in the members of that committee, if I did not think they were competent to perform the duties and labors that have been assigned to them by the president, I would accord with pleasure the opportunity for two more members to be added to it, but I do not believe in such doctrines. I do not believe that it is in good faith at all. I believe their design to be to add to that committee in order to defeat that measure that is before the committee. That is my opinion and I think I am well posted on the matter.

Mr. JAMES. Mr. President, I regret to take up the time of the Convention

for a moment unnecessarily, but it does seem to me that there has been some things said about this matter that ought to be answered. It has been raised upon this floor that the members of the committee asked to be added to that committee would be prejudiced. Now, I take it for granted that that is not true. I think the president will select gentlemen from Salt Lake and Ogden that will be fair, impartial and just, and that they will truly represent the people of those districts, which are the two great centers we have in our Territory, and for that reason I hope that this motion will not prevail. I do not think that it is done for the purpose of putting on this committee some gentlemen that will defeat the object of a committee. Now I do not think that is just the way to put this question, and I am very much pleased to see the position that some gentlemen have taken on this floor that it is for the purpose of giving representation, and not for the purpose of handicapping a committee.

Mr. EVANS (Weber). I do not desire either to take up the attention of the house, but coming from Ogden which is not represented on that committee, I think I should say a word. It seems to me that no gentleman upon this floor ought to object to such cities as Salt Lake and Ogden having a representation on that committee, at least since the gentleman has asked it. Gentlemen, let us extend the courtesy and vote upon it.

Mr. GOODWIN. Mr. President, a committee of this house have made a request. The house after considering it granted the request. The matter was referred to the committee on rules. The committee on rules took the trouble to investigate and report. There has been considerable said on this subject on the motives of men and prohibition generally, but it is simply a courtesy to that committee. I think it ought not to take one minute to decide. If any other committee was to ask a similar courtesy here I think it would be granted. Why is that committee picked out? I believe the request here includes the chairman. We will discuss the other question when it comes until we get tired of it. It is not due here to-day.

Mr. RICHARDS. Mr. President, I am in favor of this motion, but not because I think the addition of the two members is desired for the purpose of advancing or defeating any particular measure. I am in favor of it because the committee has asked for it, and I think we ought to grant it. It seems to me the question is an unfair one, although I am satisfied my friends who have made it have not made it in the spirit of unfairness; it presupposes either one of two things, either that the president will be partial in the appointment of members from Salt Lake and Ogden, or else there is nobody in the delegates from those two places, that would favor the proposition that is suggested. Now, I suggest in the first place, that we cannot attempt any unfairness on the part of the chair in making these appointments. I desire further to say that if it be true that there is no member of the Salt Lake or Weber County delegation that favors this proposition, no matter what it may be, whether for prohibition or anything else—if it be true that one-third of the population of this Territory are not in favor of the proposition, that itself is a sufficient reason why they should be represented. So I say, that under any consideration, in any view of the case, these two cities should be represented.

The report was adopted.

Mr. Partridge was by his request excused.

Mr. LUND. Mr. President, as the chairman of the committee on accounts and expenses, I would like to ask, if according to the rule, we are only to keep account of the expenses and the vouchers for the same, or if we are to

know what expenditures are going to be made and say whether they are or not necessary. I make a motion that it be the sense of this Convention that we be asked whether the expenditures should be made or not.

Mr. BARNES. I second the motion.

The PRESIDENT. That motion is out of order.

Reports of standing committees are in order.

Mr. BARNES. Mr. President, this gentleman who spoke is the chairman of one of the standing committees and I would like it to be considered in the nature of his report. We were undecided to know what our duty is and he has taken this method of reporting.

Mr. RICHARDS. Mr. President, I submit that that is not in order. If the gentleman desires information on this subject he can ask for it at a proper time.

The PRESIDENT. The point of order is well taken.

Mr. LUND. Mr. President, I will say that in the nature of the report from this committee that you accept an oral report that some expense was incurred that we deem unnecessary.

Mr. THURMAN. Mr. President, I move the report be filed. [Laughter.]

Mr. VARIAN. I would like to ask the gentleman if it is the intent to carry the reporter with the report if it be filed.

Hon. Jacob Johnson, of Sanpete County, was admitted to the privilege of the floor.

Introduction of ordinances and propositions for insertion in the Constitution.

The memorial from citizens of Salt Lake County on prohibition was again presented by Mr. Bowdle.

Mr. CHIDESTER. Mr. President, I move that the rules be suspended and the resolution read a first and second time by its title and referred to the proper committee.

Mr. BOWDLE. It is not a proposition for insertion.

Mr. VARIAN. Mr. President, I move then as a substitute that it be referred to the committee of the whole with report of the committee on schedule, future amendments and miscellaneous.

The substitute was agreed to.

Mr. Thoreson introduced a proposition concerning first, water rights and privileges; second, state and county water commissioners; which was read a first and second time by its title and referred to the committee on water rights, irrigation and agriculture.

Mr. McFarland introduced a proposition relative to water rights, which was read a first and second time by its title and referred to the committee on water rights, irrigation and agriculture.

Mr. Kiesel introduced a proposition relative to fish and game, which was read a first and second time by its title and referred to the committee on schedule, future amendments and miscellaneous.

Mr. Kiesel introduced a proposition relative to the preservation of forests, which was read a first and second time by its title and referred to the committee on water rights, irrigation and agriculture.

Mr. WELLS. Mr. President, I move we now resolve ourselves into committee of the whole for the consideration of preamble and declaration of rights.

Seconded.

Mr. VAN HORNE. Mr. President, the committee on rules not having yet changed the rule by which the committee can rise and report at any time, I move that we resolve ourselves into committee of the whole until 5 o'clock this afternoon—as an amendment.

Mr. WELLS. I accept the amendment.

Mr. HART. Mr. President, I arise to a point of order. This is not in order under the order we are now considering. The chair has not yet announced that motions and resolutions are in order. I think this motion should come

up under that. I do not want to be captious. The reason I make it is that I believe a motion should be made before going into committee of the whole. A special order was made some days ago for consideration by committee of the whole, and if you got into committee of the whole for changing that, we would have to consider that, and I think that the delegates here do not care to break into the work of considering the preamble of rights now, and take up a subject foreign to that. That is the reason I arise to a point of order.

The PRESIDENT. It seems to me that that point of order is well taken.

Special orders.

Mr. PIERCE. Mr. Presideht, as the chairman of the committee on education, I move that the action of the Convention the other day by which they made this bill on education a special order, at this time be reconsidered and come up immediately after the bill of rights.

The PRESIDENT. If there is no objection the request of the committee will be granted.

Motions and resolutions.

Mr. SQUIRES. Mr. President, I understand that the secretary of the Convention has been to some expense under a resolution offered by Mr. Evans, of Weber, regarding the writing of some thousand letters to different parts of the Territory, and as no provision was made to furnish postage, and the Convention voted not to furnish postage, I move now that the secretary's bill for postage be paid out of the funds appropriated.

Seconded.

Mr. LUND. Mr. President, I would say for the information of the gentleman that there are no funds yet that we can lay our hands upon.

Mr. VARIAN. There will be.

Mr. KIESEL. Mr. President, I wish to amend this motion and add that the expense of the several chairmen of committees incurred in that respect also be paid.

Mr. SQUIRES. I accept that.

Mr. HART. Mr. President, I move to refer the motion with the amendments to the committee on accounts and expenses.

Seconded.

Mr. BARNES. Mr. President, I wish to state the condition of matters to-day. I am informed by the secretary that he requires something like ten dollars' worth of stamps at the present time, in order to properly mail letters in conformity with his duty, and the question is, where shall the money come from to provide him with the stamps.

The motion was agreed to.

Mr. Maloney introduced the following:

Resolved, that it be the sense of this Convention that its labors be completed within the shortest time practicable and consistent with good and efficient work, and that we incur no indebtedness to be paid by the future State of Utah.

The resolution was adopted.

Mr. Ricks introduced the following:

Resolved, that rule 20 be amended as follows:

By striking out the clause "nor a limit to be made as to the number of times speaking," and inserting in lieu thereof the following: "No member shall speak more than twice on the same subject and no speech shall occupy three minutes."

The PRESIDENT. It goes to the committee on rules.

Mr. WELLS. Mr. President, I now move that we go into committee of the whole.

Mr. RICKS. Mr. President, I move to amend by adding "until 5 p. m."

The motion as amended was agreed to.

COMMITTEE OF THE WHOLE.

The Convention then resolved itself into committee of the whole with Mr. Squires in the chair.

The CHAIRMAN. When the committee of the whole arose yesterday, section 10 of the bill of rights was under consideration. The gentlemen will find upon their desks the printed amendments of both sections 4 and 10, as required by the Convention.

Mr. EVANS (Weber). Mr. Chairman, I desire to withdraw the amendment to section 10 which I offered, if it may be done under the rule, with the consent of my second, and would like to introduce a substitute for it, which I will send to the secretary's desk to have read.

The same was read by the secretary as follows:

Section 10. The right of trial by jury shall remain inviolate, but the Legislature may provide a less number of jurors than twelve in prosecution for offences below the grade of felony, and in civil cases. A verdict in such cases may be found by a concurrence of two-thirds of the jurors, and the jury shall be waived in civil cases when not demanded as the Legislature may provide; provided, that a jury in the district court shall consist of not less than nine, and a jury in the county court shall consist of not less than six, and a jury in the justice's court shall consist of not less than three.

Mr. VARIAN. Mr. Chairman, I would like to ask what becomes of all these amendments then?

The CHAIRMAN. The amendments are all pending.

Mr. VARIAN. Well, to what? I offered an amendment. The amendment that was offered by me applies to the matter that he withdraws, and I certainly would have a right to say whether that could be done or not.

The CHAIRMAN. You have that right.

Mr. VARIAN. Well, I prefer to let the matter stand as it is, and if all these matters are voted down, Mr. Evans will have an opportunity to re-introduce that matter in the shape he desires. It will do away entirely with my amendment and probably with the second amendment, because the amendment was made to the substitute and not to the original section and refers to the substitute offered by Mr. Evans by line and word.

The CHAIRMAN. Under the circumstances the printed amendment will have to stand.

Mr. PIERCE. Mr. Chairman, I rise to say a few words in support of the amendment of Mr. Varian. The only remarks I want to make are upon the question, as to whether a jury in civil actions in courts of record should be twelve or less than twelve. If I understand the amendment of Mr. Varian correctly, it provides for a jury in civil actions in courts of record of twelve, nine of which can render a verdict. I am in favor of this. I do adhere to precedent. I believe in precedent. The reason I believe in precedent is because it contains the wisdom of all ages that have gone before us, that have had the same subject under consideration. This is the provision as it exists all over the United States. There is not a single state in the Union, if I understand the proposition correctly, that provides for a jury in civil cases in courts of record of less than twelve men. The reason constitutions which have been enacted by all of the different states adhere to the old common law jury, many of them, however, providing that a verdict by less than twelve can be rendered—it seems to me that there is some reason why this precedence and why this line of thought are followed by all the states that have recently adopted constitutions. The state of New York during the last year had under consideration amendments to its constitution. If the wisdom of that state in previous years, through all their practice in civil actions, had led that state to believe that a jury of twelve men in civil cases was sufficient to try a case, why was not that question brought before them? And I think, gentlemen of the jury, that we should hesitate [laughter]—

xcuse me, gentlemen of the committee, thought I was addressing a jury of welve men. Gentlemen of the Convenion, we should hesitate a long time beore we take this first important step o our jurisprudence. It seems to me hat we are not the ones that have disovered this great secret that nine can ender a verdict, but that if it was of great advantage, as it is represented by the gentlemen upon the other side, other men framing their constitutions must have discovered the secret before this. I think if there is any one time when this Convention ought to follow the precedent of all ages, this is the time. It seems to me that we can not do better than adopt the system that all the states in the Union, following the old common law, have adopted. Now, gentlemen of the jury [laughter], there is a reason why twelve men are better calculated to render a verdict than less than twelve men, and I am going to give you that reason. We were asked to give a reason yesterday for it, and I am going to give it to you. Men's minds are constituted differently. No one man thinks as his neighbor does. Take any twelve men upon this floor, no one will give exactly the same reason for his judgment that another man will give. Now, sir, the experience of men, the experience of courts, have taught us that where there are twelve men together, twelve different minds reasoning upon the same proposition, they will arrive at a better conclusion, and a more satisfactory conclusion, than nine or less than that, and I believe that that is the secret. We have twelve different views of the proposition that is before the court and before the jury and the views of twelve men unite in a concensus of one view upon the final verdict.

The verdict then will express the opinion of twelve men; the twelve men will have different reasons for their views; each man will have his own reason, and it seems to me that this is a thing that we should follow. I do not believe that we should be the first to take this important step, and I am opposed to it and I am going to stand for the old common law jury system and vote that the jury shall be twelve and that nine can render a verdict; and the reason that I am willing to vote this way is because if we allow nine to render a verdict and not make it unanimous, we remove the three. It is possible sometimes that in any jury there may be corrupt influences brought to bear upon the jury and that influence may affect one or two, or three men, but it is very rarely that it will ever go to affect four men on the jury. And that, I believe, is why the verdict should be by nine and not a unanimous verdict, and I am in favor, gentlemen, of the proposition of Mr. Varian.

Mr. CREER. Mr. Chairman, for information of the gentlemen, I wish to read from the constitution of Wyoming to show that we would not be the first to establish this precedent as indicated by the gentleman from Salt Lake. "The right of trial by jury shall remain inviolate in criminal cases, but a jury in civil cases in all courts, or in criminal cases in courts not of record, may consist of less than twelve men, as may be prescribed by law." So we would not be the first to break the established order.

Mr. PIERCE. Then I take that back.

Mr. WELLS. Mr. Chairman, I desire also to call the gentleman's attention to the fact that that section as reported by the committee is the identical language of the constitution of the state of Washington, that provides for a jury of less than twelve in courts of record, and for a verdict of nine or more jurors in criminal cases in any court of record.

Mr. THURMAN. Well, if I am not mistaken, Mr. Chairman, this is the worst mistake I ever made in my life. If I am mistaken in what I now say, I should be in Provo sure, and, sir, [laughter] a mile east of the bank cor-

ner. The fact of the business is I am not mistaken. I have been having hard work for several days trying to get gentlemen, among whom is the honorable gentleman himself, to come up to a jury of nine in criminal cases, to say nothing about civil, and we reach that point. A jury of nine—in criminal cases a verdict unanimous; in civil cases a verdict by two-thirds in courts of record. In inferior courts a less number of jurors but still a verdict by two-thirds. Somewhere and at some time before the close of this Convention, I would like to know whether gentlemen can stand upon the same propositions and maintain them for two consecutive days.

Mr. Chairman, I am in favor of the amendment proposed by the gentleman from Weber, Mr. Evans. I am in favor of reducing the number of jurors from twelve to nine unless some gentleman can arise upon this floor and give a better reason for continuing twelve jurors than the simple reason that all men's minds are constituted differently. What reason is that for a jury of twelve? If every man's mind is constituted differently from every other man's mind, is that any reason why it takes exactly twelve men to logically, and fairly, and squarely, determine a proposition? Certainly it no more demonstrates the fact that twelve are necessary than that nine are necessary, or, if it be true that the greater number we have the better the jury will be, why not have fifteen, or twenty, or twenty-five, or thirty? Or why not adopt what the gentleman unwittingly expressed when he says, in referring to us, "you, gentlemen of the jury," why not have one hundred and seven and be done with it? Now, I am inclined to suppose that when the gentleman from Salt Lake calls us gentlemen of the jury, that in his desire to have a great number he had at some time been figuring on a possible jury of one hundred and seven. The fact of the business is this, it has only been a few years since the legislature of any state concluded that it was possible to so far draw away from the old rut as to agree that nine might bring in a verdict. Many states have come to that. All the gentlemen who are contending here for a jury of twelve concede that was a wise innovation. They accept that. By their proposed amendments here, they can see that nine may bring in a verdict. What do they mean by that, and what does that argue to this Convention? That is the first innovation made upon this grand sacred common law jury which has been proved and demonstrated to be a success, and that the very gentlemen here who are arguing now in favor of the old common law jury, conceive that that innovation is good and should be made.

Mr. Chairman, if we are admitted into the Union as a state, we will find upon the very threshold of our admission that we have the burdens of a heavy taxation to bear. It will bear heavily upon the people of the Territory of Utah; they will be admitted into the Union during the hard times through which we are now passing. Let us look something to the economy of this question—let us consider that phase of it. I do not ask you to lay aside principles which are acknowledged to be wholesome and sound and go and accept something that is radical and uncertain simply because of the economy; but I reiterate the question asked by the gentleman from Weber yesterday afternoon, can any man say why the number should be twelve rather than nine? If then it be true that there is no difference that you can point out that is material why the number should be twelve rather than nine, why make this point on our side of the question, that there are three less men for which the State of Utah will have to pay. That of itself is a consideration which I cannot ignore, and I believe that a jury of nine will prove just as effectual, will be

just as well calculated to preserve the liberties of the people, and the rights of the people, as a jury of twelve. And, on the score of economy, I am in favor of the amendment as it is now proposed. I was opposed to it as it was yesterday proposed, but favor it as now proposed by the gentleman from Weber.

Mr. PIERCE. May I ask the gentleman a question? Why don't he argue for five instead of nine?

The CHAIRMAN. Just a moment, Mr. Pierce. Is Mr. Thurman speaking to the substitute for the amendment offered by Mr. Evans? This has been declared not in order because it cannot be considered without doing away with the amendment offered by Mr. Varian.

Mr. THURMAN. Very well, then, Mr. Chairman, my remarks may be construed as against the field; if that is out I am against the field.

Mr. RICHARDS. I am in favor of the proposition to have a jury in civil cases of less than twelve. I know that there is great reluctance in the minds of people generally, and particularly of lawyers, to depart from old and long established usage, but there are times when progress and the spirit of the age requires that we should break some of the bands that have bound us for ages past, and human progress requires that some innovation should be made. Now, during the last few years in the constitutions that have recently been made, these matters have been taken into account. Men who have had long experience in the courts, had practical experience, in the operation of juries, have come forward and given their experiences, and the conclusion has been arrived at that the liberties of the people would be safe, the liberties of the citizens would have been safe in the hands of less than twelve men. That is my firm and positive conviction after some experience in these matters. I believe in a less number than twelve. I do not believe in requiring a unanimous verdict. I do not think there is any special reason why twelve should be the number any more than fifteen or twenty. And when we come to consider the reason and conditions that exist now, as compared with those that were existing who first adopted the jury system, and from whom we inherit it, we can see many reasons why these changes should be made and ought to be made, and without entering into those matters, because I realize that the time of this Convention is valuable, and I feel, myself, as though I wanted to resist any temptation that I might feel to indulge in any flights of oratory and spread-eagleism over this great charter of human liberty. I think the thing we ought to do is to get right down to business, and to determine what is practical and what is best for the people of this new State.

We ought to throw aside sentiment, if it is sentiment, and sentiment alone, and not cling to some work of the past simply because of its antiquity, when we concede or ought to concede, if we are honest with ourselves, that it has lost its usefulness and utility. And so I say I am not in favor at this time of the abolition of the jury system. I do not advocate that, but I do say it would be a retrograde movement on our part for us to insert in this Constitution a proposition to require a unanimous verdict of twelve men, or even to require a jury of twelve men with a three-fourths verdict. I think we ought to have a less number. Why should there be twelve men if nine could make a verdict? Without prolonging my remarks, gentlemen of the Convention, I believe that is a principle we ought to adopt in this matter. And while we ought not to be hasty in making innovations on the institutions of the past, we ought not to be afraid when an improvement is pointed out to us to take advantage of it and to find ourselves in the line of progress in these matters with our sister states around us.

Mr. EICHNOR. I would like to ask

the gentleman from Salt Lake a little question. Are you in favor of reducing the number of jurors in criminal cases?

Mr. RICHARDS. No, sir; I did not say that.

Mr. EICHNOR. I know you did not. I wanted to know for information. You are not in favor of reducing the jury in criminal cases?

Mr. RICHARDS. If that recommendation were before the Convention I am not sure that I would not vote for it, but I do not believe that it would be popular with the Convention. I doubt if it would be popular with the people.

I say, Mr. Chairman and gentlemen of the Convention, candidly, that in my estimation the people of the country are not educated up to this matter. In my opinion they over-estimate this—what has been denominated on the floor of this Convention, this great bulwark of human liberty. They over-estimate its importance, in my opinion, and I am seeking and shall seek in my labors in this Convention to accomplish that which is practicable. I shall seek to introduce into the Constitution, so far as I have influence, those things only that I believe will meet with the approbation of the people, and while I would like to educate them in these matters as far as we can, I would not favor an innovation that would meet, in my opinion, with disfavor from the people. As to criminal cases, therefore, I think it would be wise to retain twelve jurors and require a unanimous verdict, because I think the sentiment of the people probably would demand that, but in civil cases, no. It is an unnecessary expense. It results in trials and mistrials. It results in the expenditure of vast sums of money in litigation in men trying to determine their rights, that might be saved and the rights of the people preserved, just as well as to require this jury of twelve with the unanimous verdict. That is the result of my experience and my observation.

Mr. VARIAN. Mr. Chairman, I want only to say a few words on this matter. I quite agree with my colleague from Salt Lake that this is a practical question, but I do not agree with the intimation that he throws out that we ought not to be permitted to discuss it, and ought not to take up any time.

We do not all agree with him on the subject, and I am not advised as yet that there has been any spread-eagle sentiment injected into the debate upon this question. There are some things connected with it which have been said and referred to, which it seems to me ought to be considered in a little different light. Allusion was made on yesterday by one of the speakers to a publication addressed to one of the committees of this house from the United States district attorney for this Territory, giving in figures the expenses for the previous year of the administration of justice in the courts here. From that I inferentially argue that the expense of the jury system is something enormous. I want to call attention of the house first to the fact that that report is misleading—not misleading as being intended to mislead, because it details correctly the facts, but misleading in its application to the consideration of this question. There are four districts in this Territory. Necessarily the jurymen and witnesses have to come long distances, some longer and some shorter, of course, and added to the great press of business, the inability of the courts as at present constituted, to dispatch it, long delays are necessitated. Grand jurors and trial jurors, witnesses in criminal cases and in civil cases, have to wait day after day. It is impossible to avoid it. Bills of that kind will accrue and the expense piles up. Then the district attorney's office is so hurried and overworked that they cannot take time to see all the witnesses in each case. They simply must throw out their subpœna and bring them in and make them await their convenience. As a matter of fact, any gentleman here

who has had experience on grand juries or trial juries knows that witnesses wait day after day before the grand jury or trial jury as the case may be, and all the time the expense is going on. And in that connection I call attention to a probable fact that within a week or two it was noted by the public press that the grand jury of the district in which the gentleman, Mr. Thurman, resides, was held by the United States attorney some five or six days to await the determination of a question of law relative to an indictment. All that fifteen men were held, according to that, five or six days, and their per diem went on, in order to await the determination of this question by the court.

Now, I assume that the judicial system proposed in this Convention by the committee on judiciary, will contemplate the holding of court in each county. I find that system in operation west of us now. Every month the judge comes around and holds the court. Sometimes in some of the outside counties there are two cases, sometimes one, sometimes five, as many as there are he disposes of them and goes on to the next county. I was in the court in one of these counties the other day where a trial jury had been called to try a murder case. That was the only case ready for trial. There were two civil cases which did not require juries. The judge immediately called that jury and made the attorneys select the jury and try the murder case and discharged the rest of them. He went on that day and disposed of his civil cases, which did not require juries, and opened up trial of that murder case on the following day. So you see that with such a system this expense, which seems to be put forward here as the most potent argument in favor of these new innovations, does not necessarily reach the proportions that the gentleman would have us believe. It should not do so. But if it did there are ways to economize, it seems to me, in other directions than to economize in this direction. We do not know that the State of Utah will be required to pay the juries at all except in criminal cases. It is very generally the rule in this western country for the litigants to pay the fees of the trial jury. The person who recovers the verdict does not have his verdict recorded until the per diem of the jurors shall have been paid, whereupon they are taxed up in his favor as costs against the losing party. I say we do not know what views this judiciary committee may have upon the question.

Mr. CREER. May I not ask you—would not that be reducing the expenses to the people generally to favor Mr. Evans' proposition, if the jury was smaller?

Mr. VARIAN. I understand it would reduce the expense of the jury system to the people generally, yes; I am only discussing this question from one standpoint now—the standpoint of expense. The question of expense, I hope, will also be considered when this Convention and these gentlemen on these several committees come to determine the question of taxation. I have no doubt, Mr. Chairman, there will be sufficient means to carry on this State government economically administered if all the property in the State shall be subject to its proper burden of taxation—property of corporations and money loaners as well as the property of the resident farmers and others. I do not think either that this question of expense should assume a prominent position in this argument. The question is one of right, upon which, of course, men may differ, but we are asked why it is that we should claim that the jury should remain as a whole—of the number of twelve. I might answer by retorting to the gentleman with the question, why not reduce it to one? How do you fix the number at nine? How do you come to fix that number? How do you fix it at eight or seven, or five, as may be according with your individual views?

Is not it the tendency, gentlemen, and is not that what you had in your mind in accordance with the tendency and the pressure of late years to force out and crowd out the jury system?

I have practiced law for some twenty-three or four years in my feeble way. I have yet to meet the gentleman of sufficient professional standing, learning and ability to receive employment at the hands of large capitalized incorporated institutions, but what in accordance with the general opinion of the people behind him, his ideas have gradually become changed and molded and shaped in that direction—to do away with the jury system entirely with a unity that is perfectly marvelous. They are ready to remodel the whole system, and submit cases for decision in the courts alone. Now, it is true that the jury system is an old one and is venerable and hoary with age, so is the judicial system as a whole.

It is no older than the system of judges; both date back a century or two in the very twilight of antiquity, away back beyond the age of Alfred. I cannot tell you what the origin of the number of twelve was.

Mr. ELDREDGE. I believe I can tell you, Mr. Varian. It was in the Twelve Tribes of Israel.

Mr. VARIAN. That has been suggested by some of the writers on the subject. I do not remember whether it was Mr. Forsythe, in his great work on trial by jury, or whether it was by the English law-writer Glanville. At all events it has been suggested that it was in analogy to the sacred judge—the Savior of mankind and His twelve apostles. I find it so far as I remember now upon what I have read upon the subject that there does not seem to be any definite fixed origin of the number of twelve, but this fact is true that for many, many centuries, not only in England, but beyond and way behind Saxon times in England, in other countries on the continent, in the Scandinavian peninsula, the jury system prevailed and it was always twelve and was always unanimous. I believe that in all European countries to-day where it prevails at all, twelve is the number, but I cannot not inform the gentleman why that number has been selected or determined in all these cases. I do know that is the system that seems to have been embodied and engrafted in the very body of English speaking nations. In England and in America it has gotten a hold upon the affections of the people that it requires no uncertain or indefinite reason to relax it. To-day, for a hundred years ever since the adoption of the Constitution of the United States, the system prevails under that government in all the federal courts—the jury system prevails as it prevailed at common law in criminal and civil cases. I have yet to learn that ever an attempt was made by any state or by any member of Congress to submit to the state a proposition to amend the Constitution in that particular. You will have that system as it now exists under the Constitution side by side in this State with the system you shall adopt.

Much of your business—most I should say of your important business, will find its way by gravitation into the federal courts, at least a very large percentage of it will find its way there. Your own citizens on one side at least, will be dealt with under this system in accordance with its provisions; whereas, if you make this change, you will have in the State courts a radically different system. That does not necessarily furnish any very pronounced argument if it stood alone why you should not adopt this system.

But coming now further down to the question of the people, I have forgotten just how it was presented yesterday, but some suggestion was made of arbitration. The gentleman knew we have always had statutes providing for arbitration. They exist everywhere. You

have one here in your code, wherein two citizens, if they so desire, can withdraw the differences in dispute between them and submit them to arbitrators under the law, and I venture to say, that not any one case out of two hundred—nay, three hundred—speaking just generally now without intending to be precise, I have made no estimation of it, but looking back in my own mind as it occurs to me whether—whatever people take advantage of that possibility—they are unwilling to do it, and in the same ratio, too, they decline to submit their cases to the decision of a judge, however learned, however able, however conscientious he may be. It shows to my mind that the people are still clinging to that right of trial by jury; they have an affection for it; they feel that as this government is constructed and as the pressure is growing stronger and stronger every day against them and their acts, and this one of the last holds that they have, it is upon the jury that they rely, not upon the court.

We are informed, and I did not doubt it, and I have thought it would be so, that the committee on judiciary have about concluded unanimously—the committee consisting of five practical lawyers with the rest—nine at least laymen, farmers, contractors, and others from the different businesses and pursuits of life—have in these few days reached a conclusion which is not only an innovation but is a startling innovation affecting the administration of justice in the State of Utah. When that question comes as to constitution of the trial jury in criminal cases I trust that it will receive a prolonged consideration if such is to be the report of the committee.

I would prefer, Mr. Chairman, if it is the sense of the majority of this Convention that the jury law system should be changed, that at least a limitation upon the change should be presented so that the Legislature might be permitted, if the temper of the people should demand it, to make such further change in that particular as they might deem best, either to restore or to still further modify it.

In answer to the gentleman from Salt Lake, I will call attention to the proposition as it would stand if my amendment prevailed. In this event it would read, "the right of trial by jury shall remain inviolate, but the Legislature may provide for a verdict by nine or more in civil cases in any court of record." On yesterday, it was suggested by the gentleman from Utah, Mr. Creer, that he preferred to have a distinct and specific declaration in the section, as it was originally presented by the committee, that the Legislature might provide for a jury of any number less than twelve in courts not of record. I would have no objection myself to its going in there. The reason I did not put it in the amendment offered was because I deem it unnecessary. I think the Legislature has that power anyhow, if they choose to provide for a field where the constitutional jury can be afforded. Also, as to provision for waiving the jury in civil cases. There is no question about that; that has been decided and is acted upon every day where court sits. Lastly, I want to call your attention to the great sphere which is practically an object of the trial by jury at all in civil cases. The jurors speak only to questions of fact, the judges only to questions of law. That is the division which has been clearly defined, and as so defined and marked, has been continued through all time, ever since we have any knowledge of the jury system. These men, coming as they do from all the different walks of life—from the neighborhood as we understand it—which means from the county or the district with all the interests of the people, with the temper of the people, bringing to bear upon this decision that they are about to make of the disputed question of fact that may be submitted to them—they have better qualifications than

the judge, trained lawyer as he may be, who, in a measure is isolated by virtue of his pursuits, from the people.

Their judgment is sound, can better be relied upon in the long run than that of the judge. He has—in the very nature of things he becomes exclusive, wrapt up in his studies, inclined to become after a time, arbitrary. This argument would apply to any single juror. He is less apt to understand or comprehend all the field of disputed matter submitted than a number of men. It is a tribunal particularly and peculiarly adapted to determine such questions. It is a tribunal in which the people have confidence, and I do not believe that there is any justice or cause for the intimation that as a rule, or anywise subject as the extraordinary exception, are the trial jurors corrupt. The trial juries are just as good and no better than the people from which they come. I do not believe the people are corrupt. There are bad men everywhere; they occasionally creep into office; you cannot legislate wickedness of that kind out of the heart of man; you can only, when you discover him, set him aside and stamp upon him. So I say as to the intimation that was made here yesterday in regard to the purchase of jurors, I do not believe that there is any such thing in them as a rule than as to other officers. You hear those intimations here and there but it is unfair to the people, is unjust to the jurors; as a rule they are honest, as a rule they are capable, and as a rule, taking the cases as they come and go, I venture to say that their judgments are really and truly righteous judgments. We may, in the heat and zeal of the professional life, find ourselves unable to make a jury take the same view as ourselves of a particular question we have at heart and are employed to prosecute or defend, yet after all, if upon sober reflections we consider the question, in ninety-nine cases out of one hundred the lawyer who is dealing honestly with himself (at least that is my experience) comes to the conclusion that perhaps after all he has been wrong. So I say if that is the way, all the more necessity for maintaining such a tribunal which is standing between the aggressions of the age of this great civilization of to-day, and the rights and the liberties of the people. I do not speak in a demagogue sense at all. My own views are extremely conservative. I have no design or desire of that kind. I simply look on and try and learn from experience, and as at present advised, I feel that this is a dangerous proposition which I, for one, am not willing to assent to.

Mr. BOWDLE. We have before us four propositions. There is in my mind——

Mr. GOODWIN. At the right time I shall withdraw my proposition and favor the one last offered by Mr. Evans.

Mr. BOWDLE. If the gentleman is going to withdraw it, I would prefer that he withdraw it before I make any remarks.

Mr. VARIAN. What is the proposition?

Mr. BOWDLE. The original proposition and the three amendments——

Mr. VARIAN. I do not want to take the gentleman from the floor, but I merely want to understand. I understand that the proposition of Mr. Evans is a substitute for section 10?

Mr. BOWDLE. Do you understand Mr. Goodwin's proposition is an amendment to Mr. Evans' proposition?

The CHAIRMAN. Mr. Goodwin's proposition is a substitute for both the amendments that were offered.

Mr. BOWDLE. Very well, then I will not withdraw until the Judge withdraws it.

Mr. GOODWIN. Mr. Chairman, I wish to withdraw my proposition in favor of the amendment made to-day by Mr. Evans.

The CHAIRMAN. That cannot be done, Judge. The amendment offered

to-day by Mr. Evans is not before the committee.

Mr. GOODWIN. I simply wish to withdraw mine.

The CHAIRMAN. Well, that is all right.

Mr. EVANS (Weber). Now, as that is withdrawn—I move now, as an amendment to the proposition which I last offered in the place of that withdrawn by Judge Goodwin.

The CHAIRMAN. I recognize Mr. Bowdle to have the floor.

Mr. EVANS (Weber). Only for the purpose of getting it before the house so that it may be discussed. That is all I wanted to say.

The CHAIRMAN. Mr. Evans now offers the proposition which he sent up before, which is a substitute for section 10.

Mr. VAN HORNE. Mr. Chairman, I would like to ask for information as to how the motion now stands—what motions are before the house on this subject?

The CHAIRMAN. Gentlemen, as I understand the question, on yesterday Mr. Evans moved to substitute section 10 by offering the printed amendment which you have before you. Mr. Varian moved to amend that as you see by the printed amendment. Judge Goodwin offered a substitute for both those propositions, which is also printed and before you. Judge Goodwin now has asked unanimous consent to withdraw his substitute and there being no objection it stands withdrawn. Mr. Evans of Weber now offers the amendment which was read by the clerk in the early part of the session, so that his amendment would be a substitute for all.

Mr. VAN HORNE. And I understand no further motion or amendment would be in order?

The CHAIRMAN. I should say not.

Mr. VAN HORNE. I had one, that is a substitute on the line of Mr. Evans' substitute that I would like to introduce. If there is no objection upon the order of an amendment to the substitute, I would like to introduce it.

The CHAIRMAN. If there is no objection, Mr. Van Horne will state his amendment.

Mr. Van Horne read the following:

The right of trial by jury shall remain inviolate, but the Legislature may provide for a jury of not more than twelve and for a verdict by any number not less than two-thirds of the jury; provided, that until otherwise prescribed by the Legislature, the jury in civil cases in the district courts shall consist of nine, and in the county courts of six, two-thirds of whom may find a verdict.

Mr. VAN HORNE. Mr. Chairman and gentlemen of the Convention, it seems to me that we have strayed somewhat from the purpose of our amendments here in the arguments that have been made. And I take it that it is not that we are fixing a jury other than the people might demand, but that we are not leaving open to the people through their Legislature the right of fixing such a jury as they may demand, the one best fitted for the needs of the community. I think that we may safely trust the people through their Legislature to fix such juries as will secure the liberties of all the citizens, and the just consideration of all the disputes between them. For that purpose, I have introduced the amendment which I have just proposed, which leaves, as I construe it, (and I think there can be no doubt about it) the jury in criminal cases remaining as it is, twelve; the jury in civil cases in the district court until the Legislature shall order differently, consists of nine, with two-thirds necessary to find a verdict. In the county courts of six, with two-thirds necessary to find a verdict. It seems to me the question is not for consideration now, about our saying to the people what that jury shall consist of. It is a question whether we will say, "whether you want it or not, you will never be able

to change this jury system without amending the Constitution." If that is our purpose, if we are so certain of the fact, that people are wedded to the idea of twelve in criminal cases or in civil cases, there can be no harm in letting it lie with the Legislature, as to whether they will make such change or not. In all things where it can be done, it seems to me that our proper province is to leave the people free to choose for themselves, and I think that this amendment does that.

Mr. HART. The idea of the gentleman from Salt Lake, in the last portion in regard to the way this matter is left to the Legislature, I think is correct. I think Mr. Evans' first substitute for No. 10 leaves the whole matter with the Legislature, and I am in favor of doing that. I would be prepared to vote upon cutting down the number of the jury in the district court either in civil or criminal cases, to nine, but we are not doing it in this manner. All we do by passing the resolution as offered by the gentleman from Weber County—one that is in print, would be to leave that matter to the Legislature. I am not in favor of tying the hands of the Legislature on a matter of that character. It is true that we have the precedent of the past from a very early age in favor of twelve jurors, and yet to my mind, there is nothing sacred to that number, there is no good reason why the limit should be fixed at that number rather than a higher or lower number. I do not think that there will be any difference in the judgment of members of this Convention as to a majority verdict in civil cases. I was also struck by the absurdity and the contradiction of a judge in a civil action, instructing the jury that they must find a certain issue according to the preponderance of the testimony, and at the same time requiring them to find that preponderance of evidence by a unanimity on their part of their verdict. In other words, it seems to me, that the best way to arrive at the preponderance of testimony in a civil issue, would be by a preponderance, or a majority if you please, of the jury passing upon that issue. So, I think, Mr. Chairman, that there will be no difference in the minds of this Convention upon the question of a majority of some sort—two-thirds or more in civil cases, and I think we ought to leave this matter of how many the jury shall consist of to the Legislature. I do not think that the people's representatives assembled in the Legislature will abuse that privilege. I do not think that there is any necessity of limiting the number as Mr. Van Horne's motion would indicate; and my objection to the last two sections proposed by Mr. Evans, and also by Mr. Van Horne, would be, that in the first place the words, "county court" are used. Now we have not determined upon any such court, or court by any such name as that. It may be that they would decide in favor of a superior for each county with the jurisdiction that is now given to the district court. In that case the word that we might use in debating either of these sections would be contradictory, and tie us up to a certain extent, both in the name and as to the character of the report.

The CHAIRMAN. The committee on compilation would arrange that.

Mr. HART. Well, they could possibly reconcile a difference of that kind. Another thing, the matter would not be helped any by the resolution last offered by the gentleman from Weber in the point of economy, by providing that in criminal cases involving an offense lower than a felony, a jury of nine or less number than twelve should be employed, for the reason that the number of talesmen selected in the beginning of the term of court would be selected with a view to the number of jurors that would have to sit on the cases requiring the highest number of jurors. For instance, if there were a case of felony on the calendar, the jury would have to

be selected with reference to that, and cases might alternate, first a case of misdemeanor and then a case of felony. In the first you would call nine men to sit and then twelve, but you would have to have your talesmen all there to a certain extent if you would ever wish a jury composed of twelve men. I do not know whether I have made myself clear on that matter, but the point is clear to me at least; and for the reasons I have given I prefer the substitute offered by the gentleman from Weber in the first instance to any other proposition.

Mr. VAN HORNE. Mr. Chairman, I simply wish to state that the reason I drafted the substitute in the form that I did, was that I understand that as far as the labors of the judiciary committee have progressed, they have determined upon district courts and county courts, or courts that would bear that name properly. I simply call them superior courts. The members of the judiciary committee seem to have concluded that misdemeanors should be tried in the lower courts, that felony should be tried in the district courts. The objection that I had to the original substitute offered by Mr. Evans, was that it provided for a jury of any number less than twelve which would not be, in my opinion, providing for a number of twelve, and it provides also for a majority verdict in civil cases instead of concurrence of two-thirds of the jury. The system as it had been outlined by the judiciary committee, was to carry as far as they could to the Convention the idea of the jury in the district court, which would be one of general jurisdiction in civil cases, of nine, in the inferior court or county court of six, in the justice's court of three, in each case a verdict to be found by two-thirds; and it was in reply to that that I drafted the amendment.

Mr. EVANS (Weber). Mr. Chairman and gentlemen of the committee, I am pleased that the committee is considering this important question with so much patience. It is not a waste of time to calmly and deliberately consider the question and pass upon it with intelligence. It is one of the questions which will come before this Convention, not only in the item of expense, but also upon the question involving the policy of reducing the number of the time-worn jury. But there are some heresies, I take it, in the position taken upon the question of the number that a jury should contain in the trial of civil cases. My genial friend and associate from Salt Lake, Mr. Pierce, stated in his argument against the proposition of reducing the number of jurors, that he believed in standing by precedent, and not overturning a jury which has been established and which had existed from time almost immemorial. I desire to call attention to the fact, gentlemen, that the jury system was not always composed of twelve men. We go back as far into history as we can reach, and we find according to very imperfect history, that in the beginning, when civil differences existed between individuals, or when the person in the locality was charged with an offense in violation of some rule or law, that the sort of jury which tried those questions was the whole community assembled together in mass meeting, who, after consideration, determined the fact alone, first as to what the result should be, and second, proceed to pronounce judgment. As civilization ruled and the population increased and business interests advanced, it became necessary and expedient to select a less number, and to reduce this question more to legal science. So we find in the days of Greece at the time of Pericles a jury of six thousand people were summoned upon the panel, and they were divided into lots of ten—drawn by lot, and a jury of five hundred people set upon the question of determining the guilt or innocence of individuals or civil difference which existed between

individuals. It was found later along the practice in Northern Europe that three times twelve should constitute a jury, making a jury of thirty-six. Later along that number was reduced to twelve, but it varied owing to the particular locality where the administration of justice was carried on. There was no particular number in any particular place only at particular times and under particular circumstances. Now, the gentleman says, let's follow precedents. Is it his idea that this precedent which I have mentioned should be followed, and the whole community should be gathered together as it was originally in the primitive condition of man, for the purpose of trying civil and criminal cases? If we are to adhere to these old time-worn institutions, why abolish the community as a jury, or we desire to recede from that point to our advanced condition and the great business interests surrounding us, then why not go up a step further in history and have a jury of five hundred people, and if we desire to abandon that, why not then accept thirty-six?

But a long, long time ago, a jury of twelve had been decided upon. The particular reason why a jury of twelve was instituted in civilized nations, is something that I am unable to account for. I have searched for it, and I find no particular reason. It was stated, however, by the gentleman from Summit that the twelve jurors, as I understood him, were constituted because of the existence of the Twelve Tribes. Well if that is true, it is suggested by a friend on my left, that ten of those tribes have been lost. [Laughter]. If that be any particular reason why twelve should continue then the fact that ten of the tribes have been lost, why not abolish ten of the jurors and have two? Although I would not go so far as that. I only cite these things, gentlemen, for the purpose of showing how it is that through the ages a custom grows up, and having grown up and having been cherished by the people, it is denominated as one of the great bulwarks of liberty of the citizen, and so far as I am concerned, I believe the jury system yet to be one of the bulwarks of human freedom and liberty, which ought not, under any circumstances, to be abolished. I would not have any gentleman believe or entertain the thought that I am one of those who believe in the abolishment of the jury system. We only go to this extent. We see in the substitute that a jury of twelve shall continue inviolate in criminal cases amounting to felony. That is all the substitute means, but in cases of misdemeanor—in the inferior courts only a jury of six or of three as the case might be. The only difference, gentlemen, that this amendment makes the only innovation upon the system in the trial of civil cases in courts of general jurisdiction. The jury system is preserved; it is inviolate; the Legislature under this substitute cannot abolish it. It is beyond its power to do it. But we say that while we hold it inviolate, we are willing that the number of twelve should be reduced to nine. That is all there is in the proposition. I have yet failed to hear any reason why this reduction should not be made.

The gentleman from Salt Lake tells us that the statutes of the Territory provide for boards of arbitration. That is true—quite true, and he says that few people resort to the privilege accorded by the law. Quite true, and yet a notable case exists wherein the people of Salt Lake County, the canal companies and city were in civil litigation with the people of Utah County, claiming an overflow of their land by obstruction placed in Jordan River, and the parties exercised their good judgment and good sense by referring that complicated difficulty to three laymen who, no doubt, before the thing shall have terminated will render satisfactory judgment. Here was a case where tens of thousands of people were upon either side of the controversy. In order to avoid the trial

by jury of numerous cases and the expenses, they sought a smaller number of men. I have known this thing in many instances, and I reiterate now, as I repeated yesterday, no two gentlemen having civil differences between themselves, no neighbors having civil differences between themselves, would ever dream of selecting even nine men for the purpose of determining that difficulty. Especially would that be the case if those people having these differences were required out of their own pockets to compensate their arbitrators.

But this sacred right of trial by jury of twelve men has taught us that it is a number that should sit upon each particular case—some superstitution or mystery thrown about it, some sort of halo which sanctifies it, and another thing is that the public treasury must pay the expenses of these men who are called to settle our difference. There are fifty men to-day in attendance upon the third district court in the very city where we hold this Convention. The juries are running, and usually there are a larger number than that. We usually have panels of about thirty-six for each court. It would not be an unreasonable number if to-day eighty trial jurors were in attendance upon those two courts, and in many instances we have in addition to that fifteen men sitting as a grand jury. Take the number fifty, and a fourth, we have twelve and a fraction over, $2 a day, amounting to $24 a day in these two juries alone, and in addition to that there is their mileage. I estimate, from some little experience that I have had in the courts with this system, that but a small innovation as this, it will save to the people of the new State at least $70,000 per annum, or $700,000 in a period of ten years. I think my estimation will come far under the amount which will be saved, and the future will demonstrate whether I am right or not. No, gentlemen, it is not the intention to abolish the jury. I will go a little step further than this if I thought it were the temper of this Convention to do it. I see no reason and believe that none can be furnished, why a smaller number of jurors would not be adequate in a criminal prosecution, but I know the temper of the Convention. I have undertaken to canvass it in a spirit of unselfishness; I have consulted with a number of minds in this committee and outside of it, for the purpose when making this step in the walk of progress that no mistake should be made.

I do not believe that this committee would agree if any more radical step were taken than that proposed by the substitute. My friend from Salt Lake, Mr. Varian, fears the entrenchment upon the body politic of powerful corporations, whose tentacles might reach out and suck the life-blood of the citizen. I will guard that as carefully and as jealously as will he. I will not consent that the jury shall be abolished either in civil or criminal cases. This money power, this corporate greed, if permitted, would spawn mischief among the people, and would take away from them in many instances those inalienable and indefeasible rights which are dear to every free man. But, gentlemen, this is not a step in advance which will put ourselves within the jaws of corporate power. If it were, and if I believed it to be, I should be the last man on earth to ever advocate its adoption. My whole heart, my life, my thought, have ever been with the thoughts of the gentleman upon this proposition, and I believe it is the best thought and the sentiment of the age. But permit me to say, and believe it, I am willing to predict it, if this small step be made in advance which we now propose by this substitute, the people of Utah will never retrace their steps in that direction. It will be an example which will be followed not alone by our successors, but it will be followed by other states, eventually by the nation, and long

after we are interred perhaps, it will become international. The idea in itself of the correct number of jurors is not tenable to the efficient administration of justice. I have sought to learn the reasons, gentlemen, why this particular number should be retained. The gentleman from Salt Lake, Mr. Pierce, has furnished a reason—that we want a diversity of opinion. Would we not have a diversity of opinion with nine as well as twelve? The old idea has been twelve men with a unanimity of verdict, the idea, I suppose, is to have a diversity of opinion for the purpose of arriving at a unity. I believe in retaining a jury system, and believe in selecting them from the laymen. I believe it is the bulwark of our liberties, and if any gentleman can convince me that those liberties or interests of the people will in any degree suffer, I shall at once recede from the position which I have taken. I have been schooled in this idea of twelve jurors, gentlemen, the same as many of you. History and tradition has taught it to us all. Mankind are working to give up their traditions and their education, their feelings upon any particular subject, but they do it—the world advances, and especially does this western country advance, not only in population and material wealth, but intellectually. It advances also in the science of civil liberty and of governments, and I believe this Convention will take this step in advance.

Mr. WELLS. Mr. Chairman, I move that the committee now arise and recommend to the Convention that section 10, with all the proposed amendments thereto, be referred to the committee on judiciary, with instructions to report a section which will be satisfactory to the majority of that committee as speedily as possible.

The CHAIRMAN. A motion to refer in committee of the whole is not in order.

Mr. WELLS. That the committee recommend that that be done. I am not asking that it be done in committee.

Mr. EICHNOR. Will you withdraw that for one second?

Mr. WELLS. Yes.

The CHAIRMAN. Gentlemen, it is impossible to extend the time.

Mr. EICHNOR. I would like to ask unanimous consent to introduce another amendment.

The CHAIRMAN. By unanimous consent we cannot extend the time. The time is up.

The committee then arose and reported to the Convention, as follows:

The committee of the whole reports that they have had under consideration the preamble and bill of rights and reports progress.

The PRESIDENT. What is the further pleasure of the Convention?

Mr. THURMAN. I move we resolve ourselves into committee of the whole for the further consideration of this business until 6 o'clock.

The motion was agreed to and the Convention then resolved itself into committee of the whole, with Mr. Squires in the chair.

Mr. EICHNOR. Mr. Chairman, I would ask unanimous consent of the committee of the whole to introduce another amendment or substitute, whatever you might call it.

Mr. EVANS. I yield the floor for the motion the gentleman desires to make.

Mr. VARIAN. I object for the reason that it simply serves to confuse. We can vote on these propositions. In the event of a certain one that I have in mind, a substitute being adopted which will dispose of all, the gentleman can then have another opportunity to still further amend it, but we are getting confused; there are four now. That is the only reason.

Mr. EICHNOR. That is all right. If you object. Some day I might have an opportunity to ob ect.

Mr. EVANS (Weber). Gentlemen, I desire to recur again just for a few

moments to the question of our disposition to adhere to the precedent. I would not do this were it not for the fact that I know it is going to be difficult to dislodge in the minds of the members of this committee the idea of a less number of jurors than twelve. If we are to follow the idea of precedent we would not to-day be enjoying that civil and religious liberty which we have. Would the Stars and Stripes be floating proudly over a Republic? Or would we be living in tribal conditions, where might may be right and where queens and monarchs issued their edicts for the control of the people. Would we have representative government at all? It seems to me, gentlemen, that in considering this question of precedent we ought to consider it in the light of reason, in the light of the age, and if the precedent cannot be disposed of or abolished retain it, but if no good reason can be given why it should not be changed, and ample and sufficient reasons given why it should be changed, then why not change it? If we want to follow precedent, we might go back into the dark ages and review the method by which testimony was secured against individuals charged with crime. And we might hitch two-dozen plowshares, place them a foot or eighteen inches apart, and require the accused to strip his feet bare and walk across from one end to the other, and if his feet were burned and tortured he was not guilty, but if he escape such punishment, then he was condemned as guilty, and was required to be punished anyway. He might be thrown into a pool of water for the purpose of determining his guilt or innocence, if he floated on the water he would be considered as guilty, if he sank and drowned he would be innocent; or we might resort to a more modern means of securing evidence, which has been practiced in more civilized nations, applying the rack or thumb-screw to the inquisition, if precedent is what we want. But, gentlemen, I only speak of these things, for the purpose of calling your attention to what has been. The catalogue is too long to pursue it further. Let us consider our interests to-day in the light of reason, in the light of common sense and experience, and the surroundings under which we are living, and then determine in this important question what is right. I wish we could go a little further and still not destroy this bulwark between the individual and the state. Perhaps we will take a step further some other time, but, gentlemen, let us try it now. There can be no serious results following from this action. A constitution is something that is always amended by the people, difficult it is true, in many instances, and it ought to be difficult that if this system be shown to be fraught with dangers as the people say, the people are intelligent, the people are awake to their own interest, they have the right to alter or form their government and institute a new one and correct any faults which might exist by reason of their predecessors. I am honest about it, and believe it is right, or I would not advocate it. It is in the interests of economy; it is a step in advance. The law writers of the age are advocating it, intelligent thinking men are talking about it, and I should be proud of the fact if Utah just entering into the galaxy of our Union should take, or would take, the first step in this direction. I would be glad to see the example of Utah followed by other states, and let people understand that we are alive to our duties and sensible of the responsibilities which we have assumed. Thank you, gentlemen, for your attention.

Mr. SMITH. Mr. Chairman and gentlemen of the committee, I presume that there is no question in the mind of any gentleman upon this floor as to the sacredness of the institution of the jury. All of us have grown to manhood under it, and have looked back through the

history of the past and rejoiced in it. But we are confronted with the proposition at the present time of great consideration to us as a body of citizens. We seek to establish a new commonwealth. We recognize the fact that the people of the commonwealth are limited in number and limited in means; and while some of us perchance, may have views in our minds that it would be a wise thing to do away entirely with the jury system, still, I believe, that the majority here present are convinced in their own minds that the people of the proposed new State would not tolerate this proposition. Every man can readily see the immense expense attendant upon our courts at the present time if continued would render it impossible to conduct the new State and furnish the means requisite to supply the wants and means of our courts as well as the other departments of government. The purpose, as I understand it, in these proposed amendments, is not striking away or doing away with the jury system, but in making that proper provision that a wise and prudent people can exercise or permit to be exercised, the right of trial by jury, and that it shall be limited in form so that the State can properly and justly provide this requisite in government, that guards the liberties of the people, and at the same time guards them in another direction and preserves them from exorbitant taxation. I have been in favor myself of this jury system and the experiment of limiting it as far as practicable, and yet maintaining the proper dignity and respect that should be entertained for this sacred body. I realize that there are many of our people who would and have looked forward to the time when they when they can possibly come upon the jury, and secure to themselves the means to pay their taxes by serving in this capacity. But, gentlemen, we must consider possibilities within the reach of the people, and the power that shall be exercised in this direction. While we guard their liberties in this direction, we must guard their responsibilities also in providing means requisite to furnish the supplies by which this may be rendered within their reach.

So far as I am concerned, I am in favor of limiting the number of jurymen, and when I shall cast my vote it will be that we go below the number that has been in common use in the past and seek to limit them within proper lines that justice may be done, that this institution may be maintained and the rights and liberties of the people be guarded in this respect, which I believe it will be if the number is reduced from that of the experience of the past. It seems to me any further consideration of the problem is unnecessary. I believe that every man can recognize the fact that something must be done, or it will be impossible for us to establish a commonwealth and procure the means requisite for the sustainment of it in the manner every citizen should desire to see it maintained.

Mr. EICHNOR. I think this substitute of Mr. Evans should be voted down; I think the amendments offered by Mr. Van Horne should be voted down. Now, as I was refused the privilege of introducing my amendment I have a right to use it in my argument. I shall introduce it afterwards if the amendments are voted down. The right of trial by jury shall remain inviolate; we all agree upon that part, but in civil actions the jury shall consist of nine in district courts. Now, gentlemen, what is the use to leave this to the Legislature? Let us fix the number in the Constitutional Convention. The Legislature will wrangle over it two weeks; we are losing a great deal of time, we are spending here a great deal of money in talking about this matter. Let us do something. Let us not shove this work on the Legislature but let us fix it in our bill of rights. I am in favor of fixing it right here. Fix the number in civil actions in district courts or what-

ever they may be called, at nine. The verdict in such cases to be rendered by concurrence of two-thirds of the jurors. A jury may be waived in civil actions and in misdemeanors by consent of both the parties expressed in open court.

Mr. THURMAN. Let me ask you a question. Cannot they do that without making a constitutional provision of it or making any law?

Mr. EICHNOR. Correct. But there must be some doubt in the minds of some members of the house, and I put that in as a safeguard to remove any doubt that might exist in the minds of the members——

Mr. EVANS (Weber). If you will permit me—I know that you want to get it right. The substitute which I offer provides that a jury shall be waived in civil cases, if not demanded, as the Legislature might provide. That makes a provision that unless a jury is demanded it is waived. That system is in effect now in New York, Michigan, and Tennessee, and in quite a number of other states, and I intend to speak about that. It is adopted in those states and the people are trying a vast number of cases before the courts, without resorting to the jury at all.

Mr. EICHNOR. I will read it again: "The right of trial by jury shall remain inviolate, but in civil actions the jury shall consist of nine in district courts, and in inferior courts of six, or less, as the Legislature may provide; a verdict in such cases, may be rendered by concurrence by two-thirds of the jurors. A jury may be waived in civil cases and in misdemeanors by consent of both parties, expressed in open court." That fixes it in the bill of rights. We know exactly what we have. We know exactly what we present to the people; there can be no misgivings in the minds of the people when we present the Constitution for their adoption or rejection.

"In civil actions or misdemeanors the jury may consist of any number, less than the number fixed in this section." I think that comes right down to the root of all this argument. Let us fix it in the bill of rights and fix it such a way that a Legislature in simple aberration of the mind will not endanger the jury system. I believe we ought to show something for our work, ought to show something for the time we are consuming here. Fix it right in the bill of rights, and we know what we have and no one can take it from us. All this talk about bulwark of liberty—what will be the bulwark of liberty in in Utah? The bill of rights will be the main spring of the liberty of this State, and I hope that every amendment will be voted down, and when the time comes I shall introduce this.

Mr. BOWDLE. The bill, as amended by Mr. Van Horne, does not meet my approbation. Neither does the one that was introduced by the gentleman from Weber. There is one trouble with the amendment as I see it introduced by Mr. Evans, that is this: It provides that in offenses less than a felony a person may be tried by a jury of less than twelve; the argument that the gentleman has made against a jury of twelve is broken in my opinion by his concession that in all criminal cases it shall be twelve. If it shall be twelve in all criminal cases of felony, why, if nine is so good, if nine be such an admirable jury, or any jury less then nine be such a great institution, why does he concede that when we come to try a man for his life, it shall be twelve. The very admission is that a jury of twelve is better than nine. He admits it when he makes that argument. I claim that a man's liberty is not in jeopardy only when the doors of the penitentiary may stand before him, or when his life is at stake. His reputation might be just as sacred, or more sacred than his life. I believe that when a man is on trial for any crime he should have a fair and impar-

tial trial by a jury, as the gentleman concedes the best jury, that is a jury of twelve, and for that reason I am not in favor of that amendment. I am not in favor of a sliding jury system. I believe we ought to know what kind of a jury we are going to have. If we are going to have a jury of twelve men, let us have a jury of twelve, and not leave it to the Legislature. If we are going to have a jury of nine, let us say so, and not have a jury this year of nine, and the next Legislature that meets thinks that is not quite good enough and they make a change, saying we have a jury of twelve. We have a jury of twelve for two years. The next Legislature comes along and says that it is too much expense, let us cut it down to eight, or six, or five. People rebel against it and you keep going back, and from that one thing to the other all the time, and you do not know where you are. Gentlemen, let me ask you this question. Solve it each one for yourself; if you had grave property interests at stake would you prefer to have a jury of eight, a jury of twelve, or a jury of four? On general principles, everything else being equal, there is not a man in this house, I do not believe, even the gentleman that has argued that the jury system should be cut down, but would say I will take the largest number you give me. Why? Because he feels that in that his interests are more nearly protected than in the smaller number. He feels that the opportunities for the other side to come around and work the jury, are not so good. Therefore, I am not in favor of cutting the jury down to a smaller number.

I can see my way to vote for a jury of nine, but as I now see it, I cannot consent to vote to give it into the hands of the Legislature, to make it any number less than that. Nor, am I in favor of referring it to them to fix any number.

I say let us fix it here now and settle that matter. Why, says the gentleman, we are progressing. Yes, it has taken five hundred years to come from a jury of twelve down to have this Convention say that a jury of nine will do. If it takes five hundred years to come from the idea of twelve down to nine, I think we can safely fix it at nine and rest easy there for a time at least. We are not going to grow so rapidly at that ratio, that we will need to have a jury of five or six in the age of the gentleman that has just been speaking. One thing further on that same thing. It is said that it is a great saving of expense—a great saving of expense. The gentleman told us yesterday that the jury system in this Territory cost $45,000, a saving of $10,000 or $11,000 a year. There are cases tried every day in the year in this Territory where the verdicts that are asked and sometimes received are far beyond that sum. The paltry expense would not be of any consideration when we come to the weighty importance of the subjects that would be before these juries. Here is another thing. When even the people grow tired of the jury system they will let you know by not trying their cases to the jury. They will let you know it by trying it to the court, and whenever the jury system begins to go out of use and lose its popularity with the people you will find that they will speak and they will speak just in that way. How many cases are there now tried to the courts that could be tried by a jury?

In a whole term you can almost count them on the fingers of your one hand. What does that mean? It means simply this, that the people have more confidence in the opinions of their fellows, with whom they are in direct touch and sympathy, than they have in the courts. The jury comes right down side by side with the litigant. They are in some sense in sympathy with the litigant, not in an unfair or undue sense, but they know more nearly his wants, they know more nearly what the justice that is at stake is. Very often a court gets this kind of an idea. He starts out a

little bent in one direction, and all earth and heaven cannot turn him from that bend and he goes right on in that direction. The idea of the jury is, you have twelve men there, or whatever number you decide upon. Those twelve men will look at the thing from as many different standpoints, whatever their number may be, and you will not get the prejudice either for or against that you will in one unfair man upon the bench, and you cannot say with all due deference to the courts that they are at all times fair. And that is the feeling of the people. The feeling of the people is, we cannot always trust them—as you increase the power of the court, you increase the feeling in the minds of the people. Therefore, I am in favor of fixing the jury at not less than nine, and giving the man a chance to be tried by a jury of twelve whenever he is accused of any crime in a court of record.

Mr. GOODWIN. Mr. Chairman, I will detain the committee but a moment. My heart is touched by the views I have heard expressed here on this subject. The gentleman who last spoke has informed the committee that almost all the cases in court were tried by juries. Why? If he had a case in court that he knew was a just case, he would a great deal prefer to have the judge try it; if he had a client that was a rogue and a case that was not just, he would want a jury, and would want just exactly such a jury as the laws in this country provide for. Men that never read the newspapers; if they in the box declare that they, three or four or five months before, they read an account of a thing, and they think they have an opinion, that is enough. That is, the law offers a premium on utter stupidity for jurymen. And that being so manifest, it was not the sense of the judiciary committee, including myself, and holding the views I do and have for a long time, to continue it as it was. Speaking about precedent, I read the other day, where the Japs took a great fort of the Chinese, and they killed all the men, women and children. They were following precedent the same as their forefathers and men indulged in. And on the shores of Africa, they have a fashion in times of great drought of taking little children, little girls preferred, down, and driving stakes at the mouth of the river and tying the children to them, and let them be drowned by the tide when it comes in to propitiate the waters and get a rain, and when the missionaries tried to break it up, they, with just as much persistency and enthusiasm as my friend from Salt Lake argued, were asked that they should not interfere with the precedent. [Laughter.] There is no sacredness in the ordinary jury. The utility of the system has been, in great part, put aside. The only thing is, that a rogue can be tried by a jury of his peers.

We are told that the institution is so time-worn that no new state coming into the Union has dared (or only one or two have dared) to change the the system. Why? Simply because some gentleman has got up and assured the Convention that it would not be following the precedent, which would be dangerous. Let us set the example, and if we will put here in this bill of rights the fact that we believe a jury of nine is as good as a jury of twelve, there will never another state be admitted that won't have the same in their constitution. We are told by this gentleman, my friend from this city, that even in the constitution of New York, that has just been revised, they have left the old number. Why? In the first place, New York is a great empire in itself, exceedingly rich, and the expense of juries does not count for much in the aggregate taxes. But there is another reason; nearly every man in that convention was a politician and he had followers, and those men look on juries as a place to pay political debts. And you go to New

York, or any other large city in this country, and go to the court house and look at the men who are jurors, and you will find that they are almost entirely composed of heelers or politicians. And when they can get two dollars a day to sit on the jury, it saves the politicians paying two dollars out of their own pocket. They sit there until they get tired, waiting for a chance to get on the jury. It is said that those advocating this would, if they could, do away with the juries. Mr. Chairman, I answer frankly, that if this young State which is coming in, was financially rich and could afford to pay one gentleman as chief justice, schooled in his profession, and two associates worthy to sit with him, I would prefer it to all the juries in the world. I believe there is less corruption, I believe there is less chance for a judge who has a place that way, who has a fair salary, to be corrupt than there is of corrupting twelve or twenty-four men who sit around court houses to get a job at two dollars a day, sitting on the jury.

Mr. ROBERTS. Mr. Chairman, I presume that a proper respect for the learning and deep understanding of this question, that gentlemen of the legal profession profess, requires that laymen should listen in silence to this discussion; and it may be looked upon as a somewhat venturesome undertaking for one who has not had the training that these gentlemen have who have spoken upon this proposition, to undertake to discuss it. But I shall take my chances in that venture, so that the gentlemen of the legal profession and my fellow laymen may understand how this question appears to a layman. I should almost be discouraged in the long delay we are having over this bill of rights, if I were not sanguine that the labor now performed is not to be lost. Because while we are carrying on this discussion under section 10 of the bill of rights, I take it that we shall not find occasion to go over this ground in discussion when the capital committee on judiciary shall present to us their article concerning the judiciary. I would just as lief discuss these questions under the bill of rights as under the report of the judiciary committee; and we are settling in this discussion our convictions in relation to the doctrines pertaining to a trial by jury, and therefore, I think we are making progress, although we seem to be delaying in passing the section of the bill of rights. I make these remarks, Mr. Chairman, in order that the gentleman from Salt Lake on my left who proposed that this whole subject be taken from the committee now and referred to the committee on judiciary will reconsider that proposition of his, for the reason that I believe gentlemen in this committee have about arrived at the conclusion that they wish to express upon this question, and to take it now, that we are about to settle what course this committee and this Convention shall take on this jury system, I think it would be waste of time to throw it back now to the committee on judiciary when we are so near ready to settle upon it. In the interest of saving time, too, I hope that the gentleman from Salt Lake upon my right, who proposed to fix in the Constitution itself, the number of jurors without referring the matter to the Legislature, will also for the present withhold such an amendment, and let the committee come to a vote upon the principles that have been under discussion, and then by amendment fix the number, if that be the mind of the committee. I make this remark too in the interests of economizing our time. And now, sir, with these preliminary remarks, I shall pursue my venturous course in coming to the discussion of the main question at hand. To understand the present status of this question under discussion, the amendment offered by the gentleman from Salt Lake, Mr. Varian, to the original proposition of Mr. Evans, would read as follows:

"The right of trial by jury shall remain inviolate, but the Legislature may provide for a verdict by nine or more in civil cases, and for waiving the jury in civil cases where the consent of the parties interested is given thereto in open court." So that the force of this proposition by the gentleman from Salt Lake would mean, as I understand it, a jury of twelve in all cases, but that a verdict might be rendered by nine, and that in civil cases a jury may be waived by consent of the parties interested, provided it shall be waived in open court. The proposition of Mr. Evans as it now stands is that the right of trial by jury shall remain inviolate, but the Legislature may provide a less number of jurors than twelve in prosecutions below the grade of felony. And in civil cases, a verdict in such cases may be found by a concurrence of two-thirds of the jurors, and the jury shall be waived in civil cases if not demanded, as the Legislature may provide; provided, that a jury in the district court shall not consist of less than nine, and a jury in the county court shall consist of not less than six, and a jury in the justice court shall consist of not less than three. The main difference between these propositions is, that in cases below felony the jury may consist of less than twelve.

The CHAIRMAN. Just a moment, Mr. Roberts; you have lost sight of another proposition that is before the committee; the proposition of Mr. Van Horne, of Salt Lake.

Mr. ROBERTS. That comes in as I understand it as an amendment to the amendment.

The CHAIRMAN. As a substitute for the whole.

Mr. ROBERTS. I was remarking, Mr. Chairman, that if I may judge from the course of discussion upon the floor of this committee, that substitute has not found very much favor, and if I may judge by the course of discussion I think the committee will settle upon and choose as between the amendment to the amendment offered by the gentleman from Salt Lake and the substitute offered by the gentleman from Weber; and believing that—and by the way, I wish to cast no reflection upon the proposition made by the gentleman from Salt Lake, Mr. Van Horne—but believing that, I confine myself to a discussion of these two propositions, believing that the committee will make a choice as between those two. I, in common with gentlemen upon this floor, have learned to venerate the jury system, the origin of which seems to have been lost in the twilight of history, so completely that it cannot plainly be discerned, and long ago I learned to entertain a respect for those customs, which have been established for so long a time that the memory of man learneth not to the contrary, and I am willing to look upon them since they have survived all the struggles and vicissitudes of the past as the crystallization of the wisdom of antiquity, and, gentlemen, in view of propositions that are already foreshadowed in this committee, I have admonished myself to guard very carefully from any departure from customs, but I am not so wedded to the customs of the past, to precedents of the bygone ages, as to refuse absolutely to give them up, if a good and sufficient reason can be given why a change should exist or should be inaugurated; and I believe that in this discussion such reasons have been given, and therefore I shall vote to accept so much of an innovation upon the time-worn jury system as is proposed by the gentleman from Weber. I notice that that innovation is very slight and carefully guarded in the greater crimes of which men may be accused. I understand that the old system of jury trial is guaranteed, and only in cases below felony and in civil cases is the slight innovation proposed, with the exception of those cases that may come up in county

courts and before justices of the peace. I am not so indifferent to the saving of expense to the people of this Territory for the government we propose to give them—and while, if there is one department of the government that we propose to change, I would feel more liberally disposed than to another, it would be the judiciary system. I am willing to cut and shave every other department of the government in the matter of appropriations to sustain it. I say, I am willing to cut and shave the revenue of every other department of government more closely than this one. And, sir, I believe in contemplating any policy of economy with reference to this department of government, we ought to take into account the fact that in the new State we will abolish the fee system, so far as those fees go to the officers who charge them, and have the fees go to the coffers of the State, and pay the officers a salary for their services, a policy which will save to the people of this State. And then I would be willing in view of this to be all the more liberal to the judiciary system that we will establish. But if it can be shown, as I think it has been shown in this case, that even the expense of the jury system can be cut down to the amount of $15,000 or $17,000 per annum, it is an item not to be slightly passed over. And, therefore, in the interest of economy, and believing that the liberties of the people shall not be endangered by the jury system as thus put down, I shall most assuredly support the substitute that is offered by Mr. Evans, of Weber, and then after the principles contended for shall have been accepted by this committee, as I believe they will be, I am ready to join that, gentlemen, but wish to fix definitely the number of jurors in these specified cases, and complete this work which I believe can be done in a very short time.

Mr. VARIAN. Will the gentleman permit me to question?

Mr. ROBERTS. Certainly.

Mr. VARIAN. Where does he get any such figures in the reduction of expenses as $17,000 per year, by cutting down the jury in misdemeanor cases and civil cases by three or four jurors. It seems absolutely impossible to me.

Mr. ROBERTS. In answering the gentleman's question, I must rely upon the investigations and conclusions arrived at by my friend from Weber County as I myself have made no computation, but I accept his computation upon it. I am glad the gentleman asked the question for the reason that it will enable me to point out wherein I think the system can be less expensive. There is at least, in the first place, one-fourth, if you cut down in civil cases to nine, of the expense cut off by the adoption of this system in the matter of salaries to the jury direct. But I apprehend that the saving to the people of this State will consist in this: First, in the saving of time, because I believe that nine men can more quickly unite upon a verdict than twelve men can. It is in that direction that the saving will come to the State. Then again, they are more likely to unite, there is less danger of having what the profession calls a "hung jury," I suppose, where we have nine than where we have twelve; and in the saving of time in lessening the probabilities of having juries disagree as well as in the matter of saving at least directly the salaries to the men of one-fourth of the aggregate, there will come, I am of the opinion, a considerable saving to the State, and I don't believe that the gentleman from Weber has miscalculated the amount that may be thus saved to the people.

I thank the committee for listening so patiently to the remarks of a layman on this subject.

Calls for the question.

Mr. Van Horne withdrew his proposed substitute.

The substitute offered by Mr. Evans was adopted.

The committee then arose and reported to the Convention as follows:

The committee of the whole having had under consideration the preamble and bill of rights still reports progress.

The President appointed Messrs. Hill and Adams as additional members of the committee on schedule, future amendments and miscellaneous, and Mr. Thoreson in place of Mr. Thatcher on the committee on taxation, revenue and public debt, and also on the committee on compilation and arrangement.

The Convention then at 6:20 o'clock p. m. adjourned.

TWENTIETH DAY.

SATURDAY, March 23, 1895.

The Convention was called to order at 2 o'clock p. m. by President Smith.

The roll was called by the secretary and the following named members were found in attendance:

Allen	Larson, L.
Anderson	Larson, C. P.
Barnes	Lemmon
Bowdle	Lewis
Boyer	Low, William
Brandley	Low, Peter
Button	Low, Cache
Buys	Lund
Call	Maeser
Cannon	Mackintosh
Chidester	Maloney
Christianson	Maughan
Clark	McFarland
Corfman	Morris
Crane	Moritz
Creer	Murdock, Beaver
Cushing	Nebeker
Driver	Page
Eichnor	Peters
Eldredge	Peterson, Grand
Emery	Peterson, Sanpete
Engberg	Pierce
Evans, Weber	Preston
Evans, Utah	Raleigh
Farr	Richards
Francis	Ricks
Gibbs	Roberts
Goodwin	Robertson
Green	Robinson, Kane
Hammond	Robison, Wayne
Hart	Ryan
Haynes	Sharp
Halliday	Shurtliff
Heybourne	Snow
Hill	Spencer
Howard	Squires
Hughes	Stover
Hyde	Symons
Ivins	Thatcher
James	Thompson
Johnson	Thoreson
Jolley	Thorne
Kiesel	Thurman
Keith	Van Horne
Kearns	Varian
Kerr	Wells
Kimball, Salt Lake	Whitney
Kimball, Weber	Williams
Lambert	Mr. President.

Mr. SHARP. Mr. President, I am called away and desire to be excused on Monday and Tuesday.

The request was granted.

Mr. McFARLAND. Mr. President, I would like to be excused until Monday.

The request was granted.

Prayer was offered by Lieutenant Christian Erricson, of the Salvation Army.

The committee on legislative, by request of chairman Van Horne, was excused from attendance at the session.

The journal of the nineteenth day's session was read and approved.

Presentation of petitions and memorials.

Mr. KEARNS. Mr. President, I have here a petition with 1043 signers, from the laboring men of Summit County, requesting at the hands of this Convention due consideration to underground labor.

The petition was read and referred to the committee on labor and arbitration.

Mr. ROBERTS. Mr. President, I have

a petition from a number of gentlemen of this city, and also labor unions and societies, numerously signed—from 1,000 to 1,500 names, I do not know the exact number; I ask that it be read.

The petition was read and referred to the committee on schedule, future amendments and miscellaneous.

Reports of committees.

Mr. VARIAN. Mr. President, I suggest that under the rules the report of the committee on executive should be read and under the rules will be printed. There is no use in reading it unless it is called for.

The committee on rules reported as follows:

The committee on rules herewith report and recommend that standing rule 20 be amended by striking out all after "debate" in line 7 of the printed rule.

Mr. VARIAN. I move the adoption of that, Mr. President; the purpose is to clean away the doubt and uncertainty that seems to have pervaded the minds of the Convention ever since the rules were adopted, as to the power of the committee of the whole to arise at any time. It must have been considered that that rule as it now reads, and originally read, limited the committee of the whole to such time as the Convention should previously direct. By striking all that out, you will observe that the rule will remain so that it can plainly be understood that the committee may arise at any time.

The report was adopted.

The committee on executive reported as follows:

MR. PRESIDENT:

Your committee on executive report herewith an article entitled executive, for insertion in the Constitution.

Files Nos. 21 and 31, which were referred to the committee, are herewith returned.

C. S. VARIAN,
Chairman.

The PRESIDENT. It goes on to the calendar to the committee of the whole.

The committee on schedule and future amendments and miscellaneous reported as follows:

MR. PRESIDENT:

Your committee on schedule, future amendments and miscellaneous report that we have considered file No. 86, relating to the sale of cigarettes, and return it herewith and recommend that it be filed. Also file No. 138, relating to fish and game, and recommend that it be referred to the committee on legislative. RICKS,
Chairman.

The report was adopted.

The committe on accounts and expenses reported as follows:

Convention Hall, March 23, 1895.

The committee on accounts and expenses beg to report as follows: There has been expended by this Convention up to and including Friday, March 22nd, 1895, $12,342.77; leaving a balance at that time of $17,657.23. By bills which have been handed to us we discover that officers of this Convention have incurred liabilities of which we knew nothing until such bills were presented to us.

We believe that officers of this Convention should submit to this committee an estimate of any intended expense and before incurring said expense should receive the sanction of this committee.

In order that our duty may be made plain, we desire instructions upon this point. We also desire to know from what source that committee are to obtain the funds wherewith to purchase stamps for the use of the secretary. The secretary of the Territory has not yet the appropriation. A. C. LUND,
Chairman.

Mr. CANNON. Mr. President, I move that the report be received and filed and officers be instructed in accordance with the expressed desire of this committee and that the balance of the report be not acted upon.

Mr. KERR. Mr. President, I would like to ask what the balance of the report refers to?

Mr. CANNON. The balance is an inquiry as to what they are going to do to get the funds. We don't know what we are going to do ourselves.

Mr. ELDREDGE. Let the powers that be decide that.

Mr. THORESON. Mr. President, I

would like to ask a question—if it means that when any member of this Convention is at any expense he must hand his bills to the committee for consideration by the committee?

Mr. CANNON. Answering the gentleman, I would say the committee asks that officers be instructed to not incur any indebtedness, without consulting the committee. I move that this instruction be given to all officers.

The motion was agreed to.

Introduction of ordinances and propositions for insertion in the Constitution.

Mr. BOWDLE. Mr. President, I move you that we suspend the rules and read all propositions the first and second time by their title and let them be referred to the appropriate committee.

The motion was agreed to.

Mr. GOODWIN. Here is a proposition for the establishment of the metric system. I present it by request, with a letter from a very competent man for the use of the committee. I endorse a part of it. The rest I have under consideration.

Said proposition (file No. 144), was read a first and second time and referred to the committee on mauufactures and commerce.

Mr. Van Horne introduced a proposition on prohibition (file No. 143), which was read a first and second time and referred to the committee on manufactures and commerce.

Mr. KIMBALL (Salt Lake). Mr. President, there was a memorial to that effect submitted to some other committee. Why scatter it? If it goes to the committee on manufactures and commerce, the other should go to the same place.

Mr. Howard introduced a proposition (file No. 145), relative to raising revenue for certain purposes, which was read a first and second time and referred to the committee on revenue, taxation and public debt.

Mr. HOWARD. Mr. President, I would like to say in regard to this resolution that there is a growing tendency among the people of our coming State to create indebtedness, and there is also a tendency against bonds to pay that indebtedness. This proposition is to put it into the hands of the people to vote a special tax for special purposes and for that reason, I would like it read. It is short.

Proposition was read as follows:

The property taxpayers of this State, or of any county thereof, may at special elections called for that purpose, or at any general election, by receiving at least ninety days' notice thereof, in such manner as may be provided by law, vote a property tax, not exceeding one quarter of one per cent. in addition to general taxes, on the assessed valuation of property in this State or county, wherein such election may be held for the purpose of raising revenue to pay off any just indebtedness of this State or county, or for making any reasonable improvement therein.

Mr. Howard introduced a proposition relative to the purity of water for domestic purposes (file No. 146), which was read as follows:

The Legislature shall provide by law to protect the purity of the waters of this State that are used for domestic purposes.

The proposition was read a second time by its title and referred to the committee on legislative.

Mr. Kearns introduced a proposition relating to length of day's work (file No. 147), which was read as follows:

That eight hours shall constitute a day's work on all works or undertakings carried on or aided by the State or municipal governments, and that the Legislature shall provide laws for the the health and safety of employes in factories and mines, expressly providing that eight hours' labor shall constitute a day's work in mines.

The proposition was read a second time by its title and referred to the committee on labor and arbitration.

Mr. Buys introduced a proposition relating to the manufacture, sale, and disposal of imitations of dairy products

(file No. 148), which was read a first and second time by its title and referred to the committee on schedule and future amendments and miscellaneous.

Mr. Low, of Cache, introduced a proposition relating to stock and contagious diseases (file No. 149), which was read a first and second time by its title and referred to the committee on water rights, irrigation and agriculture.

Mr. Low, of Cache, introduced a proposition relating to right of way for drainage and other purposes (file No. 150).

Mr. THURMAN. Mr. President, by consent, if it can be obtained, I would like to move that that last proposition be referred to the committee of the whole to be considered in connection with the article on preamble and bill of rights. I see it refers directly to the same subject that is treated by that.

The PRESIDENT. It will have to be done by a suspension of the rules.

Mr. THURMAN. Yes; I ask that it be read for information.

The proposition was read as follows:

When private property shall be taken for any public use a compensation shall be made therefor. When such compensation is not made to the State, it shall be ascertained by a jury of not less than three commissioners appointed by a court of record or shall be prescribed by law. Private roads may be opened in the manner to be prescribed by law, but in every case the necessity of the road and the amount of all damages to be sustained by the opening thereof shall be first determined by a jury of freeholders, and such amount, together with the expenses of the proceedings, shall be paid by the person to be benefitted. General laws may be passed permitting the owners or occupants of agricultural lands to contract and maintain for the drainage thereof, necessary drains, ditches, and dikes upon the lands of others under proper restrictions and with such compensation, but no special laws shall be enacted for such purposes.

Mr. LOW (Cache). I will say for the information of the gentleman from Utah County that the subject matter contained in this proposition now sent up refers to section 24 of the preamble and bill of rights.

Mr. PRESIDENT. Does the gentleman move to suspend the rules and have this go to the committee of the whole to be considered in connection with the preamble and declaration of rights?

Mr. THURMAN. Yes, sir.

The motion was agreed to.

Mr. Jolley introduced a proposition providing for the regulation of water (file No. 151), which was read a first and second time by its title and referred to the committee on water rights, irrigation and agriculture.

Mr. Jolley introduced a proposition for the taxation of professional men (file No. 152).

Mr. THURMAN. Mr. President, I move to lay that on the table. [Laughter.]

Mr. RICHARDS. I ask to have the proposition read for information.

The proposition was read as follows:

The Legislature may, by law, provide for the taxation of any or all professional men. [Laughter.]

Mr. LOW (Cache). I move that the proposition be referred to the committee on revenue, taxation and public debt.

Mr. GOODWIN. I move that that be referred back with a request that details and specifications be furnished.

The proposition was referred to the committee on revenue, taxation and public debt.

Mr. Raleigh introduced a proposition relative to the liquor habit (file No. 154), which was read as follows:

The Legislature shall provide for the establishment of hospitals for victims of the liquor habit, where they can be scientifically treated. It shall also provide for the organization of medical boards of examination, whose duty shall be to examine into the condition of common drunkards and decide whether or not they shall become public charges.

The proposition was read a second time by its title.

Mr. FRANCIS. Mr. President, I move that that go to the legislative committee.

The motion was agreed to.

Mr. Raleigh introduced a proposition on inebriety (file No. 155).

Mr. EICHNOR. Mr. President, I am not chairman of the committee on ordinances, but I am a member of the committee on ordinances. I think those propositions should belong to the committee on schedule and future amendmendments; they are dealing with the liquor traffic and prohibition, and as for one of the committee on ordinance, I am not anxious to get mixed up on the question.

The PRESIDENT. You move this be referred to the committee on schedule and future amendments and miscellaneous?

Mr. EICHNOR. Yes, sir.

Mr. ROBERTS. Mr. President, as the gentleman from Salt Lake just now remarked, all the propositions touching the question of prohibition have so far been referred to the committee on schedule and miscellaneous, but I cannot say, sir, that this is a question that touches prohibition. I am rather of the opinion that the gentleman who introduced it has concluded that there was going to be no prohibition, and was going to take care of the drunkards; and as we will have all we can do to manage the question of prohibition, I am willing, sir, that the business of looking after the victims of the supposed intemperance which shall prevail in Utah shall go to some other committee than the committee on schedule and miscellaneous. I am willing that resolution should go to any committee on earth but the committee on schedule and miscellaneous. [Laughter.]

Mr. EICHNOR. You are a member of that committee, are you not, Mr. Roberts?

Mr. ROBERTS. Yes, sir.

The proposition was referred to the committee on schedule and future amendments and miscellaneous.

The PRESIDENT. Gentlemen, this is the last chance, as the chair understands it, for the introduction of these propositions for the Constitution. If there are any of them anywhere, bring them forward.

Mr. JAMES. Mr. President, there are two articles found in the committee on corporations, one is the forestry, and the committee has concluded that it properly belongs to the committee on water rights, irrigation and agriculture; we return that article (file No. 92). Also an article on public institutions, which we conclude does not belong to the committee on corporations, and conclude that it belongs properly to the committee on public buildings and state institutions not educational. (File No. 53.)

Mr. SQUIRES. I move that they be referred to the appropriate committees.

The motion was agreed to.

Motions and resolutions.

Mr. WELLS. I move, Mr. President, now, that we go into committee of the whole.

Mr. THURMAN. I wish you would withhold that one moment. I move that when this Convention adjourns that it adjourn until 10 o'clock Monday morning.

Mr. GOODWIN. Mr. President, the trains do not get here until 10 o'clock, especially on Monday morning. There are gentlemen from Provo and Draper and farther north and farther south. If the gentleman will make it 10:30 every one can be here.

Mr. THURMAN. I will accept that suggestion.

Mr. VARIAN. Mr. President, I understand there is to be a resolution changing the standing rule of the Convention in that particular referred to the committee on rules. I have endeavored to get a meeting of that committee, but I am satisfied its members want to ascertain the views of the chairmen and

members of the most important committees, with a view to learning how it will interfere with the work they have in hand. I think that ought to be ascertained, and we will endeavor to ascertain it during the afternoon. If the important committees are practically through, the committee on rules will report this resolution.

The PRESIDENT. The request of the gentleman is then to defer the consideration of this until later in the day?

Mr. VARIAN. I am simply making an explanation, because I take this as a spirit of criticism upon the delay of the committee on rules in reporting that. I say I have endeavored to get a meeting this morning, but was unable to do it; and also suggest that we think that we ought to consult with the chairmen of the most important committees to ascertain how far along they have gotten with the work. There is no use meeting at 10 o'clock if we are going to delay the committee work.

Mr. THURMAN. Mr. President, two or three days ago this resolution was proposed here and referred at once to the committee on rules; it seems to me that it is very important that that matter be settled. I supposed the committee would act at once, or act yesterday, at least they have not done it, and I offer this now to facilitate the business of this Convention.

We are getting along very slowly. We have not two paragraphs of the bill of rights. That is the condition we are in here, and here we are proposing to meet at 2 o'clock in the afternoon. The committees will have to meet at night, gentlemen, if we do this work. We will have to work night and day. If we set apart the forenoon for committee work, why, we will not do work at night; that is the idea, and we will be here at the rate we are going now for five years. That is the fact about it; I have figured it out.

Mr. VARIAN. Mr. President, the gentleman from Utah seems to have an idea that he knows exactly how this whole thing ought to be done, and that everybody ought to move at his beck and call. The spirit of criticism pervading his remarks is, to say the least, uncalled for. If he will consult with his colleague from Weber County, he will ascertain that the reason the committee on rules have not considered this matter is because he failed to attend the meeting this morning. The report reached the committee on rules at six o'clock or half past five night before last. The meeting was called for this morning. On yesterday the chairman of the committee on executive was compelled to devote all his time to the business of that committee. Now, I submit, gentlemen of the Convention, if your standing committees are for such reasons as these, a delay of two days, are to be subjected to this hostile criticism and this sort of animadversion, you had better dispose of them at once and take it right into your own hands, and determine these questions without the committees. There has certainly been nothing indicated heretofore that any committee was unwilling or failed in any particular in acting as promptly as the circumstances would permit, and I submit that now, I do not know whether you are going to speed this matter by calling a meeting of this Convention for 10 o'clock every day. If your committee on legislative; on revenue and taxation; on judiciary; the two committees on corporations; your committees on apportionment—if all or any of these great committees are engaged in difficulties and are wrestling with propositions which must be settled in the committee, it is idle to talk of speeding the action of this Convention by compelling them to leave the committee rooms and come here. I simply submit that your committee on rules might have at least an opportunity to determine that question after consultation with the members of these respective committees.

Mr. THURMAN. Mr. President, I see no reason for the gentleman from Salt Lake becoming nettled over this proposition. I made no allusion whatever to him, but I did not know but what now it is necessary to say that the committee on rules might have acted a little sooner than they have acted. In fact, they have not acted at all.

Mr. VARIAN. Will the gentleman state when?

Mr. THURMAN. Yesterday or today. It was a mere proposition relating to changing the hour of the meeting of this Convention.

Mr. VARIAN. If the gentleman will pardon me, I explained that I, for one, of the committee on rules was engaged in the executive committee all yesterday morning.

Mr. THURMAN. Very well, now.

Mr. EVANS (Weber). I was engaged in the committee on taxation.

Mr. THURMAN. Permit me, Mr. President, to say, I meant no unfair allusion to the gentlemen, nor the committee; neither does this motion affect that question at all. I ask that next Monday morning we meet at 10 o'clock, or as suggested by Judge Goodwin, at 10:30; now, if the house does not want to meet then, let them vote it down. I think myself we ought to meet then and go on with the work.

Mr. JAMES. Mr. President, before you put this motion, I want to say just one word. That is this, that the committee on incorporations anticipated no such resolution as this being made and they have an appointment for a meeting at 11 o'clock on Monday morning, and it is really important that the committee should meet and go to work at that hour. Their work is not ready to report to the Convention and it will take some little time to get ready. It cannot be got ready in that time and if the committee cannot meet the work will simply have lie idle. I do not know whether other committees are in the same fix, but I offer this apology to the Convention. This matter can not be advanced any further. As Mr. Thurman well knows, the time had been taken up on other committees and we want to settle upon a report which shall finally come into this Convention.

Mr. SQUIRES. Mr. President, I move that the resolution lie upon the table.

The ayes and noes being called for, the resolution was tabled by the following vote:

AYES—45.

Bowdle	Kearns
Brandley	Kimball, Weber
Button	Lambert
Buys	Larsen, L.
Cannon	Larsen, C. P.
Chidester	Lund
Christianson	Mackintosh
Clark	Moritz
Crane	Murdock, Beaver
Cushing	Page
Driver	Peterson, Grand
Eichnor	Peterson, Sanpete
Eldredge	Raleigh
Evans, Weber	Ryan
Evans, Utah	Sharp
Francis	Shurtliff
Gibbs	Squires
Goodwin	Symons
Green	Thompson
Haynes	Van Horne
James	Varian
Jolley	Williams.
Keith	

NOES—44.

Adams	Lewis
Anderson	Low, Peter
Barnes	Low, Cache
Boyer	Maeser
Call	Maloney
Corfman	Maughan
Creer	Nebeker
Cunningham	Peters
Emery	Preston
Engberg	Richards
Farr	Roberts
Hammond	Robertson
Halliday	Robinson, Kane
Heybourne	Robison, Wayne
Hill	Snow

Howard	Spencer
Hyde	Stover
Johnson	Thoreson
Kiesel	Thorne
Kerr	Thurman
Kimball, Salt Lake	Wells
Lemmon	Whitney.

Mr. Howard offered the following:

Resolved, that all members of the Convention absenting themselves from any regular meeting of the Convention without being excused on account of sickness, or an order of some competent court, shall be fined two dollars for each meeting he misses, to be taken out of the pay already due him.

Mr. HOWARD. I move that resolution be adopted.

Mr. BUTTON. Mr. President, I move to make it four dollars.

Mr. BARNES. Mr. President, it strikes me a little different; it should read, "excused on account of sickness."

Mr. GOODWIN. Mr. President, that is only amending it a little. It is going to be very severe if any one member is going to be fined four dollars for the absence of all the other members.

Mr. VARIAN. Mr. President, I do not see any necessity for a resolution of that kind. There may be something underlying it that would indicate there is some purpose on the part of the mover of that resolution. What reason is there now for the adoption of such a resolution? It seems to assume in advance that every member of this Convention should be under a system of discipline or tutelage. It is not usual in legislative bodies to fine them for absence, certainly not except in very extreme cases where there is some question of contempt or disposition of that kind manifested. Why should this Convention now determine in advance these questions and make a general rule that shall apply in all cases, that if a man should fail to attend the sessions of the Convention that it shall be the duty of the president to impose a fine upon him requiring the action of the Convention to do away with that?

Why shouldn't it be left as it is, subject to the disposition of the Convention if it shall find it necessary to discipline its members? It seems to me also that it would practically become a standing rule of the Convention; it ought not to be considered in this way. I move to indefinitely postpone it.

The motion of Mr. Varian was agreed to.

Mr. WELLS. Mr. President, I move that the Convention resolve itself into the committee of the whole for the consideration of the preamble and declaration of rights.

The motion was agreed to.

The Convention then resolved itself into committee of the whole for consideration of the preamble and declaration of rights, with Mr. Squires in the chair.

COMMITTEE OF THE WHOLE.

The CHAIRMAN. Gentlemen, the business before the committee will be section 11 of the preamble and declaration of rights.

The clerk read section 11 as follows:

Sec. 11. All courts shall be open and every person, for an injury done to him in his person, property, or reputation, shall have remedy by due course of law, and right of justice shall be administered without sale, denial or delay.

Mr. WHITNEY. Mr. Chairman, I move an amendment in line four of that section by striking out the words, "and right and justice," and substituting the word "which" so that it will read, "shall have remedy by due course of law, which shall be administered without sale, denial or delay."

It is to be presumed that the law is right and just, and if it be not it must be administered anyhow, as long as it is in force and I think that it is surplusage—the word "which" would be sufficient without the other.

Mr. ANDERSON. Mr. Chairman, I will make an amendment to the amendment by adding after "delay," "and no

person shall be barred from prosecuting or defending before any tribunal in this State by himself or counsel any civil cause to which he is a party."

The CHAIRMAN. Why not pass upon this amendment of Mr. Whitney's which is a very easy thing to settle?

Mr. VAN HORNE. Mr. Chairman, I move to amend the amendment of Mr. Whitney by striking out the word "sale" and by inserting before the word "delay" the word "unnecessary."

Mr. WHITNEY. Mr. Chairman, I think my amendment should be put first because the other does not touch it.

The CHAIRMAN. There are two separate amendments to the same section. I think we ought to pass upon one of them first.

Mr. EVANS (Weber). Mr. Chairman, I am in favor of the section as it now stands; it is very usual in many of the constitutions. I don't think any of the amendments proposed ought to be made.

Mr. MALONEY. Mr. Chairman, I think the section should stand as reported by the committee. It is in nearly every constitution and declaration of rights in the country. It is a provision that has come to us with the approval of the ages. I hope it will pass just as the committee has reported it.

Mr. EICHNOR. Mr. Chairman, I am in favor of the amendment offered by Mr. Van Horne. I think the word "sale" is unnecessary. Sale indicates that judges can be bought or the court can be bought, or one of Judge Goodwin's juries can be bought. I think the words "unnecessary delay," are of great importance with regard to the courts.

The amendment offered by Mr. Van Horne was agreed to.

The amendment offered by Mr. Whitney was agreed to.

Mr. ANDERSON. Mr. Chairman, I think the amendment that I offered should prevail, because I think that this is a constitutional right that should be guaranteed to every citizen if he so desires. At the end of the section to add—"and no person shall be barred from prosecuting or defending before any tribunal in this State by himself or counsel any civil cause to which he is a party."

Mr. VARIAN. Mr. Chairman, I call attention to the fact that by confining that to civil causes, possibly by implication it might be held to prevent his appearance in criminal cases. It is just as important and necessary to include it here.

Mr. JAMES. Mr. Chairman, another section does provide that he shall appear in criminal cases.

Mr. ANDERSON. The next section provides for criminal cases.

Mr. EICHNOR. Mr. Chairman, I am opposed to the amendment, not because I happen to be an attorney, but if every man would try that in one of the higher courts he would discover what a mistake he had made after the verdict is against him. There is a saying among lawyers that any man who pleads his own case has a fool for a client. Now, this would work no injury to any lawyer, it would work great benefit. Gentlemen, if you want legislation in the Constitution for the benefit of the laymen you are making a mistake. If you are working in the interest of lawyers it will inure to our benefit, because if a person goes into a higher court as his own lawyer he will get his case so tangled up that he will have to call in a lawyer or several to have it unraveled.

Mr. CANNON. Mr. Chairman, I favor the amendment offered by Mr. Anderson. There is nothing compulsory about this. If a man isn't a lawyer he isn't compelled to go in and present his own case, and if after a few experiments laymen find that they cannot defend their own cases there is not much danger that they will attempt it. I don't know, however, why the gentleman should be anxious that we should not give them the privilege of doing so if they want it.

Mr. EICHNOR. Mr. Cannon, I shall vote aye.

Mr. CANNON. I am glad the gentleman is convinced that aye is a proper proposition. I think that everyone should have the right to appear and defend his property as well as to defend his person.

Mr. RYAN. Mr. Chairman, is not it a fact that any layman has the same privilege or has the privilege intended to be granted already?

Mr. CREER. Not in courts of record.

Mr. CANNON. I don't know whether that is true or not, but if it be true, this would simply perpetuate that right. It would not harm anyone.

The amendment of Mr. Anderson was agreed to by the following vote on division:

Ayes, 48; noes, 33.

Section 12 was read by the clerk as follows:

Section 12. In criminal prosecutions the accused shall have the right to appear and defend in person and by counsel, to demand the nature and cause of the accusation against him, to have a copy thereof, to testify in his own behalf, to meet the witnesses against him face to face, to have compulsory process to compel the attendance of witnesses in his own behalf, to have a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed, and the right to appeal in all cases; and in no instance shall any accused person, before final judgment, be compelled to advance money or fees to secure the rights herein guaranteed. The accused shall not be compelled to give evidence against himself; no wife shall be compelled to testify against her husband, and no husband against his wife, nor shall any person be twice put in jeopardy for the same offense.

Mr. VAN HORNE. Mr. Chairman, I move to insert after the words "face to face" the following: "Except where evidence by deposition may be authorized by law."

Mr. Evans, of Weber, proposed to amend the section by striking out the following words, "and in no instance shall any accused person before final judgment be compelled to advance money or fees to secure the rights herein guaranteed."

The CHAIRMAN. There is no conflict between those two amendments, gentlemen.

Mr. EVANS (Weber). At the proper time I would like to make a remark about that.

The CHAIRMAN. Gentlemen, we will consider the amendment of Mr. Van Horne, of Salt Lake.

Mr. WHITNEY. Mr. Chairman, I wish to offer an amendment, which may be deemed an amendment to Mr. Van Horne's amendment. I wish to move in lines 5 and 6 to substitute for the phrase, "to meet the witnesses against him face to face," the words, "to be confronted by the witnesses against him."

Mr. VAN HORNE. I have no objection to that.

The CHAIRMAN. That will not conflict with Mr. Van Horne's amendment at all, because his follows the words, "face to face."

Mr. ANDERSON. Mr. Chairman, I hope this amendment will not prevail. I think it strikes out one of the greatest safeguards that there is to a citizen. Now if a person or a witness had the opportunity of having his deposition taken in some far off county, or some far off state, why a witness under these conditions is likely to testify to anything. I think that the accused should have the right of having the witness confront him and then the jury can tell whether he is telling the truth or not. I think that if we would authorize the taking of depositions, it would take away one of the greatest safeguards that there is that is guaranteed by our Constitution; therefore, I oppose it and hope it will not pass.

Mr. CHIDESTER. Mr. Chairman, I am also opposed to the amendment as offered for the reason that if I have a proper understanding of it, it will permit prosecutions, or the Legislature to

authorize the prosecution in criminal cases to take depositions of witnesses who are not present, who may be absent in some other state or absent in some other county, and if that loophole was thrown open, I do not see that there would be any safety for any man to have a trial and have a fair defense. I do not believe that a man could have a fair defense unless his witnesses were compelled to be in attendance where he could have the chance to cross-examine. It might be argued that he would have a chance to propound questions and in that way get his testimony from these witnesses, but if I understand it, this proposes now to make that compulsory, and I do not think that it should be so. I think that the witnesses should be compelled to be in court and there testify before him, that he should have the right to confront them and to cross-examine them, and there would be many men who would not be able to go through this process of having the depositions taken in some other country. They might not have means and they might not have any friends, yet they would be entitled to a fair trial and in my opinion the only way to have a fair trial is to have the witnesses face to face with the defendant and allow him to have a chance to cross-examine.

Mr. Spencer was, by request, excused from further attendance at the session.

Mr. VARIAN. Mr. Chairman, it seems to me this amendment is getting on very dangerous grounds. The provisions of this section are substantially those in every constitution, I believe. They have received judicial interpretation and construction for many years, as I understand it, this, so far as the particular matter is concerned, has received construction. Where a preliminary examination has been held of a man charged with a serious offense—I mean a grand jury offense, calling for a trial in a court of record, and the witnesses shall have been examined face to face, in the language of this article, with the defendant, and the testimony has been taken down and he has had an opportunity of cross-examination and it has been read over and corrected with such other safeguards as may be imposed by legislation—in such a case, when the trial shall come on, if one be had, and the witness shall be dead or has gone beyond reach of the process of the state, the courts have held that under such circumstances the constitutional guarantee has been complied with, and the deposition may be read. They have gone no further. Nowhere I believe is it held or permitted that the state may take a deposition of a witness in the sense used by the gentleman in the discussion here.

That is sending abroad to another territory and taking a deposition in a criminal case for the prosecution. Now, it is proposed to interpolate something new here involving something that puts us all at sea; again, requiring, as of necessity it will, other judicial construction, and interpretation particularly as it is framed. I quite agree with the gentleman from Sevier that the language will certainly carry the understanding that it was intended by this Constitution to give the State the right to take the deposition of the kind he has alluded to. So far as the other depositions are concerned, the constitutional guarantee is complied with in the class of cases I have mentioned, because the defendant has met the witnesses face to face. He has had the opportunity of cross-examination, and it is only because of the extreme necessity of the case that the deposition is allowed to be read. Such has been the interpretation of the courts, but as I remember the amendment, it is to insert "Except where deposition shall be authorized by law." Clearly that would indicate an authority in the Legislature to authorize the taking of other depositions and certainly we do not intend to do that. Why not leave it as

it is? Why not leave it within the ancient landmarks, so that every lawyer and every layman may know just what this does mean? Judicial decision after decision, all in one line, particularly have determined the meaning of this language as the committee have reported it here. Why should we stray away and put something in there that will tend to bring about and will doubtless bring about this confusion and conflict in interpretation?

The motion was rejected.

The CHAIRMAN. The question comes on the amendment offered by Mr. Evans, of Weber.

Mr. EVANS (Weber). Mr. Chairman and gentlemen of the committee, I desire to explain the reason why I should like to have that language stricken out. I have no other objection to the section. I fully agree with the vote just taken, that the matter should not have been inserted which was proposed by the gentleman from Salt Lake; these are ancient landmarks and should not be disturbed, because they go directly to the protection of the individual liberty and protection of the citizen, but we cannot go too far in the interest of the men charged with crime. We give, by this section, the right to the accused to defend in person or by counsel. We give him the right to demand the cause of the accusation against him and to have a copy of it. We give him the right to meet his witnesses face to face. We give him compulsory process to compel the attendance of witnesses. We give him the right of a speedy and public trial by an impartial jury of the county or the district, and we also give him the right of appeal. Now, for all these purposes and all these rights which we vouch to the person charged with crime, we say in the section as it now stands, "And in no instance shall any accused person, before final judgment, be compelled to advance money or fees to secure the rights herein guaranteed."

That is to say, that if a person be charged with crime, who is worth a million dollars, he has the right to be defended by counsel at the expense of the State. He could not be required to advance one dollar for the employment of an attorney, but under this section, as it now stands, the millionaire charged with crime could demand of the State the right to have counsel appointed to defend him.

Mr. GOODWIN. May I ask you a question?

Mr. EVANS (Weber). You may.

Mr. GOODWIN. Would not the counsel so appointed be sure to hang the man and wouldn't it be all right?

Mr. ELDREDGE. Mr. Evans, may I ask you a question? What about the poor fellow that has no money?

Mr. EVANS (Weber). That is usually provided by the Legislature. We have such provision now. Every state has such provision and I believe that was the intention of this language; I think the committee intended that when it inserted that. I do not believe it gathered fully the meaning and force of the language. It is a very unusual thing in constitutions, but a very usual thing in the statutory laws.

Mr. VARIAN. I would ask the gentleman if it would not accomplish the purpose to insert the words "to officers," after the words fees, so that it should remain that he would not be compelled to advance fees to the officers of the court for the sake of getting justice done?

Mr. EVANS (Weber). That is all right and the statutes usually provide for that. I do not believe a man ought to be compelled to pay fees for a clerk when he comes to secure his subpœna. I think that is one of the rights which ought to be accorded the defendant, and and I believe all these rights named here ought to be accorded except the right which I have named. It goes entirely too far. It simply leaves an avenue open by which the person charged with

crime may reach his hands into the public treasury and take from it large sums of money for his defense when it is unnecessary that it should be done—when he himself is able to pay it. Now, when a person charged with a crime is unable to secure counsel, it is according to the spirit and genius of our institutions that he should have one; by striking out this language he would not be deprived of that right. Legislatures have always provided for it, but to make it constitutional, then it would be incumbent upon the part of the Legislature—the language itself is mandatory—to do these things. That is, that the defendant shall not be compelled to advance one dollar until judgment has been pronounced. Then if the defendant happened to be convicted, the State might make a law by which judgment might follow as of course for costs, and the treasury might be reimbursed; but if he should happen to be acquitted, there would be no opportunity at all to reimburse the State, because no judgment for costs would follow. I think the language ought to go in its entirety or else be amended in such a way as the gentleman from Salt Lake, Mr. Varian, suggests.

Mr. VARIAN. Mr. Chairman, I desire to offer an amendment to the amendment, to strike out the language contained in Mr. Evans' amendment, and insert the following in lieu thereof: it would commence after "cases," in line 12, and end with a period in line 15 after the word "guaranteed," "and in no instance shall any accused person be compelled to pay the expenses of his prosecution to secure the rights herein guaranteed." I purposely leave out, "before final judgment."

Mr. EVANS (Weber). Wouldn't that include fines?

Mr. VARIAN. I will allude to that in a moment. I purposely leave out the words "before final judgment," because in my opinion the costs of an appeal or a new trial ought not to be exacted from a man charged with crime. As matters stand to-day here in this Territory, if a man wants a writ of habeas corpus, he has to pay for it under the rules of the court. It is exacted from him; I think it is five dollars, I am not quite sure about that, but he has to pay for the suing out of a writ of habeas corpus—that writ of right. On appeals from justices' courts, where there is, perhaps, more likelihood of injustice being done, through inadvertance and ignorance, than in courts of record, he has to pay for his appeal; when he gets up to the district court he has to put up five dollars more within a time specified or his appeal is dismissed. If he demands a change of venue in the justice's court, he has to pay for it. That is the way they administer the law. Although I don't believe it is the law, but it is so administered. He has to pay frequently, perhaps, for a jury. Therefore, I would eliminate so far as my judgment goes, the words, "before final judgment." Now, coming to the suggestion of the gentleman from Weber, Mr. Evans, I do not think the language I offer would bear the construction suggested. I don't believe it covers the fines with the attendant imposition of costs provided generally by law after the conviction. The language is "to secure the rights herein guaranteed."

Mr. THURMAN. Will you read that as you have it amended?

Mr. VARIAN. "And in no instance shall any accused person be compelled to pay the expenses of his prosecution to secure the rights herein guaranteed." That is to secure the trial by jury, to secure the being confronted with the witnesses—in other words, to secure a fair and impartial trial or to secure an appeal provided for. After he has exhausted his remedy, after these rights provided for in this section and guaranteed also have been secured for him, that is another question. I believe the Legislature would have power then to

impose punishment by way of fines, and add to it also an imposition of the costs by way of fines. But the object and purpose of this is to permit a man to have these rights that are secured to him by the Constitution of some avail. It is of no effect or avail to tell a man who has not a dollar, "You can appeal if you want to, but you must put up ten dollars for these costs and when you get to the other court you have got to pay the clerk so much. If this court has no jurisdiction, you can have your writ of habeas corpus, but you must pay so much for it." His answer is, "I haven't it," and so it ends. I would like to see the language changed, and the reason I offer to strike it all out is because I cannot reach it in any other way because of Mr. Evans' motion. I cannot move to strike out the words, before final judgment, and I also desire to meet the suggestion he makes. I would like to see language equivalent to this incorporated in this article.

Mr. EVANS (Weber). I just want to ask Mr. Varian a question or two. Have you studied your amendment carefully, Mr. Varian? I think it has not remedied the difficulty if I read it right. It simply leaves out the words, "before final judgment?"

Mr. VARIAN. Yes.

Mr. EVANS (Weber). And inserts the word "expenses." Would not that include his expenses for witnesses and counsel and such things as that? I would like to make this suggestion, Mr. Varian, and see how you like it. Follow section 12, now, with me, and I will read it and see if I bring it within your idea, "And in no instance shall any accused person before final judgment be compelled to advance money or fees to the officers of the State to secure the rights herein guaranteed."

Mr. VARIAN. That would be very satisfactory to me, if you would leave out, "before final judgment." I have no objection to the way you put it. It is, I believe, equivalent to my idea.

Mr. EVANS (Weber). I will leave that out; I intended to do it.

Mr. VARIAN. If you will draft that amendment and withdraw this, I will withdraw mine.

Mr. EVANS (Weber). Then, Mr. Chairman, I propose after the word fees to strike out the words "before final judgment."

The CHAIRMAN. Do I understand these other two propositions are withdrawn then?

Mr. EVANS (Weber). Withdraw both of them.

Mr. VARIAN. Withdraw both of them, if there is no objection.

Mr. EVANS (Weber). In line 13 strike out the words "before final judgment," and after the word "fees," in line 14, insert "to the officers of the State."

Mr. VARIAN. I second that amendment.

Mr. VAN HORNE. I would suggest, "any officer of the State."

Mr. EVANS (Weber). "Officers of the State," seems to cover it completely. That would cut off then all the objection that there has been made to it.

Mr. MALONEY. Mr. Chairman, both of those amendments I think should be rejected. I don't think from their language, either one of them will better the section. The committee on preamble and declaration of rights knew what they were doing when they made the report. They were fifteen good men—men who knew their business and this article now is copied word for word from the declaration of rights of the state of Washington.

I call the gentlemen's attention to the latter part of the section of the declaration of rights of the state of Washington, "and in no instance shall any accused person, before final judgment, be compelled to advance money or fees to secure the rights herein guaranteed." Now, the object of that was and the idea was to prevent

poor men who were convicted in the superior court, the right to appeal. Mr. Varian says they can appeal; the court says, "All right, but before you appeal, you must put up your money." I have known cases in this Territory where a defendant was convicted and had to pay seven hundred dollars for reporter's fees. As it happened he had the money. In a great many instances they have not the money at all to advance. Why, the idea that the gentleman from Weber advances that this would screen the man from paying his attorney is simply ridiculous; the committee never dreamed of such an idea as that.

I do not want to take up your time, gentlemen; I hope both these amendments will be voted down and that we will sustain the committee's report. It comes from Washington and other states, which have this same language in their declaration of rights.

Mr. VARIAN. What is the object of putting in "before final judgment" there? Would not that by implication shut a man off if he is convicted in the district court from the operation of this clause if he desires to appeal to the supreme court?

Mr. MALONEY. It is not then a final judgment. He is not required to advance money to officers for service, nor money to the reporter for translating his shorthand notes, but, if, after final judgment in the supreme court he is convicted, then he must.

Mr. VARIAN. That is the question that I differ with the committee on. That is the way I understand it, if the Convention want to put it that way, that is all right. I understand it. I want the word stricken out as far as I am concerned.

Mr. MALONEY. The idea is, this committee reported exactly that which they thought we ought to have as a declaration of rights.

Mr. Hyde, by his request, was excused.

Mr. VAN HORNE. Mr. Chairman, I would suggest that if there is any doubt what "final judgment" means, by inserting the words, "in a court of last resort," after the word judgments, it would cover the whole thing.

Mr. VARIAN. There are two questions involved here. I would ask the chair to submit to the Convention, first striking out the words, "before final judgment."

The CHAIRMAN. Gentlemen, the question is on the motion to strike out the words, "before final judgment," from this section.

The question was taken and on a division there were ayes, 34; noes, 39, so the amendment was rejected.

Mr. VARIAN. Mr. Chairman, of course I cannot tell from this vote what the sense of the Convention is concerning the other proposition, which has been withdrawn, and it is in that view that I shall re-offer it. I move to strike out that language, commencing at the word "cases," in line 12, and ending with the word "guaranteed," in line 15, and insert, "and in no instance shall any accused person be compelled to pay the expenses of his prosecution to procure the rights herein guaranteed."

The question being taken on the amendment, it was rejected.

Mr. Whitney offered the following amendment: In line 5 and 6 in lieu of the words, "to meet the witnesses against him face to face," insert "to be confronted by the witnesses against him."

Mr. WELLS. Mr. Chairman, I move to amend the amendment, to make the word "by" read "with" in conformity to the Constitution of the United States, "to be confronted with the witnesses against him."

Mr. WHITNEY. I don't see that it improves it. The question being taken on the motion of Mr. Wells, the amendment was rejected.

The amendment of Mr. Whitney was agreed to.

Mr. Van Horne offered the following amendment: Insert after the word,

"committed," in line 12, the words "unless the venue be changed for cause as may be provided by law."

Mr. VAN HORNE. Mr. Chairman, the reason for my proposed amendment in that case was that I had known of cases where the constitution had a similar provision to this and one in addition, that after three terms of court, and without a trial being had, a man was discharged because the sentiment was so strong on the case that they couldn't find an impartial jury in the county or district, in which the offense was alleged to have been committed, and under that kind of law the criminal went free. I don't think there could be any possible harm in it. It simply provides by enactment here that the Legislature may in certain cases provide for a change of venue.

Mr. THURMAN. Mr. Chairman, I don't understand that is necessary in the Constitution. We are speaking here of rights that the accused party has. He has a right of trial in the district and he should have it if he wants it. The cases of change of venue are cases where he may be entitled to that as provided by law. I don't think that it has a proper effect in a bill of rights, and for that reason I am opposed to it.

The question being taken on the motion of Mr. Van Horne, the amendment was rejected.

Mr. Low, of Cache, was, by his request, excused.

Mr. ANDERSON. Mr. Chairman, I would offer the following amendment, after the word "behalf," in line 8, "produce all proofs that may be favorable to him." The reason I present this amendment is as an additional protection to a citizen, as I have read a number of instances where innocent persons have suffered and been convicted for the reason that they were not allowed to bring proofs that were favorable to themselves and could have cleared them, on account of some technicality of the court or an error in presenting the case to the court.

The amendment was rejected.

Mr. Kimball, of Weber, was, by his request, excused.

Mr. BOYER. Mr. Chairman, in order to avoid the great expense that is now attached to the Territory of Utah in furnishing witnesses to the accused party to the very great number that are ofttimes brought into court for the purpose of accumulating or bringing into court evidence which very often is cumulative, I desire a provision in this same section we have been talking upon, to substitute in line 14 and after the word fees, the words, "other than as provided by law." Now, the object of this amendment is to have the Legislature provide in some manner whereby there may be some protection to the State as to the procuring of so many witnesses that ofttimes are imposed upon the community in furnishing the witnesses for the accused party. They may make provision then that by proper affidavit and upon proper presentation witnesses may be furnished and also that they may not be of such a cumulative character as ofttimes have been imposed upon the courts and the taxed community to pay for. I think that amendment will overcome the objections of Mr. Evans, from Weber, as mentioned here on this particular score. I believe that will cover the objection that I have to this section, as it now stands. It is in the interest of economy.

Mr. VARIAN. I would like to ask if that does not neutralize the entire matter that we have been discussing?

The amendment of Mr. Boyer was rejected.

Messrs. Williams and Francis were, by their request, excused.

Mr. HILL. Mr. Chairman, I move that the committee rise and report progress.

Mr. VARIAN. If the gentlemen will cast their eyes over the house they will see that nearly one-half are gone. Gen-

tlemen who live out of town want to go and have gone.

The motion of Mr. Hill was rejected.

Section 13 of the preamble and declaration of rights was then read as follows:

Section 13. Offenses heretofore required to be prosecuted by indictments shall be prosecuted by information, after examination and commitment by a magistrate, or by indictment, with or without such examination or with commitment. The grand jury may consist of any number of members, of not less than five nor more than fifteen, as the judge of the court may order. A grand jury may be drawn and summoned whenever in the opinion of the judge of the district, public interest demands one.

Mr. WELLS. Mr. Chairman, I only wish to say before the committee begin firing at this section that it is almost the same as in the states of Michigan, Wisconsin, Washington, Colorado and California, and in all those states I am informed that this system has worked extremely well.

Mr. Bowdle offered the following as a substitute for section 13:

No person shall be held to answer in a criminal case except on information after examination and commitment by a magistrate or on an indictment with or without examination and commitment. The grand jury shall consist of seven members and shall be drawn and summoned only when in the opinion of the judge of the district, public interest demands one.

Mr. EVANS (Weber). I think the only difference is in the number of grand jurors.

Mr. BOWDLE. Practically that is true. The only objection that I have to the first part of the section is "offenses heretofore required to be prosecuted by indictment," that is taken from the California revised or new constitution, and undoubtedly they had in mind their old constitution. Now, we have no organic existence as a State until this Constitution is adopted and we are admitted, and we are not looking back to a time when, as a state, we were prosecuting crimes in a different way, and it seems to me that it is preferable in that respect. It does not change the substance a particle, but it reads here, "offenses heretofore required to be prosecuted by indictment." Heretofore prosecuted where? Not in the State of Utah.

Mr. EICHNOR. In the Territory.

Mr. BOWDLE. That is the only point I have. The other is that it fixes the number of grand jurors at seven. I think that we ought to fix the number of grand jurors. The original section is from five to fifteen, leaving it in the breast of the court to say what the number shall be. I think it is giving him sufficient power when we allow him to say when it shall be called, and we will say how many the jury shall consist of.

Mr. MALONEY. Mr. Chairman, the provision as contained here is in the constitution of the state of Washington. They meant under the territorial system. Section 25 of the Washington constitution provided that offenses heretofore required to be prosecuted by indictment, and so on—so that the committee is right and this ought to be adopted as it is.

Mr. CREER. Mr. Chairman, the only objection I have to this section is that it provides that all criminal cases be required to be prosecuted by indictment. There are criminal cases below felonies where they were not required to be prosecuted by indictment, and I think the language as it is now is better, "offenses heretofore required to be prosecuted by indictment," showing there are some offenses heretofore not required to be prosecuted by indictment, and I prefer the section as it is now to the substitute offered to that by the gentleman. I am free to admit, however, that the juries should be fixed at seven.

Mr. EICHNOR. Mr. Chairman, is Mr. Evans' amendment before the house?

The CHAIRMAN. No, sir.

Mr. EICHNOR. Well, I am opposed to the substitute the way it stands at present.

The substitute offered by Mr. Bowdle was rejected.

Mr. EVANS (Weber). Mr. Chairman, I desire to submit an amendment and move its adoption. I will state it very briefly; it is only a change in a word. Under the section as it now stands, before the prosecution could be had by information, there would have to be an examination and a commitment. I think if the defendant waives an examination that the State or the county ought not to be compelled to hold the examination before an information can be filed and my amendment simply reaches that point; also that if the defendant waives an examination, he is then committed and an information can be filed. The amendment I offer is as follows: Amend section 13 in line 3, between the words "examination and" by inserting the words, "unless waived," so that the first sentence of said section will read as follows: "Offenses heretofore required to be prosecuted by indictment shall be prosecuted by information after examination, unless waived, and commitment by a magistrate, by indictment with or without such examination and commitment."

Mr. VARIAN. Mr. Chairman, I trust that amendment will not prevail. There are many times when the defendant is very ready to waive examination. He does not want the examination to be had. He is willing to go right before the grand jury. He is willing to take his chances on the witnesses dying, being scattered, and getting out of the Territory; there are many times when the prosecutor in the interest of the State, feels it his duty to examine the evidence and have it opened up. This makes it one-sided. If the defendant chooses to waive it, no matter what the interests of the State might be, the examination could not be had. Why not leave that to the law? As the law stands, with this clause in it, if he waives the examination and the State consented it would not necessarily follow that the State would have to examine the witnesses. I believe that you can waive that right.

Mr. EVANS (Weber). Doesn't it under this provision, now require examination and commitment?

Mr. VARIAN. Possibly so.

Mr. EVANS (Weber). I just simply want to say that a case was recently decided in Idaho where there was a waiver and the person was proceeded against by information and the supreme court discharged him because the commitment was improper.

Mr. VARIAN. I am free to admit, that upon your suggestion, it occurs to me now that that would be so, but still I am not willing—I shall not be, as one at least, to put this power in the hands of the defendant.

Mr. EVANS (Weber). I don't intend to put any power in his hands. The State can do it. But it is not required; it can examine if it wants to.

Mr. VARIAN. If the amendment included, "with the consent of the State," it would obviate my objection.

Mr. THURMAN. I was going to suggest to add to the words proposed by the gentleman from Weber, "and also by both parties."

Mr. VARIAN. I suggest that the gentleman just add "with the consent of the State," it will be much more concise and will be better worded.

Mr. THURMAN. It is the best thing.

Mr. VARIAN. Does the gentleman make that as an amendment?

Mr. EVANS (Weber). I offer that as an amendment.

Mr. THURMAN. I second it.

Mr. VAN HORNE. Mr. Chairman, it strikes me the same object would be had by striking out the words, "examination and" and just put in the words, "commitment by magistrate."

Mr. EVANS (Weber). The magistrate

might refuse to give an examination, then.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Weber as amended.

Mr. THURMAN. "Unless waived by the accused with the consent of the State."

Mr. WHITNEY. It is proposed to put all that between "examination" and "and?"

Mr. VARIAN. No; after "commitment."

Mr. EVANS (Weber). Let it go after the word "magistrate."

Mr. THURMAN. You will have to add to the word, "magistrate," "unless examination is waived by the accused with the consent of the State."

The CHAIRMAN. The article as proposed to be amended would read as follows:

Offenses heretofore required to be prosecuted by an indictment shall be prosecuted by information after examination and commitment by a magistrate, unless the examination be waived by the accused with the consent of the State.

Mr. VAN HORNE. What is the rest of the amendment?

Mr. VARIAN. That is all.

Mr. BUYS. Mr. Chairman, it seems to me that this would waive the commitment which I don't think we wish to waive. It seems to me it should be after "information" or the words "unless the examination be waived," as suggested by the gentleman from Utah.

Mr. WELLS. Mr. Chairman, I would like to ask some of these legal gentlemen a question, whether or not, if an examination is waived, is it not the same as an examination? Why these words are necessary at all?

Mr. EVANS (Weber). This, as it now stands, requires an examination. If there wasn't an examination it would be error to take proceedings against the accused by information.

The amendment was agreed to.

Mr. EICHNOR. Mr. Chairman. I move to amend section 13 by striking ing out, after the word "commitment" and insert in lieu thereof, "the grand jury shall consist of seven persons, of whom five must concur on indictment, but no grand jury shall be drawn and examined unless in the opinion of the judge of the district, public interest demands one."

The amendment was agreed to.

On motion of Mr. Evans, of Weber, the committee arose.

The committee then arose and reported to the Convention as follows:

Your committee of the whole, after examining and carefully considering the preamble and bill of rights, report progress.

The Convention then at 4:43 p. m. adjourned.

TWENTY-SECOND DAY.

MONDAY, March 25, 1895.

The Convention was called to order at 2 p. m. by President Smith.

The roll was called and the following named members were found in attendance:

Adams	Kimball, Weber
Allen	Larsen, C. P.
Anderson	Lemmon
Barnes	Lewis
Bowdle	Low, Wm.
Boyer	Low, Peter
Brandley	Low, Cache
Button	Lund
Buys	Maeser
Call	Mackintosh
Cannon	Maloney
Chidester	Maughan
Christianson	McFarland
Clark	Morris
Coray	Moritz
Creer	Murdock, Beaver
Cunningham	Murdock, Summit
Cushing	Nebeker
Driver	Page

Eichnor	Partridge
Emery	Peters
Engberg	Peterson, Grand
Evans, Weber	Peterson, Sanpete
Evans, Utah	Preston
Farr	Raleigh
Francis	Richards
Gibbs	Ricks
Goodwin	Robertson
Green	Robinson, Kane
Hammond	Robison, Wayne
Hart	Snow
Haynes	Squires
Halliday	Stover
Heybourne	Strevell
Howard	Symons
Hughes	Thurman
Hyde	Van Horne
Ivins	Varian
James	Warrum
Johnson	Wells
Jolley	Whitney
Keith	Williams
Kearns	Mr. President.
Kimball, Salt Lake	

Prayer was offered by Rev. S. J. Adams, Baptist district missionary for Utah.

The journal of the twentieth day's session was read and approved.

Mr. Boyer presented a petition, signed by Frank C. Leonard and twenty others of the Christian Endeavor Society, of Springville, Utah County, for prohibition (file No. 156).

Referred to committee on schedule and future amendments and miscellaneous.

Mr. Morris presented a petition from Edwin Dalton and 102 others, citizens of Parowan, asking that the question of prohibition be submitted to the people (file No. 157).

Referred to committee on schedule and future amendments and miscellaneous.

The committee on rules reported as follows:

MR. PRESIDENT:

The committee on rules, to which was referred resolution (not numbered) relating to morning sessions, herewith report the same, with the recommendation that standing rule 1 be amended by striking out "2 o'clock p. m." on third line thereof, and inserting "10 o'clock a. m."

VARIAN,
Acting Chairman.

Mr. THURMAN. Mr. President, I move that the rules be suspended and that the standing rule be amended in accordance with the report.

Mr. STREVELL. I move to amend by making it 10:30 instead of 10.

The amendment was rejected.

The motion was agreed to.

The committee on ordinances and federal relations reported as follows:

MR. PRESIDENT:

Your committee on ordinances and federal relations respectfully submit for your consideration their joint report of the accompanying draft of an ordinance on compact, and recommend its adoption. We also report back the following propositions referred to us:

File No. 118, by Mr. Maloney, of Weber.

File No. 153, by Mr. Raleigh, of Salt Lake.

With recommendation that the latter be referred to the committee on schedule, future amendments and miscellaneous.

HEYBOURNE,
Chairman committee on ordinance.

PAGE,
Chairman committee on federal relations.

The PRESIDENT. Under the rule it goes to the printers and will be put on the calendar of the committee of the whole.

Motions and resolutions.

Mr. CHIDESTER. Mr. President, I desire to make a motion, and as a preface to this motion, I wish to say that the object of the motion is to secure a speedy action upon the election bill. By a speedy action, I mean that it may not be delayed by the act of the minority, who have informed the Convention that they wished to make a report the other day. I believe that it is the object of some who do not favor this bill to delay it and for that reason the minority have not made any report. Of course, I may be mistaken on this, but the circumstances go to prove to me that this is the case. Therefore, I move you that the rules be suspended and

that we make the election bill a special order of the day, Wednesday, after the regular order.

Mr. HART. I second the motion.

Mr. ROBERTS. Mr. President, I believe that the gentleman from Weber, Mr. Kiesel, who desired to make that minority report, is not present. I do not know whether any of the other members of the minority are here or not, but I have observed by the calendar there, of the committee of the whole, that the elections and rights of suffrage has the sixth place, and for the life of me I cannot understand what haste there is over the report of the election bill, any more than the legislative, or any other part of the Constitution that is to come upon the floor of this Convention, and I protest against the assigning of improper motives to gentlemen in their work in regard to asking for a delay of this matter. As there is very much to consider, very many files on this committee of the whole calendar, I can see no reason why gentlemen are in such an all-fired hurry in this matter. If I were as cock-sure of my position in relation to this as the gentlemen of the majority profess to be, I would not be afraid of a little delay, even if that was the motive that was prompting the action of the minority on this subject, and I can see no reason why the rule should be suspended and this matter hastened. I will vote against the proposition.

Mr. CANNON. Mr. President, I am in favor of the motion to suspend the rules for the reason that I believe that it is time this minority of the committee should report. They have had abundant time. I opposed the other day the making of this article a special order for the reason that I wanted them to have time in which to prepare their report and present it to the Convention. That has not been done and there seems to me to be a disposition to leave this matter open, for the secretary of this committee reported to us that the section upon which there will be a minority report was considered weeks ago, and that at that time the minority knew what the action of the majority would be. I favor making this a special order in order that this committee, or this minority, may present their report.

Mr. ROBERTS. Will the gentleman permit me a question?

Mr. CANNON. Certainly.

Mr. ROBERTS. Will you tell me what reason there is for hurrying this matter when it has already an early number on the calendar.

Mr. CANNON. The committee having this matter in hand have requested that the matter he taken up and set by a special committee, and I think that they have the conduct of that affair and they may have their own reasons. I know not what they may be but I am in favor of bringing it up at that time, in order that there may not be unnecessary delay on the part of the minority.

The PRESIDENT. I will say to the Convention that Mr. Kiesel has been called away and may probably be back here to-morrow, so I have been informed.

Mr. BUTTON. I want to ask if this minority report does not come in, if this will be delayed on account of it?

Mr. ROBERTS. Why, no.

Mr. MACKINTOSH. Mr. President, as one of the minority of that committee I will say that Mr. Kiesel is out of town. That will be prepared probably to-morrow, but as it was on the calendar the sixth in order we did not hasten about it at all; but it is coming.

Mr. CHIDESTER. Mr. President, I simply want to say this, that the object of wanting to make this a special order is to give them notice that it is going to be considered at that time, and when that time arrives they will have no reasonable grounds to say that they are not prepared to meet it and thereby set a delay when we reach it. We set it now so that they will have time to be ready to meet it

and they have just as much time to be ready to meet it as we have for the reason that the first day that the committee met that was the very first thing that was done—was to take up that section—not the first day, but it was agreed the first day that the next meeting we would take up that section and look it over. In pursuance of that we did take it up and look it over and passed upon it, and from that day until now they have understood that was going to be passed and they should be prepared just as well as we.

Mr. JAMES. Mr. President, if I could see wherein the majority of the committee would be injured, or discommoded or inconvenienced, I should vote for the motion to suspend the rules, but it seems to me that if every committee would pursue the course of this committee a great portion of our time would be consumed in trying to place orders one ahead of another. It seems to me that the course for us to pursue to expedite our work is to let each article as reported by the committee take its place and take it up in its order. For that reason I don't feel that I can vote for the proposition to suspend the rules. I concede that each article should take its place and come up as the secretary records it.

Mr. SQUIRES. I call for the ayes and noes on this proposition.

Mr. THURMAN. Mr. President, I desire to say a few words before that is done. The question has been asked here why hasten this measure? I think frankness in all things is about the best policy to pursue. I will tell you why I want it hastened. I am informed by the gentlemen on the other side that we are losing votes every day. [Laughter.] I am informed by gentlemen of the other side that if we do not get this measure considered and carried that they will work up enough opposition to it to defeat it. For that reason I am in favor of suspending the rules and disposing of it just as quickly as possible. I do not want to see Democrats and Republicans who have unanimously, in all due solemnity, pledged themselves to carry out the principle, put themselves in the inconsistent position of trying on the floor of this Convention to defeat that which they have pledged themselves to do; and if I can save them—if we can prevent that inconsistency in the eyes of the world let us do it. There will be that much good done if nothing else. [Laughter.] Let us suspend the rules and put this measure on its passage and do what we have pledged to the people to do.

The question was taken on the motion to make the report a special order and it was decided in the negative.

AYES—61.

Allen	Larsen, L.
Anderson	Lemmon
Barnes	Lewis
Boyer	Low, William
Brandley	Low, Peter
Buys	Maeser
Call	Maloney
Cannon	Maughan
Chidester	Morris
Christianson	Murdock, Beaver
Clark	Murdock, Wasatch
Coray	Nebeker
Corfman	Partridge
Creer	Peters
Cunningham	Peterson, Grand
Driver	Peterson, Sanpete
Engberg	Preston
Evans, Weber	Raleigh
Evans, Utah	Richards
Farr	Ricks
Francis	Robertson
Hammond	Robinson, Kane
Hart	Robison, Wayne
Halliday	Shurtliff
Heybourne	Snow
Howard	Symons
Hughes	Thoreson
Ivins	Thurman
Johnson	Warrum
Kimball, Salt Lake	Whitney.
Lambert	

NOES—32.

Adams	Kimball, Weber
Bowdle	Lund
Button	Mackintosh
Cushing	McFarland
Eichnor	Moritz
Emery	Murdock, Summit
Gibbs	Page
Goodwin	Pierce
Green	Roberts
Haynes	Squires
Hill	Stover
Hyde	Strevell
James	Van Horne
Jolley	Varian
Keith	Wells
Kearns	Williams.

ABSENT—13.

Crane	Ryan
Eldredge	Sharp
Kiesel	Spencer
Kerr	Thatcher
Larsen, C. P.	Thompson
Low, Cache	Thorne.
Miller	

Mr. THORESON. Mr. President, I was asked by Mr. Low, of Cache, to have him excused, but he asked to have his vote recorded aye, in favor of this proposition.

The PRESIDENT. It is lost, gentlemen; it requires a two-thirds vote.

Mr. Brandley offered the following, and moved its adoption:

Resolved, that we, the members of the Utah Constitutional Convention, assembled at Salt Lake City, do hereby express our sympathy with the grief-stricken people of Wyoming in the calamity which has come upon them through the terrible explosion in Red Canyon; and, be it further

Resolved, that we devote one day's salary to the relief of the wives and children whose husbands and fathers have met death in this horrible catastrophe; be it further

Resolved, that the president of this Convention be and is hereby authorized to make the necessary arrangement for the proper distribution of the money thus received.

Mr. KEARNS. Mr. President, I would amend that and say five days' salary.

There being no second to the motion to amend, the question was taken on the adoption of the resolution, and the resolution was adopted unanimously.

Mr. CREER. Mr. President, I move that we now resolve ourselves into committee of the whole until 5 o'clock.

The motion was agreed to.

Mr. CANNON. I would like to ask the purpose of fixing the hour?

The PRESIDENT. That matter was corrected.

The Convention then resolved itself into committee of the whole with Mr. Evans, of Weber, in the chair. [Applause.]

COMMITTEE OF THE WHOLE.

The committee then proceeded to the consideration of the preamble and bill of rights.

The CHAIRMAN. Gentlemen of the committee, when we adjourned on yesterday, we had under consideration section 13 of the preamble and bill of rights.

Mr. THURMAN. We had disposed of that, hadn't we?

Mr. WHITNEY. Mr. Chairman, the committee, I believe, arose after hastily passing upon section 13, before some of us could get a fair idea as to how it would read as amended. I would like to hear the section read, before we proceed, as amended and passed.

The secretary then read section 13.

The CHAIRMAN. Gentlemen, we will take up section 14.

Section 14 was read and passed without amendment.

Section 15 was read as follows:

Section 15. No law shall be passed to abridge or restrain the freedom of speech or of the press. In all criminal prosecutions for libel, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libelous is true and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

Mr. GOODWIN. Mr. Chairman, I wish to present a substitute for the section.

The proposed substitute was read as follows:

No law shall be passed to abridge or restrain the freedom of speech or of the press, but all persons shall be responsible for the abuse of the privilege.

In all trials for libel the truth may be given in evidence and shall be a sufficient defense, if it shall appear to the jury that the matter charged as libelous is true and was published with good motives and for justifiable ends, and the jury shall have the right to determine the law and the facts. Upon instituting suit for damages for libel, plaintiff shall file bonds for costs or plead insolvency.

Mr. GOODWIN. Mr, Chairman, the section is in two paragraphs. I move the adoption of the first. In the section as presented by the committee, it begins "In all criminal prosecutions for libel, the truth may be given in evidence to the jury." That naturally infers that if the suit is for damages, the truth shall not be given. I think that is the way courts will construe it. It was only to cure that defect that I wrote over the section and that is all I care to say about that particular paragraph of the section.

Mr. VARIAN. Mr. Chairman, that amendment goes further and does not accomplish what the mover intended. There is no objection so far as I know to inserting, if it is necessary, in the Constitution that the truth may be given in evidence in civil cases. That is the law now and in civil cases it is a complete defense to plead and allege the truth, because of the fact that the person claiming could not claim damages for an alleged injury consisting in something that was truthfully said about him. So far as criminal cases are concerned there is still another element in the interests of the State, which is always, or at least generally, at the present day interpolated in all laws on the subject—that before a defendant charged with criminal prosecution may be acquitted it must appear that he published the alleged libel with good motives and for justifiable ends. That is because the State in looking after its business does not permit the publication of even the truth, unless there be a good purpose and justifiable end connected with it. It is not so as I understand in civil cases. Now, gentlemen will observe, as the section is amended that it is required not only in civil cases cases that the truth may be given in evidence, but that the defendant may go further and show, in order to escape being mulcted in damages, that it was published with good motives and for justifiable ends. Of course, I suppose that is not the intention, and if it were the intention, it ought not to be so. The defendant in a civil suit ought to be acquitted from damages if the publication was true, and there should not be added to it the further qualification or restriction that he must show that it was also published with good motives and for justifiable ends, as he would have to do if he were indicted. Unless taken out, the provision concerning good motives and for justifiable ends qualifies the whole matter. The committee will observe that that clause qualifies criminal and civil cases.

As to criminal prosecutions, it ought to stand substantially as it is, but as to civil prosecutions, if in the excess of caution and prudence we desire to put in the absolute declaration that the truth shall be a defense, it ought, to be remodeled and shaped in that way. As it stands now, it is carrying more, I think, than ought to be carried or was intended to be carried.

Mr. SMITH. Mr. Chairman, I have an amendment to offer. I move to amend section 15 by inserting between the word "all" and "criminal" in line three of said section the word "civil" and by adding at the end of said section the words, "under the direction of the court as in other cases."

Mr. THURMAN. Mr. Chairman, I am opposed to both the amendments for the reason suggested by the gentleman from Salt Lake, Mr. Varian. Now, if I

comprehend this right (and if I am wrong Judge Goodwin will correct me), it is rather an infringement upon the liberties of the press that ought not to exist—that is to say to introduce amendments that in a civil case they would not only have to establish the truth of the libelous matter to be justified, but go further and show that it was published with good motives. Now, if it means that, the gentleman from Salt Lake, Mr. Goodwin, is asking for more stringency to be placed upon the press than I am willing to concede ought to be until I am further enlightened in the matter. These matters ought to be kept separate. The law of criminal libel is one thing as suggested by Judge Varian, and the law of civil libel is another thing. In criminal libel the truth may not be a complete defense, but the truth with good motives is a complete defense. In civil libel, if I understand the law, the good motives has nothing to do with it. A man has a right to state the truth and to plead it.

Mr. GOODWIN. Mr. Chairman, the law as has been practiced in civil cases goes as directly to the motive as to the truth. The particular stress that lawyers put is to find out the motives of the publisher and the great strain is to show, if possible, that there must have been deep malice, and on that they found their claim for damages. A man who publishes a newspaper—or a company, is responsible for it. If they publish what is true about a public man, the motive is implied. If they publish about a private citizen something that is true, they will have to show that they had a good motive in doing it. I meant it exactly as the language conveys. I think that the newspaper is responsible for what it says, but I protect it after that. I may say while I am on my feet, the amendment of Mr. Smith will, if adopted, have to be fixed, because in civil cases men are not acquitted.

Mr. VARIAN. Mr. Chairman, just one more suggestion. I will say to the committee that you must expect naturally lawyers will take an interest in matters that they know something about and that accounts for some of us, perhaps, intruding ourselves upon your attention.

In all civil actions for libel, if the truth is not shown, there is an absolute right in a citizen to recover what is termed compensation, this is to say, damages commensurate with the injury done to him in his reputation. The question of malice never enters into it, except when it goes further and seeks to recover what lawyers and the law know as vindictive or punitory damages, which are awarded by way of punishment or smart money. He may or may not claim such damages, or his case may or may not present a case for the awarding of such damages. In either case the truth will defeat the claim. Now, as to the amendment offered by my colleague from this county, I call attention to the fact that the last clause which he would put at the end of the section absolutely neutralizes the provision as found in the section, giving the jury the right to determine the law and the fact in criminal cases, which is the law everywhere to-day and has been ever since it was adopted in England after the great battle in Westminster hall. In criminal cases, if it should stand without any reference to the other amendment offered by the gentleman from Salt Lake, Mr. Smith, it would provide that the jury might determine the law and the fact as in other cases under the direction of the court. What does that mean? It means nothing. I submit to the gentleman, in either case, except in cases of criminal libel, the jury determine the question of law and fact under the direction of the court. It simply neutralizes itself. What I think the gentleman desires is to give the jury the right to determine the question of law and fact in criminal cases only, without reference to the court at all, except that

the court has the right to declare what it supposes the settled law to be and then the jury can go off and decide that question in accordance with its views, or otherwise.

The question being taken on the substitute of Mr. Goodwin, it was rejected.

Mr. GOODWIN. Mr. Chairman, I move that the section be stricken out entirely. As it is, I think the section is a menace to everyone who publishes a newspaper in this State. I think that it would be so construed by two-thirds of the courts. In all the constitutions I have ever seen the same protection is thrown around civil as criminal cases. I believe that the ordinary judge, with this mandate in the Constitution, would rule that that was the supreme law and that there would be no use of pleading the truth, or anything else in the libel case.

Mr. WELLS. Mr. Chairman, I will say in behalf of the committee that had this matter under consideration, that I don't remember now that there is any constitution, excepting perhaps Wyoming, wherein there is a similar section providing that the civil and criminal prosecutions shall be taken together, as the judge has stated, and this section, just at it stands here, is the same as in New York, California, Michigan, Wisconsin, South Carolina, and Maine, and there are similar provisions in a great many of the states.

Mr. GOODWIN. Mr. Chairman, I wish merely to say one word in explanation. There was a second paragraph in that section. I intend to explain to the committee that under all the circumstances it would come under the head of legislation; but the libel law has been two hundred years or more in getting up to the present state of barbarism, and in this country forty-four constitutions have been made and a good many of them have been remodeled and that particular feature to protect newspaper publishers against blackmailers has been left out. That is the reason I put it in. I care nothing about it personally. I was asked to do it by a great many members of the Press Association of this Territory.

Mr. FARR. Mr. Chairman, I have a motion to suggest or make to strike out all of section 15 after the first two lines.

Mr. VARIAN. Mr. Chairman, do not let us be in a hurry about that. If gentlemen will take the trouble to study the history of the law of libel, they will find that this provision on the criminal prosecutions became engrafted under the law of England, and into the law of the United States after fierce and bitter defense of the liberties of the press. The battle was waged for many months running through years in Westminster hall.

Prior to that time the law of criminal libel was expounded by courts of England in this wise: The jury was left to say whether the matter was published or not, and the courts upon that looked into the alleged libelous matter, and determined for itself and against or for the prisoner, whether it was libelous or not, and thereupon judgment was awarded. Now, the people of England made that fight through their bar, led by a Lord Erskine, and they won it after repeated and unsuccessful attempts so that the criminal law of libel was changed, leaving it to the jury in all cases to determine, not only the question of fact, whether the accused published the libel, but as to whether it was really libelous and whether it was under such circumstances that the man ought to be punished for it. That is the law of the United States to-day. In substance, I believe it is in the constitution of every state. So far as my observation goes at least it is so administered. Why then take it away from the jury? If the gentlemen desire to add further provisions as to civil cases, that can be accomplished by offering an independent amendment without interfering with

this matter, which ought to be left in the organic law. I submit that we do not want to strike that out. We do not want to take that from the jury. We want to leave that just as it is in criminal cases, that the jury shall judge of the law and the fact, and if you want to add to it a proviso, because you are desirous of making it perfectly clear in due caution, that in civil cases the truth may be offered in evidence, why, you can put that in by an addendum.

The question being taken on the amendment proposed by Mr. Farr, the amendment was rejected.

The motion of Mr. Goodwin to strike out all of section 15 was lost.

Mr. KIMBALL (Weber.) Mr. Chairman, I offer this amendment, to add to section 15 the following matter, "and in civil prosecutions for libel the truth may be given in evidence, and if it shall appear to the jury that the matter charged as libelous is true, it shall be a complete defense."

The amendment was rejected.

Section 16 was passed without an amendment.

Section 17 was read as follows:

Section 17. All elections shall be free and equal, and no power, civil or military shall at any time interfere to prevent the free exercise of the right of suffrage. Soldiers in time of war may vote at their post of duty, in or out of the State, under regulations prescribed by law.

Mr. VAN HORNE. Mr. Chairman, I move to strike out in the first line of section 17 at the end of the line the words, "and equal."

The amendment was agreed to.

Section 18 was read as follows:

Section 18. No ex post facto law or law impairing the obligation of contracts shall ever be passed.

Mr. THURMAN. Mr. Chairman, before leaving section 18, it seems to me there is the same reason for inserting "bill of attainder" as ex post facto law and law impairing the obligation of contracts. I move the words, "bill of attainder" be inserted before the words "ex post facto law."

Mr. WELLS. Mr. Chairman, the committee had that under consideration and thought that it was better out. A great many of the latter states have left it out and the committee have never heard of any such thing and deem it unimportant

Mr. ROBERTS. Mr. Chairman, as I understand the object of the Constitution it is not to create facts or customs but is really to declare what the custom is, and to say that because it was never heard that there was any bill of attainder ever passed in this country or State, is no reason why its prohibition should not be fixed when we are making up our Constitution. I don't suppose there has been any ex post facto law passed in this country.

Mr. WELLS. A great many of them.

Mr. ROBERTS. But whether that be true or not, it seems to me that the proper thing for us to do is not so much to slight things that are customary, but to declare what that custom is. Nearly all these provisions in the bill of rights rest upon the customs and declarations of what the real situation is. I do not think that that is a proper reason to give for refusing to insert this bill of attainder, that there has been nothing of that kind known in this country.

The motion was agreed to.

The section as amended was adopted.

Sections 19 and 20 were adopted without amendment.

Section 21 was read as follows:

Section 21. No distinction shall ever be made by law between resident aliens and citizens as to the possession, taxation, enjoyment, or descent of property.

Mr. VARIAN. Mr. Chairman, I move to strike out that section. The reason is this: This question of the right of aliens to hold property within a state is peculiarly one of sovereignty and ought to be left to the Legislature. The law has been occasionally, in modern

times, changed by treaties with foreign governments. It is desirable to keep the law of the United States in that way in accord with the progress made with other nations. To illustrate: Some years ago the federal government made a treaty with France in which the French government agreed that American citizens in France should have the same rights under some few restrictions as its own citizens in regard to the use and enjoyment of property. Reciprocally, the United States agreed during the life of the treaty that the same privileges should be extended to French citizens. But it is not desirable, I submit to the committee, that this matter should be permanently determined in the organic law. If a war should break out between this government and another country, it might be very necessary that all the rights of sovereignty should be exercised, which, in such cases, would include even the confiscation of the enemy's property, or the property of the alien enemy. Of course, that would be an extreme case. The exercise of such extreme power would have to be an exceptional case in the present age of modern civilization. Still, it is reserved and ought to be to every government. You can imagine cases where it would not do at all to have a large portion of your agricultural lands, for instance, on which you rely for the support of your people and your State, owned and in the possession of foreigners. It must be in a situation so that it could be made useful in accordance with the exigencies of the occasion, the necessities of your people; and for that reason, I think the matter ought to be left to the Legislature. Particularly is it true in the absence of the assertion of the right of the government to take from an alien the property which he holds. I speak of real property. He can hold as against anybody else in the absence of a prohibitory law. Of course, Congress has passed one so far as this Territory is concerned, but supposing this Constitution says nothing about it, and the Legislature says nothing about it, an alien can hold. He cannot transmit his property through his ballot; it cannot be transmitted by the descent to his kindred, without the express provision of law authorizing it, but he can hold it and enjoy it. He can hold it for his life; he can hold it until the government comes in, and through its officers, escheats it to the use of the government. Now, why not leave that for the Legislature to act upon? It can ascertain what countries extend the same privileges to the citizens of the United States, and can limit such privileges if it chooses, as seems to have been the course of governmental policy elsewhere, or it can say nothing about it, but whatever it does, it can change it from time to time; but if you put it in the organic law here it will take years to change it.

Mr. WELLS. Mr. Chairman, I would be in favor of striking out the word, "resident" in line two.

The CHAIRMAN. Do you move that as an amendment to the amendment of Mr. Varian?

Mr. WELLS. Yes, sir. The purpose of the committee in inserting this section was that the Territory or the new State is in need of capital. One of the great essentials to the prosperity of this country is the investment of foreign capital, and this is a guarantee to the people who reside abroad that if they will invest in property in Utah no distinction shall be made as to their property, as to its enjoyment, taxation, and descent, from the property of citizens of the State. I am informed that in Salt Lake City now there are a great many foreigners who have invested, as well as in other parts of the Territory. One gentleman, who resides in Liverpool, has as much as three hundred and fifty thousand dollars' worth of property in Salt Lake City. The statement has been made that possibly the new Constitution would make some such

distinction as this, or would make some distinction against the property of foreigners, and this was put in as an invitation for foreigners to invest in the Territory.

The CHAIRMAN. I want to say, gentlemen, that the chair is of the opinion that that amendment would not be in order to a motion on the part of Mr. Varian to strike out the entire section.

Mr. VARIAN. Then, the only motion is to strike out the section as it stands?

The CHAIRMAN. Yes, sir.

Mr. VARIAN. I want to reply for a moment to Mr. Wells, and suggest this, granting all that he says, how can that affect this question that I am speaking of? There may a time come when the State will want to make a distinction between property rights as to the holding of land and the transmission of it by descent between aliens and its citizens. As I understand it the State could not confiscate the property of a man, it could not impair the obligations of his contracts, if he came in here and held property. Why not leave it to the Legislature to determine when and under what circumstances, and for how long they will permit aliens, resident or otherwise, to hold land? I don't care so much about the taxation proposition; I know that they would not tax them any higher than other people anyhow. It would not be permitted, because you have another provision in that Constitution that taxation will be equal and uniform. The court would hold the alien was entitled to the same protection under that section as the citizen.

Mr. JAMES. Mr. Chairman, I can appreciate very readily the motive of the committee in adding this section. So can any man that has been familiar with the mining industry in this Territory in the last few years, since the land act became a law. Gentlemen who are familiar with what has been going on know that states like Idaho—in a short period after the state came into the Union, received from Europe about seven millions of dollars invested in mining enterprises, while the Territory of Utah hardly received that many hundred dollars from foreign countries, and I suppose probably that is one of the reasons why we find that commonly in the new states that have come into the Union. That alien land act has worked, in my judgment, very severely upon the Territory, and to give this out, as it is put forth in this article, I think is surely going to help out and say to the balance of the world that if they may come in here and purchase property, as they did in Idaho and other new states adjoining, and I am in favor of the article as it stands.

Mr. MALONEY. Mr. Chairman, I am in favor of the article as it now stands, because it is copied from the constitution of Wyoming. I don't think it is wise to make a distinction between a resident and non-resident in holding property in the State.

Mr. VARIAN. If the gentlemen will excuse me, I will withdraw the motion.

Mr. THURMAN. I object; I think it is a good motion.

Mr. MALONEY. The section as we have it is copied from Wyoming. I think it ought not to be stricken out. We want to encourage foreign capital to come here.

Mr. THURMAN. Mr. Chairman, I think the motion ought to prevail. If some gentleman from Liverpool has three hundred and fifty thousand dollars in Utah, under what law did he bring it in? He didn't have anything of this kind as a protection. He knew that he had protection without it. Now, this is unquestionably a matter that ought to be left to the Legislature. They will never abuse a trust of that kind. Can you conceive of a Legislature that will want to legislate against the introduction of capital under proper circumstances and at proper times? We have

had no such law before. We have had nothing declaring this inequality, but they have been equal just the same. But there may a contingency arise in this country when this power, or rather this limitation upon the power of the state government, will be exceedingly dangerous. I think that it ought to be wiped out and left entirely to the Legislature. For that reason I am in favor of the motion to strike out.

Mr. WELLS. Mr. Chairman, I desire to state—the gentleman has said that this is the same proposition that is in the state of Wyoming. I will say that it is also in North Dakota, Arkansas, Nebraska, South Dakota, Wisconsin—as many as that and I don't know how many others.

Mr. ANDERSON. Mr. Chairman, I would be in favor of the motion for this reason, that there may come a time when the safety and defense of our government might require that there should be a distinction between aliens and citizens, in regard to holding property, and I think that it can be safely left to the Legislature.

The CHAIRMAN. Gentlemen, the motion of Mr. Varian, of Salt Lake, was to strike out section 21. Mr. Wells moves to amend by striking out the word "resident" in line 2.

Mr. THURMAN. Mr. Chairman, I raise a point of order on that; that is not germane.

The CHAIRMAN. If the point of order is raised, I shall have to sustain it.

The question was taken on the motion of Mr. Varian, and on division there were: ayes, 49, noes, 43.

Section 21 was stricken out.

Section 22 was read as follows:

Section 22. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist in this State.

Mr. WHITNEY. Mr. Chairman, I propose a slight amendment in line 2, that the word "whereof" be stricken out and the words, "of which" be substituted.

Mr. EICHNOR. I think that is the language of the Constitution of the United States.

Mr. WELLS. Exactly.

Mr. EICHNOR. I believe in adhering to the Constitution of the United States when we copy it.

Mr. WHITNEY. It is a hundred years old.

The question being taken on the motion of Mr. Whitney, the amendment was rejected.

Section 23 was read as follows:

Section 23. Private property shall not be taken or damaged for public use without just compensation.

Mr. THURMAN. Mr. Chairman, I move an amendment by adding the words "first made," so that his compensation shall be made before the property is taken. That is in accord with most of the constitutions.

Mr. ROBERTS. Does that mean before the damage is done?

Mr. THURMAN. No; I move to strike out the words "or damaged."

Mr. VARIAN. Mr. Chairman, I call for a division of that—there are two motions.

The CHAIRMAN. The chair will divide the motion so that the question on striking out "or damaged" will first be voted upon.

Mr. THURMAN. Mr. Chairman, I would like to suggest to the gentleman from Salt Lake, Mr. Varian, that my purpose in offering this amendment is to provide for a compensation being made before the property is taken. If the words "or damaged" are put in there that cannot be very well determined. There ought to be a separate section covering the damage of the property.

Mr. VARIAN. Mr. Chairman, I am in accord with the motion of the gentleman to require the compensation to be first made, but it seems to me that

to strike out "or damaged" is a very material matter. I have taken pains to look at it a little to-day in the late works on eminent domain, and I find it is put in other constitutions or statutes to meet the entire case. In some states some courts have held that damage to property of a consequential kind was not necessarily within the meaning of the article of the constitution. For instance, I believe in Pennsylvania—I may have confounded the state—the question arose where an elevated road was erected upon a street and while it did not touch the property of the abutting owner, did not destroy a brick, did not take a foot of his ground, it did affect his use and occupation of his premises very disastrously. It affected the convenience of the inhabitants of a house, and in this particular case, following later, it was held that there was no remedy. There was not the taking of the property. Now, the courts of New York went off in another direction and it is finally settled in that case that such injury as that could be compensated under the law of eminent domain. To make it perfectly clear this word has been put in laws and constitutions, and the text-writers say that it is an equivalent for any kind of injury of that kind.

Mr. THURMAN. Mr. Chairman, I agree that the compensation ought to to be made, but the trouble would be to make it first in the case of a consequential damage.

Mr. FARR. I do not see why. Take a case like that. It could be estimated. There could be no subsequent change; there is the railroad; there is the house; there are the windows; there is the deprivation of light and air; there are all the necessary inconveniences of noise and soot and cinders, and disturbing the peace and rest of the family. That can be compensated for just as well in the beginning as it can after the lapse of ten years, because the means of arriving at the estimate are within the knowledge of men and can be adduced before a jury. I do not care how the gentleman does it. I do not wish to be technical about it; I would like to see those words, "or damaged," kept in some way.

I hope those words, "or damaged," will remain in that section. I do not wish to argue the point, but I can see in a great many instances where it would be very important. For instance, on a sidewalk, a person owning land; they dig down a bank ten or fifteen feet, and damage that lot to a great extent. I think the man should be remunerated for the damage done to his lot. I move that those words remain in that section if they possibly can remain there.

Mr. THURMAN. Mr. Chairman, my objection to the words "or damaged" is the utter impracticability of providing for compensation before the damage is done. Now, I will cite an instance familar to a great many. A few years ago people in Salt Lake County placed some boards in a dam here at the point of the mountain; they had a right to do that if they did not damage anybody and I don't suppose they thought they would damage anybody, at the same time they did it; but the result was that a great many people in Utah County were damaged, after the act which caused the damage. Now, in a case of that kind how would compensation be made before the act was done which caused the damage? Damage is not always—in fact is not often contemplated or expected. It comes unlooked for as the consequence of an act which the party performs. Consequently it seems to me that as to taking property by the law of eminent domain they should have the right to take it when they pay for it, if the necessity for taking it exists. As regards damaging it, why, it ought to be paid for as soon as the damage can be ascertained. It seems to me that this is the only way that it can be done.

Mr. EICHNOR. Mr. Chairman, if I

understand the gentleman correctly, from Utah County, he would be in favor of striking out the words, "or damaged." Gentlemen, I hope this amendment will prevail. Just for the very reason that the gentleman from Weber County said it should be in the Constitution. Take a city like Salt Lake, where grading is required, or any other city where grading is required, and you will bankrupt those cities if you place this in the Constitution. Every man that owns property in the street—the street will be graded and one or two or three people will claim damages and the result will be it will bring the municipalities into court.

Mr. VARIAN. Would not the compensation benefit always allowed in a case of that kind more than equalize the damage?

Mr. EICHNOR. The law is unsettled at present in regard to the grading of streets whether they can secure damages; it would simply bankrupt Salt Lake City, I tell you that, gentlemen, if you place this in the Constitution.

Mr. PIERCE. Mr. Chairman, I am in favor of retaining the words "or damaged." I recollect a spectacle a few years ago of grading in Salt Lake City. There was a certain street—I believe it was State street—the grade had been established for some years, and the city came in and established a different grade and built the street up some ten feet higher than property abutting on it. There is a spectacle where they could not get any damages for it, and the street as it was built absolutely destroyed the value of their property and they could not get a cent for that. I say that it ought to be fixed so that the city must adjust the grade for the accommodation of people that own property along a certain street and that is the reason that I am anxious that the words "or damaged" should be left in. And in speaking to the remarks Mr. Varian made, I desire to read a line or two from Lewis in his work upon Eminent Domain:

"When the people of Illinois revised their constitution in 1870, they introduced an important change into the provision respecting the power of eminent domain. The provision reads as follows: 'Private property shall not be taken or damaged for public use without just compensation.' Every other state which has revised its constitution since 1870, except North Carolina, which never had any provision on the subject, has followed the example set by Illinois by adding the word 'damaged' or its equivalent to the provision in question."

And the question not only refers to street grades in cities, but refers to grades of railway property. For instance, it is unfair that a railroad should run right next to a man's front door or almost next to his front door, and that his property should be destroyed or half the value taken away without making some compensation for that property which is really not reached, as no part of the property is taken; that is, the part of the property that is damaged; and I say I am in favor of being liberal in eminent domain act, but whenever we grant this liberty to corporations in any way—public or private corporations, we should make them pay for whatever they take, and I believe the words "or damaged" should remain in the Constitution.

Mr. RICHARDS. Mr. Chairman, I am opposed to the motion to strike out the words "or damaged." I believe, as has been said already in this discussion, that when the public use a man's property or make an improvement that virtually destroys the use of that property, that they should pay for it as much as if the property itself were taken. Of course, as has been suggested by the gentleman from Salt Lake, whatever benefit results by reason of this improvement is set off against the damage that is caused, and in that way the public gets absolute justice in relation to the matter, but to say that a public corporation should be permitted by the

raising of a grade or by the lowering of a grade or by any other kind of improvement to injure private property and because they don't actually enter upon and take the property itself, although they do destroy the use of the property, that they should be liable for damage; I think it is unjust and unfair and I am therefore opposed to this motion.

Mr. RALEIGH. Mr. Chairman, I propose a slight amendment, "Private property shall not be taken for public use or damage without just compensation first be made." Simply a reconstruction of the section, that is all.

The CHAIRMAN. The chair rules that that would be a proper question on revision and compilation.

Mr. THURMAN. Mr. Chairman, I will withdraw the motion to amend as far as "or damaged" is concerned if it is not objected to.

Mr. PIERCE. Mr. Chairman, I don't think that 'first made" should be put in there. If I recollect the statute correctly now, whenever a corporation is permitted to enjoy the benefits of the eminent domain act and desires to take property at all, before they can do it they have to apply to the court, and it is within the discretion of the court to fix a bond and require good sureties before that property is taken, and I believe it should be left to the Legislature as to how it shall be taken. This is simply a declaration of principles that it shall not be taken. The Legislature can require any corporation either private or public, to put up a bond before they take anybody's property or damage it, without any constitutional provision.

Mr. CREER. Mr. Chairman, I am in favor of the motion of the gentleman from Utah, that the amendment shall be added to the section for the reason that notwithstanding the gentleman from Salt Lake says compensation may be secured, yet we know of cases—there are many in the Territory where property has been taken and the party dispossessed and that the property be litigated for for considerable length of time and the party kept out of possession, notwithstanding there may be a bond there, and at the same time probably he would have to sue upon the bond afterwards. I think it is a very strong proposition anyway to give the public a right to dispossess a private person of his property summarily and it seems to me he ought to be compensated before that is done, because he may be put to a great inconvenience and loss of time. He may have to sue even upon the bond after he should vindicate his rights in the court. Therefore, I am in favor that if that should be required, he should be first compensated before his property is taken.

Mr. GOODWIN. Mr. Chairman, I do not believe the committee can pass such an amendment. Emergencies may arise when it would be simply impossible to carry it out. What there ought to be is a law (and that belongs to the Legislature) to compel fair treatment both ways. It is true that railroad companies have had the right of way, and they own and have owned for thirty years where they have gone through. It is just as true that if you try to build a railroad through some back street in Provo, or up to some mining camp, you would find yourself confronted with the most ridiculous property values you ever heard of, and every man in that town that you would get as an appraiser would raise the price. It is all right as it is; let the Legislature fix it sometime within a year that the property shall be paid for and that the party taking the property shall give ample bonds. In this bill of rights it is simply foolish to put something that cannot be executed, because emergencies would arise in the mines, in the cities, and in the fields, where there are floods that would make it impossible. Sometimes the thing is to be acted upon in a moment, and there will

be no one to pay in advance, or to estimate in advance what the damages shall be.

Mr. VAN HORNE. Mr. Chairman, I want to call the attention of this committee to the fact that there are other cases in which it would be impossible to make the payment before the work was done, which would be held to be damaged. Take the instance that has been brought up by grading of a street. We all know by experience that many a time men at the time the street was driven through and the grade is changed think their property is injured and injured very severely. But upon further consideration, and seeing the benefits of the work that had been done for the public they find that where they would have considered themselves greatly damaged in the first instance their property, in the eyes of every real estate man, has actually been improved and increased in value. Now, if the damages have to be paid before the property was taken or damaged,do you suppose that any one would come to the conclusion, no matter how much others did, that he had been robbed in receiving the damage that he thought he had sustained at the time and was ready to pay it back to the public?

Another instance, we will take the case of a railway which in some manner, rightfully or wrongfully, has acquired its right of way, and we will say a hundred feet on each side of the railroad track, or two hundred feet wide in all, or a hundred feet wide; another railway wants to cut across the line and they know they are going to be a competing line, how long do you suppose it will take the railway in possession to come to the conclusion that they are not going to let those people go through on a decent rate of damages? They will hold them there until the charter of the other railroad expires if it was possible to do it. And where you make a law of this kind and say that the damage must be paid first, how are you going to estimate your damage? They say, "we will be damaged ten thousand or ten hundred thousand dollars by you crossing our tracks." The law provides for it now, it says, "you can proceed with your condemnation proceedings by giving a bond to answer in damages." What is the trouble with that? Why not have it? Are we going to have only the railroads that we have here now or are we going to have others that will cross the tracks of this, that, or the other corporation? The same thing will come—suppose a railroad was going to a mining camp and there was a narrow canyon and some fellow had a claim and one corner of it lapped over the proposed course of that railroad; his claim is benefitted by the railway, that strip of land with no mineral on it would be worth for that occasion ten times the value of the mineral part of the claim, and he would assess his damages to the railroad company at such a figure that if they paid many such claims as that, it would cost them double the amount to build the railroad. Now, is not the citizens protected by the fact that our laws would say that the bonds must be filed to secure the damage, then the work can proceed, so that there will not be this unnecessary delay? Would not the public be benefitted by forcing a railroad company upon bonds being given, to let another railroad company cross their track? Are not we looking for the development of this country and not to say that those who are in possession of surface ground of one kind or another shall say to the world, "Oh, you cannot cross our ground without paying us what we estimate it is worth, no matter what the development is that is done; we do not want the land; we say we do for this occasion. We are not using it, but you cannot use it; we will sit here as guardians of the right of way, and this, that, or the other thing, and say you must

not come until you pay us just what we see fit?" Gentlemen, such an act as that, in my opinion, would be putting into the hands of men who wanted to act as obstructionists, the power to act as highwaymen to every enterprise that came along, and say, "throw up your hands and give all your money to me."

The Hon. John Clark was admitted to the floor, at the request of Mr. James.

Mr. BOYER. Mr. Chairman, I hope the motion to amend will not prevail for the reason that I have a case in my mind now. Some two or three years ago a certain railroad company building a railway to Springville, having right of way, and they had fairly and justly compensated the parties for properties that they had used for their road. Subsequent to the building of the track and the running of the line it appears as though the erection of the grade had caused also some swamp lands to arise to a very great damage to the party that was interested there. It was a subsequent damage to that that could not possibly have been thought to have been asked for at the time of the construction of the road; hence I think, as it has been stated by a number of persons here, that to collect a consequential damage would really be inconsistent, and as I construe this section as it reads "private property shall not be taken or damaged for public use, without just compensation," that it conveys to the party owning the property the idea that he holds and has an inherited right in his property, and when just compensation is made therefor, he is entitled then to convey a title to the property. And furthermore, in answer to the gentleman on my right in relation to a railway holding another railway company off, the construction I place upon this argument is this, that if one railway company be a private corporation, owning private property, all other railway companies of necessity must be private corporations, and consequently in relation to railway companies may not fully apply here; or private property taken for public use does not really and necessarily mean that a man's private property taken for railway purposes is converted to a public use, but it is converted to a private corporation and the private corporation eventually uses the road for public purposes; and hence, I believe that the right in private property is covered and provided in the section following, 24. I believe it is there fully covered and that section 23 guarantees all the rights of the individual that are necessary. And if I understand what constitutes the conversion of property to public use, the public is always good for the damages that may accrue against the private individual.

Mr. THURMAN. Let me ask you a question.

Mr. BOYER. Yes, sir.

Mr. THURMAN. Please tell me under what provision of the next section you place a railway company. If it does not come under the head of public use, where does it come?

Mr. BOYER. I would say this, that I have to place it in just the same position that I would a man that would own one acre of land—a railway running through and across that ground, that is given to a railway company, I would hold to be a private corporation, and as such they would be entitled to compensate the individual for the damages they would do the property they would take and also be liable for any subsequent damage that might be done.

Mr. Howard offered the following substitute for section 23:

Private property shall not be taken for public use without just compensation first made, and no private property shall be damaged for public use without just compensation to be determined by a competent tribunal.

Mr. RICHARDS. Mr. Chairman, I am opposed to the substitute, and I am op-

posed to the amendments, because as has been shown here already in this discussion, it is very apparent that emergencies may arise when it will be impossible to determine the amount of damage or the value of the property taken before the property would have to be used. Not only that, but if this section applies to railroad corporations, as I am inclined to think it does, then I am opposed to the amendment for this reason, that it would prevent the construction of railroads and the making of other improvements—that is, other improvements that would be for public use. It is true that private property taken for a railroad would be taken by a private corporation, but it would be taken for a public use because the public use the railroad. Now, I am not in favor of any railroad corporation, or of any corporation, public or private, taking any private property that it does not pay for. I want that distinctly understood; but I do say that when provision is made by the giving of bonds for the payment of the value of the property taken, or of the damage that may be sustained to the property by reason of the use that it may be put to, then the party owning the property is safely protected and the public improvement can go on, whether it be taken by a public corporation or whether it be by a private corporation. For example, a railway company desires to construct a railroad and they are met by the exorbitant demands of perhaps one or two or three, or a dozen persons owning land on the line of their road. These people say "we absolutely refuse to make any terms with you," or they put their price so high that the railroad company feel they cannot pay it and ought not to pay it. Perhaps several times as much as the property is worth; perhaps they do not want the railroad there at any price. What is the result? Proceedings for condemnation would have to be taken, and according to the experience of the courts, as we have had them here for years past, one or two years would be consumed in determining the value of that property, and the compensation to which the owner was entitled, before the railway could be constructed. Railroads would not be built under those circumstances, and railway companies do not project railways this year in the expectation that they will construct them two or three years hence. By the time they had acquired the title to their property and the right to pass over it, the exigency, or the desire, or the necessity for the railway may no longer exist. It may not be desirable and the road might never be constructed.

I say that under the present law, they have all the protection that is necessary. Just such a law as we may presume that the Legislature would pass in the new State, and that is when any company—a private corporation or a public corporation—would enter upon the property of another person, or of a company or a corporation, that they should give a good and sufficient bond to be responsible for the damage that may be awarded and then they can go on and construct their improvement, and as soon as the courts can determine the question, the party gets his pay.

Mr. VARIAN. Will the gentleman answer a question?

Mr. RICHARDS. I will try to if the gentleman will ask it.

Mr. VARIAN. I just want to know if it is your idea that the railway company should take the man's farm whether he is willing or not, and then litigate it or not?

Mr. RICHARDS. It is my idea that if a railroad is projected through my farm and I refuse to make reasonable terms with the railway company, that the company may enter upon that ground and by giving a proper bond they may take possession of it, and when the value of that property is determined and the damages I have sustained—they are to pay it. That is my idea of

it exactly, and I say that if I don't adopt this method—if you adopt the other method, then you put a block in the way of progress and of development in this country, and in this new State, that the people of the State do not want to have there; that is what I say. I instanced it in the very example I have stated. I can point to cases now that are pending in the district court in this district that have been pending there over a year—just such cases as I am speaking of where companies have entered upon the property of people, who refused to enter into negotiations with them or to agree with them on a fair compensation for that property; they entered upon it and gave their bonds, and from that day to this the court has not reached that case and they haven't been able to litigate it. Now, would you say that railroad should not have been constructed—that that public improvement, whatever it might be, ought not to be made. Why, if you say that, you will not have railroads, and many other public improvements will not be made, for the reason, as I have stated, that when men enter into these undertakings that involve the expenditure of large amounts of capital, they do it because the time is ripe when they enter upon the enterprise for the accomplishment of it, and if they cannot accomplish it within a reasonable time, if they have got to wait two or three years before they can commence the construction of the road, they are not going to build a railroad, they are not going to project it. For that reason, I say I am opposed to it and I say that the individual has ample protection, when the owner of the property and the company that desires to take it cannot agree upon its value and upon the damage that will be incurred, and a sufficient bond is put up, as soon as the matter is determined he gets his money.

Mr. JAMES. Mr. Chairman, I hope the gentlemen will be a little patient. I don't believe there is a question to come up before this Convention that will be of greater importance to it than the one that is being discussed right now. I am heartily in accord, Mr. Chairman, with the remarks of the gentleman who has just been on the floor, Mr. Richards; I don't believe we can afford in this Convention to take that matter out of the hands of the Legislature. I am in favor of the Legislature meeting and arranging how this shall be done. I say that we can afford to be as liberal as the great state of Illinois. There is a state that is almost one solid garden. It is said that there is not one point in the state of Illinois that is ten miles from a railroad. Now, what do they do? They leave it to the Legislature, and as it has been read on this floor already during this debate, they simply say that damages and compensation shall be allowed by a jury or fixed by the state. They leave it to the Legislature. Now, why cannot we be as liberal as they are? Mr. Chairman, I can tell you why we cannot be more liberal than they are, for the very reason that the lands that our railroads are built over into this great vast desert country are far less valuable than they are in the state of Illinois.

This is a country of the most difficult kind to build railroads and maintain them in. We have long hauls, and the most heavy grades that are to be found anywhere in the world, and in order to build railroads we must give them an opportunity and a fair show. Now, the gentlemen that are familiar with the construction of railroads through these canyons and these mountains all know what the builder of a railroad has to contend with. I have seen it myself, within twenty-five miles of this town. I have seen a railroad blockaded for three months and our men behind their breastworks to prevent that railroad from passing over a little piece of land that was not worth one cent, and is not worth to-day one cent, only for to lay that roadbed upon,

and the work that existed there at the time when these gentlemen took possession of this land was nothing more than some holes dug into some copper-stained rock by some gentleman that had thought previous to that that there might be some mineral found there, and when this man found the survey was being made and the road must come over that point, he rushed out and locates and takes possession, and what did he do? He blocked the Bingham canyon railroad for two months and two men were shot over it. Now, why not allow this matter to be put in some shape so that these difficulties can be adjusted without compelling the land to be paid for, or the damages to be assessed and paid for before that railroad is built? I want to call the attention of the gentlemen of this Convention to a point that they may not stop to think of. You take the state of Montana, the state of Wyoming, the state of Idaho, and the territories of Utah and Arizona, and the state of Colorado, and the state of Nevada, and the territory of New Mexico, and it represents an area in extent equal to a country east of the Mississippi river, or say east of the Missouri river, that contains pretty nearly thirty-seven millions of population. What is the population of these states of this inter-mountain country that I have just named to you? Less than eleven hundred thousand. Now, in that sparsely settled community with interests in common with each other, where railroads must extend in order to make them valuable, are you going to put an obstruction in the way of building those roads? You will, my friends, if you adopt the proposition that the lands must be paid for and damages assessed and paid for before the railroad can move, or, as Mr. Richards says, you will find instances where they will remain in the courts maybe for two years and prevent an enterprise being carried out which will be of great advantage and great value to the community in which that railroad is constructed. And I hope that the original proposition will prevail. I hope this Convention will leave our legislators to regulate that matter so that we can go ahead with our enterprises, with any railroads, with any factories, with any ditches, and all such things. And if we do not have them, we cannot be a prosperous and happy people. And, Mr. Chairman, the industrial system of a nation or a state is a more delicate thing than is often thought. We have an object lesson before us in the last few years, when the country was all in prosperity and everything was moving and nobody could realize——

Mr. PETERS. Mr. Chairman, I arise to a point of order; I submit the gentleman has left the main question and is not talking about rights of way.

The CHAIRMAN. The chair thinks the gentleman is in order.

Mr. JAMES. With this condition of things, before we knew it, we were in one of the hardest and most panicky conditions that a country ever saw, and I simply mention this, Mr. Chairman, to call the attention of this Convention to the importance of being careful how they deal with our industrial institutions in our new State.

Mr. EVANS (Utah). Mr. Chairman, I must confess that in listening to the oratory displayed by gentlemen of this committee upon my right and upon my left, I can hardly tell what some of them are in favor of. They think in their remarks it ought to be left to the Legislature. They presume to say they believe such a law ought to be enacted, while others believe it ought not to be. One of the gentlemen from Salt Lake, speaking upon this question, has reminded us very fortunately that many of these cases are taken into court and they are litigated for two or three years. I want to say to you, sir, that that is one of the reasons why I am in

favor of this amendment—for the reason that if it should be in litigation for two or three years, the individual whose property would have been damaged would have been taken and diverted for uses other than his own, has to remain out of the use of his money. I am opposed to that system. But, if the corporation that is seeking to take the property of the individual shall be told "thus far and no farther," you will find that there won't be a single case that will be in litigation for six months, but those corporations will proceed, as they will have the right to do, and they will force that question to an issue, when perhaps the power of an individual will be unable to accomplish that. If they should come against one of that class, he has assumed to say he had refused to make a just compensation, I take it, sir, that in that language he desires to say that railroads offer compensations that are just in every instance, and because men refuse to take them they are not just. Upon the other hand, my opinion goes in favor of the individual. I believe in nine cases out of ten that the individual whose property is to be taken for these uses is willing to make a sacrifice rather than to demand what is just, and I am in favor of this prevailing. I want to say to you that the Legislature have not done that in the past, and so far as I am concerned I am ready to cast my vote to place that restriction and say that they must do it in the future.

Mr. EICHNOR. Mr. Chairman, I am in favor of striking out the words "or damaged." I gave my reasons particularly for it, but the committee thought differently. I am opposed to the amend ment for several reasons; but the main reason I am opposed to the amendment is this: The Constitution of the United States says, "Nor shall private property be taken for public use, without just compensation." That is the law of the United States. Now, why not have the same law in this State?

Mr. VARIAN. Will the gentleman permit me to answer him—because that was made a hundred years ago and it is found necessary by experience to change it.

Mr. EICHNOR. The amendment was not made a hundred years ago. Now, I am opposed to tacking on this proposition that compensation shall be first made, and I hope this committee will vote it down. I tell you, gentlemen, frankly, that if we sit here, day after day, and commence to improve on the Constitution, that the people, when they receive this Constitution, will vote it down.

Mr. HOWARD. Mr. Chairman, I am in favor of the language quoted by Mr. Eichnor from the Constitution of the United States, and I believe that language is incorporated in that substitute. I am also in favor of the last provision which reads, "And private property shall not be damaged for public use without just compensation, to be determined by a proper tribunal." Now, that does not mean the damage must be paid for before it is done. It means that after the damage is done that a proper tribunal will take hold of it and assess the damage, and the party who did the damage shall pay for it. The first means that no property shall be taken until it is paid for. The other means that the damage shall be paid for after the damage has been done, and after the damage has been properly assessed. I believe the substitute will cover the ground of the objections made, and I think it ought to carry.

Mr. SNOW. Mr. Chairman, it is not often that laymen have interjected their opinions into the discussions that have taken place over the bill of rights, and I think the great majority of us would have been content to let the lawyers discuss these matters, inasmuch as they mostly pertain to law, but this is a question that vitally affects all the people. If corporations can be allowed to take private property for public use,

even if they say they shall have just compensation, without some manner to be indicated how that compensation shall be arrived at, I think that the rights of the individual will be infringed upon as the experience of the past has shown that they have been infringed upon. I am in favor of the amendment of the substitute. I should have liked to have seen it drawn a little farther and provide how the farmer whose right is taken from him should be compensated. I find that in California, Colorado and other states, that in their constitutions they have provided that the amount shall be paid into court for the owner before the right of way shall be appropriated. They have also provided, in some states, for a jury or a number of commissioners to decide what the damage or the compensation shall be before ever the right of way accrues. I think that that is just. It is humane, and I don't think any law ought to compel the farmer or the citizen to litigate for his natural, inalienable and indefeasible rights, and I think a right of property is just as useful, just as good, and just as near to the individual in many cases as life itself, for life is dependent upon those rights of property. I am in favor of the amendment or the substitute; I don't care which prevails, as I believe either will arrive at the point that we wish to see obtained.

Mr. CUNNINGHAM. Mr. Chairman, I am surprised at many gentlemen here in their remarks that they have made. We must have a very wicked people—people that own little pieces of land where the railway companies go through—and very holy, just, and righteous railway corporations. It must be all in favor of the corporation and nothing in favor of the people. Now, I believe people have rights, and we are here to protect the rights of the majority of the people and all the people, and I believe, as one of the gentlemen has said—although I believe on the other side, that if we want this Constitution voted for we must protect the rights of the masses, even if it does not suit the righteous corporations.

Mr. MURDOCK (Wasatch). Inasmuch as this discussion has got down to the laymen, I feel that I ought to say a word or two, inasmuch as I disagree with the gentlemen that have spoken upon the question. As it has been stated by our legal men, the laws of Utah make provisions for damage to parties who are injured by railroads and by other corporations passing over their lands. I think we can safely trust this to the Legislature to protect the man, to protect private individuals from corporations trespassing upon them, but I think that if this substitute of the amendment prevails it will place an obstruction in the way not only of railroads, but of enterprises like irrigation companies. In my short experience, had this law been the law without any other legislation, it certainly would have stopped several irrigation companies from building their canals for three or four years, long enough to have prohibited the owners of the land from raising enough grain to have paid the expenses of building those canals. Now, I am opposed to the substitute and to the amendment, and I trust that this committee will vote them down, and that we will leave it in the hands of the Legislature of this future State to make such laws that shall be necessary for the protection of property owners.

Calls for the question.

Mr. THURMAN. Mr. Chairman, I don't know whether this committee desires to hear me or not. I made this motion and have not had a single chance to speak to it. I made it in good faith. I believe that the right of property is a sacred right, and no matter if it is the widow's mite, I believe that the man who owns just one little ewe lamb has just as much right to that as the man has to his cattle that

graze on a thousand hills; having a sacred and absolute right to his property, having paid for it and the company owner; it may be his home—it may be all he has and the proposition here now advanced is that a railroad company may come along and stake out this lot and tell him to get off and await the slow process of the law in litigation; and we know what it is when you come to litigation with the railroad company; they just simply have the advantage at every turn. They have their attorneys paid by the year; they have money to bring forward all the witnesses they want, and to secure every advantage that the law possibly gives. And if delay is of any benefit to them in that case they insist on the delay and they get it. In the meantime, the man is deprived of his property, his home is taken away from him, and because his home is only a matter of three or four hundred dollars—it did not amount to much anyway as the gentleman from Salt Lake in front of me here intimated, very much in the language of a corporation attorney—it was not worth anything anyway—land that was not worth a cent. Now, the facts are, gentlemen, that this proposition will not retard the development of the country. It will not retard the progress of the country, but as suggested by one of the gentlemen on this floor if railroad companies understood that they must determine this compensation in advance, they will see to it that instead of ceaseless and endless litigation, they will be anxious to bring their cases to the front, if it comes to a case, and have them disposed of, and if a man does ask them what they may think is a little bit extraordinary in its terms, had not they better, in view of the fact that they had this extraordinary right to take away a man's property, without his consent—had not they better pay a paltry sum even in excess of the value and go on with their work, than to have the poor man kept without the use of his property and sitting by and seeing another man reveling in the possession of it, while he has not anything in return for it? Now, Mr. Chairman, I am about as much surprised as my colleague from Utah County to hear men talking just as if this provision of the law which stands to-day in two-thirds of the modern constitutions in the United States was an innovation here. As if the progress of the whole country was going to be stopped, because we want to get into the Constitution a provision which says that before a person using the power of the State can take from a man the property that belongs to him he must first pay for it. I say there are two-thirds of them. I will not take the time to read the clauses in the various constitutions, but nearly all the modern constitutions provide that this payment must be made in advance; and I believe the constitution in the state of Washington has been referred to more than any constitution in the United States—has been referred to more by members on this floor than any other constitution, and I am going to read that paragraph as it will only take a moment:

> Private property shall not be taken for public use, except for private ways of necessity, and for drains, flumes, or ditches, on or across the lands of others for agricultural, domestic, or sanitary purposes. No private property shall be taken or damaged for public or private use without just compensation having been first made or paid into court for the owner, and no right of way shall be appropriated to the use of any corporation other than municipal, until full compensation therefor be first made in money or ascertained and paid paid into court for the owner.

Now, I ask what could be more just than that? That is all that is demanded in this, and gentlemen, it does seem to me for the protection of the individual as against corporations we ought to vote for this amendment.

Mr. JAMES. Mr. Chairman, I rise to

a question of personal privilege." I have been misquoted on this floor and I want to correct it. Mr. Thurman gave the idea that I had stated that a man's home was worth nothing, etc. If I said anything of the kind, I did not mean it. I cannot believe that I said anything of the kind. Mr. Thurman knows very well that when I spoke about a worthless piece of land, I was speaking about undeveloped, unimproved land in these canyons, and he knows very well that I meant this——

Mr. THURMAN. I object to the gentleman making an argument under cloak of personal privilege; he can not do that.

The CHAIRMAN. Under the rule the gentleman has a right to speak as many times as he pleases and as long as he pleases.

Mr. JAMES. That is the very reason why I inferred that this matter should be left to the Legislature, because we have these different kinds of land, and these different conditions of things existing here so that provision should be made without hardship to the railroad or without hardship to the settlers and the inhabitants.

Mr. BUYS. Mr. Chairman, if the amendment of the gentleman from Utah includes, as he indicated, the payment in advance for the lands, I am in favor of it. I am in favor of provision being made where property is taken for public use that the money shall be paid to the owner or to be paid into court for his use. If the amendment by the gentleman from Utah would secure this, I would vote for it, but as it is, I hardly think that it would.

Mr. THURMAN. The substitute does; for the information of the committee I will say that I expected the substitute to be in lieu of the amendment that I proposed.

The secretary read the substitute proposed.

Mr. BUYS. That is all right. I will accept that and I think it is just right.

Mr. RICHARDS. Mr. Chairman, I desire to call attention to the fact that that amendment does not meet the objection that has been made. It does not provide that the money may be paid into court in case of taking property. As I understand it, it is an absolute requirement that compensation must be made before the property is taken, but in case of damage, then the money may be paid into court. Now, I say that if this amendment prevails at all, there ought to be a provision that the money may be paid into court in every case. In other words, that the property may be taken by paying a compensation to the owner or paying the money into court, and that is not this amendment.

Mr. VARIAN. It seems to me so.

Mr. RICHARDS. Not necessarily.

The CHAIRMAN. The amendment first offered by Mr. Thurman is withdrawn from consideration and the only question before the committee is the substitute just read.

Mr. RICHARDS. Mr. Chairman, I offer as an amendment to the substitute the insertion of these words, "or paid into court for the owner," after the words "first made."

Mr. THOMPSON. I will second the amendment.

Mr. EVANS (Utah). Mr. Chairman, I am opposed to that amendment for the very reason that it places the matter in the very same condition that it was before. The corporation can pay money into court. They can go to work and plow up the man's land, tear down his house, turn him upon the street, and wait along three years before it is determined whether they are to have that money or not. That is the reason I am opposed to it.

The amendment of Mr. Richards to the substitute was rejected.

The substitute was adopted.

Mr. VAN HORNE. Mr. Chairman, I call attention to the fact that the Con-

vention resolved itself into committee of the whole until 5 o'clock.

The CHAIRMAN. The gentleman is mistaken; as the chair understands it, the motion to fix a definite time was changed.

Mr. VAN HORNE. Mr. Chairman, before going any further I want to move an amendment to section 23, to insert at the end of the section as amended, a declaration of public use. I move to insert at the end of the section the following:

Public use shall include dump, mill, and tunnel sites upon and easements over and across the lands of others for tunnels, roads, tramways, reservoirs, waterways, water supplies, and drains, for agriculture, mining, milling, municipal, domestic and sanitary purposes; and such other public uses as the Legislature may declare.

The amendment was rejected.

Section 24 was read as follows:

Section 24. Private property shall not be taken for private use unless by consent of the owner, except for private ways of necessity, and for reservoirs, drains, flumes, or ditches, on or across the lands of others, for agriculture, mining, milling, domestic or sanitary purposes, and in no case shall such property be taken without due compensation.

Mr. VARIAN. Mr. Chairman, I move to strike out the entire section.

Mr. VAN HORNE. Mr. Chairman. I was going to move as an amendment to that that the amendment I propose be inserted in place of the section.

Mr. KIMBALL (Weber). I second that.

Mr. VARIAN. That presents substantially the same question that was presented on his motion to strike out. Now, it will be observed that this section contemplates the taking of private property for private use. There is no question here of a public use. Of course the proviso in the second line of the section amounts to nothing. Of course private property can be taken for private use by consent of the owner; that simply amounts to the right of contract, which we have anyhow. But, the objectionable feature of this is in the exception "except for private ways of necessity," etc. That is very far-reaching, Mr. Chairman. That simply amounts to this, that if I have a lot or a farm, and my neighbor deems that it is necessary for him to have a private way across it without reference now to the public use, without reference to whether it is necessary for the convenience and benefit of the public, which comes in under the other section prior to this, he is entitled to go into court, if I don't choose to allow him to go upon my land, and proceed to condemn it, because it is in the organic law, and I am compelled to surrender my right; not for the benefit of the public, not for the good of the community as a whole, but for the benefit of my neighbor, and I would like to know why he stands in any better position than I do in that particular. If there is anybody to be inconvenienced it should be the one who had not the vested right of property: I have it, it is mine, it belongs to me, it is vested in me, it is protected, not only in the Constitution in other sections, but by the general law underlying all constitutions. The right of eminent domain is founded upon necessity. It has never been and ought never to be accorded in anywise to any individual; it is only accorded in the name of the State upon the fears and assumption that the good of the entire community is the supreme law, and the rights of individuals must yield in order that the rights of the whole may be benefitted. That principle does not apply here. You are opening a wedge, you are invading the rights of the private citizen in these particulars named. Where are you going to stop? Under this section, gentlemen of the committee, I can go upon your land if it adjoins mine, I can make use of it for domestic purposes; I can build an outhouse or a kitchen there, I can put a cesspool upon

it, upon my showing to the court or the jury that it is necessary for the convenience of myself. Do you want that? Whoever drafted this has interpolated a provision as to mining in order to cloud it a little. There is no question now in this country about mining being a public use. It is so recognized in all the mining states and territories. The legislatures declare it so, courts have upheld it. This matter of a public use ought to be maintained just as it was entitled or just as it means,—a use for the public. If it be necessary to develop the mines to get a right of way on another man's lands, to secure a dumping ground, as the law now stands, as it has been construed in all these mining states and territories, by the legislatures and the courts, it is deemed to be a public use. I lay no stress upon that word "mining" there, because it would be included in section 23 if the Legislature so declared it. Agriculture ought not to be deemed a public use; it is not a public use in the sense of the law of eminent domain. One farm is as good as another. The farm of forty acres is just as good and sacred in the eye of the law, and ought to be, as the farm of three thousand acres, whether it be used as a range or for wheat growing or grain raising. Underlying it all is the fact that it is an innovation, invading the vested right, that ought not to be lost sight of here. As the law now stands, private ways of necessity as indicated by the courts in certain classes of cases, are given; that is to say, if you sell a man a piece of your land and the situation of the land that you sell is such to the land which you retain that it is necessary for that vendee to cross your land to get out, the implication of law is, and it is so held—it is the law of real property, that you have conveyed to him the right to go out over your land; but if he goes and buys somebody else's land adjoining you, settles himself down there to build up a home or a farm, he takes it as he finds it and he is not authorized to cut your farm up with a water ditch because he needs to get water on his land, nor to cut your farm up with a private way, because it is more convenient for him to cross it, and it should not be so, because you simply transfer a right from one to the other, and so far as the State is concerned, it is a difference between the two individuals. He must take the situation as he finds it. I can imagine cases under this law where a man's farm can be cut in two with a big water ditch and every time he runs his plow or his harrow or reaper up there, he would have to stop and turn around or get a bridge and jump his horses across. It is not right. The same application can be made of it in cities and towns. Going back to the first proposition, though, the main and the serious objection to it is that it is an interference with vested rights and you had better leave the disposition of property rights, except where the State is interested and concerned, to the subject of contract between the citizens of the State.

Mr. PIERCE. Mr. Chairman, I would like to ask Mr. Varian a question before I make any remarks. Mr. Varian, do you maintain that the right to build irrigating ditches is a public use?

Mr. VARIAN. No, it has not been so declared here.

Mr. PIERCE. Is the right to build reservoirs——

Mr. VARIAN. Let me qualify that and answer the full question. If the system of irrigation shall assume such proportions here as to necessitate a thing of that kind and the Legislature should declare it, I doubt not that it would be held as it was in the case of mining, after some difference of opinion among judges, that because of the situation of the community and because of the prominence of that particular branch of industry in the community, it had become on the line of the building of the railroads and other great public enterprises and public uses.

Mr. PIERCE. Mr. Chairman, I want to make a few remarks upon this proposition. I agree in some points with the remarks of the gentleman from Salt Lake County, that this section as it stands invades the rights of private property and I think we should well consider the amendment made by Mr. Van Horne. The voting down of the amendment to section 23 I believe was done without very much consideration. The section as it stands I am not in favor of it; it says, "except for private ways of necessity." It has been argued by gentlemen who have preceded me that the law gave a man a right by necessity. That is all right, I believe that. That is the correct principle of law, "for reservoirs, drains, ditches, etc."

It seems to me that the Convention should protect the rights of irrigation as much as any one thing that they should protect. As it was well argued on the floor of this house not long ago by the gentleman from Wasatch, that the prosperity of a community depends upon the rights of irrigation, and if it is not a part of our system of law that the right of irrigation and the right to build canals is a public use, then, gentlemen, we ought to make it a public use right here and now; and I differ from the remarks made by the gentleman who has just preceded me upon the propos tion that the right of condemnation for mining property is a public use. Some states have held that the right to condemn property for mining purposes was a public use, but the majority of the states hold that it is not a public use apd that it cannot be condemned under such a clause as we have in section 23, which we have adopted. I have before me a collection of cases by Lewis on Eminent Domain, upon that proposition, and I desire to read some selections from the work so you gentlemen can see just the drift of the current of the decisions that the gentleman upon the other side has referred to. It is true, gentlemen, that Nevada had said that the right to condemn property for the benefit of mines was a public use and existed under the ordinary clause in their constitution, as we will have in ours, that private property shall not be taken or damaged for public use without just compensation, but there are several other states that hold that that is not the law. Those states are California, Pennsylvania, West Virginia, and some others, and the whole practice is approved by Lewis in his work on Eminent Domain. I would like to read from section 184:

> The tendency of those decisions which sustain the mill acts is illustrated by some cases now to be noted.
>
> The mill act was the right to dam up a stream and set the water back in a pond to create water power.
>
> The legislature of Nevada passed an act in which it was declared the production and reduction of ores are the vital necessity to the people of this state, are pursuits in which all are interested, and from which all derive a benefit, so the mining, milling, smelting, or other reduction of ores are hereby declared to be for the public use and the right of eminent domain may be exercised therefor.

That is the language of the legislature of Nevada. In Nevada the law was sustained and under that law the supreme court of Nevada in the case of Daton Mining Company vs. Sewell held that the right of eminent domain existed in favor of the mining companies, and in their opinion there is some language which seems to be worth reading.

(Reading):

> In the light of these authorities, nearly all of which were decided prior to the adoption of the state constitution, I think it would be an unwarranted assumption on our part to declare that the framers of the constitution did not intend to give the term "public use" the meaning of public utility, benefit, and advantage, as construed in the decisions we have quoted. The reasons in favor of sustaining the act under consideration are certainly as strong as any that have been given in support of the mill dam or flowage acts, as well

as some of the other objects heretofore mentioned. Mining is the greatest of the industrial pursuits of this state. All other interests are subservient to it. Our mountains are almost barren of timber and our valley lands could never be made profitable for agricultural purposes, except for the fact of a home market having been created by the mining developments in different sections of the state. The mining and milling interest gives employment to many men, and the benefits derived from this business are distributed as much and sometimes more among the laboring classes than among the owners of mines and mills. The mines are fixed by the laws of nature and are often found in places almost inaccessible. For the purpose of successfully conducting and carrying on the business of mining, smelting, or other reduction of ores it is necessary to erect hoisting works, to build mills, to construct smelting furnaces, to secure ample grounds for dumping waste rock and earth, and a road to and from the mines is always indispensable.

Then he goes on to say that the public utility is so great that the state of Nevada has said that the right of eminent domain exists in favor of mining property. But, gentlemen, that is a disputed question, and I believe that is the question that this Convention wants to adopt. We want to declare that the mining industry is for the public benefit, and we should treat the mining industry as a public use. We do not, I believe, in that section we have adopted, adopt this. And it cannot be so construed unless we are particular to declare it in the Constitution. That decision was followed by a decision in Georgia. Lewis on Eminent Domain further says:

> On the other hand the validity of such laws has been denied in California, and Pennsylvania, and virtually so in West Virginia. This is undoubtedly the correct view.

Now, gentlemen, it seems to me that we should either amend this section so that the right of eminent domain will exist in favor of mines for tramways, public grounds, tunnels, etc., or else we should amend section 23. I do confess that there are some pernicious clauses in section 24 and I am not in favor of it as it stands. It seems to me no harm will ever come to this State by reason of declaring in our Constitution that the mining industry is a public use. You know that the mines are situated in our mountains here and it is very rarely that any agricultural lands will be taken or any kind of agricultural rights will come up when the question of the right to condemn land for mining purposes for dumps or tunnels or tramways is in question. And then again, you know, gentlemen, that where one mine wants to pass over other ground and it does not injure it—the value of the mine is, by reason of the value of the ore underneath the ground. I am not in favor of striking out the section, but of amending it so that it will contain these provisions or amend section 23 so that it will also contain them.

Mr. VAN HORNE. I am in favor of striking out the section providing for private property to be taken for private use. I do not think it is right. I do not think it is a safe thing to do, to go into taking private property for private use, but I do think that accompanying that it is wholly in line with the good of this Territory and with the good of the people of this Territory and all the people of this Territory that we should make a declaration of public use for public industries in such ways that our courts will not be at liberty to construe them against the uses and industries of our people. I think that the amendment that I propose does that. I do not know whether it had a second or not, but I can use it for the sake of argument. It provides for their condemning a dump, a mill site, or a tunnel site, upon the land of others, and only an easement over or across the lands of others for those ways for waters, roads, tramways, etc. It seems to me that we cannot err if we give our people the right for the good of the public to say to the man who has property and who is unwilling that others should use it to pass over that, "by your being paid a just

compensation, it is for the public good that you should not be privileged to say we cannot pass this way, or you cannot come through my land with your irrigation ditch, with your tramway; you cannot take a corner of my land for an aqueduct, for a mine; you cannot take a ravine in my land, that I do not use, as a site for a tunnel." Nobody wants this to be done without the man being paid a just compensation for it, but I believe we can well afford to declare that the citizen who is so unreasonable in his use of his land that he will not allow it to be used for a great public purpose, such as mining and irrigation schemes, tramways, roads, reservoirs, as are going to be in this country—that he will not allow it to be used by his consent on the payment of just compensation, that we, representing the people, would have a right to say to him, "You cannot act that way to the detriment of all of us. If you will not take the just compensation when it is offered, we will bring you in a suit saying this is for the good of you and the rest of them, and upon paying you the just compensation by the court, we will compel you to let that land of yours be used for the public good." I think we would do injury to our constituents if we did not declare so that our courts could not construe against it, what would be public uses of the lands of another. I believe it is right that a man who owns land near where another man owns a mine and has land that is suitable for a dump which is not used by him, should be compelled to say that upon taking a just compensation for it, it may be used by the other man and should not be entitled to say regardless of what use might be made, "you want to have the land and you have got to have it, and you shall not pay me a just compensation, sir, but you shall pay me whatever I ask."

I believe it is also right that in this country where there will be great irrigation enterprises, needing reservoirs to hold the waters in our canyons, the public should say to the man, "You cannot say, because you have a hole that might be made a reservoir out of, that is no use to you now, but that would be of use to a reservoir company—you cannot say to them, gentlemen, I won't take a just compensation for this, your company is going to invest a million dollars, I want two hundred and fifty thousand dollars for the hole the water is going to be banked up in." I believe that we would be derelict in our duty if we did not say to him, Sir, you cannot do that." But we ought to say to him, in my opinion, "When you have a suitable site for a reservoir not in use by yourself and are unwilling to sell it for a just compensation, that the company who is going to reclaim thousands of acres of land have a right to bring you into court, sir, and say to you what is the just and reasonable value of your property, to determine the matter and condemn it for the use of the public."

Gentlemen talk about invasion of private rights. We do not have much difficulty practically about it now. One man owns a farm here and another one has to bring his ditch through it; he goes to his neighbor and says, "I will pay you all the damage for that ditch," his neighbor says, "all right, go ahead." We are just simply declaring against the man who happens to be more arbitrary than most of the people of Utah and saying if he won't do what is reasonable, that he can be made to do what is reasonable. Take our valleys, dry, without irrigation they are worthless; with irrigation they pour into our State a continual product. Shall the man that has a piece of land across a canyon from which water is to be brought say, "Gentlemen, before I will let you take an irrigation ditch through my land that will enable forty thousand acres to be brought under cultivation, you must pay me half the

value of the forty thousand acres, when the water is put upon them?" Would that be a proper thing for this Convention to allow? Would not it be proper for this Convention to prevent such a man from saying that he would ask an enterprise of that kind anything more than a just and fair compensation for the land that was taken and damage that was done by such enterprise? It seems to me, gentlemen, that if we pass from the consideration of this question without making some provision that will protect people in enterprises of this kind we will go back to our constituents and when they ask us why we did not do this, we will have to be ashamed to say, we did not do it because we did not think that it was a public use and for the public good.

Mr. SMITH. Mr. Chairman, to my mind we have struck no proposition of this bill of rights up to this time that should receive the grave consideration that this proposition now presents. Ours is a very peculiar country and I see that the committee have copied almost literally Wyoming upon this proposition, and I trust that before any immediate action shall be taken looking to the striking out of this section the greatest care will be given. It seems to me, as gentlemen on the floor have explained in regard to the mining interests, the same proposition affects our irrigation interests in this section of country. Our farms, as a rule, it is true, are usually small. We have got to cross each other's farms in order to carry our irrigation on properly and raise crops at all, and if this section be stricken out, it is going to leave us in the most defenceless condition, in my judgment, and I trust the motion to strike out will not prevail, but that further consideration of this proposition will be taken.

Mr. VARIAN. Let me ask the gentleman a question. He will observe that this matter proposed to be stricken out includes many things. If as suggested, it is the sense of the Convention that they want to put in a clause protecting irrigation, mining, it might be put in a proper way separately, but this includes sanitary purposes, domestic purposes, private ways of necessity, etc. It includes too much.

Mr. VAN HORNE. Mr. Varian, the amendment I suggested did not state the private ways of necessity.

Mr. RICHARDS. Mr. Chairman, this is a very important subject and I do not believe that this committee can act intelligently on this amendment without having it printed. I am not in favor of the section as it stands. I think it ought to be printed. Probably a substitute ought to be adopted, but it is a matter of such importance, I think we ought to postpone further consideration of it until we can have the amendment printed and consider what language we will adopt, if we are going to adopt a substitute or what amendment we will make. If it is in order, I would therefore move the postponement of the further consideration of this section until the further meeting of this committee.

The CHAIRMAN. The chair rules that a motion to postpone is out of order in committee.

Mr. EVANS (Utah). Mr. Chairman, I move we now arise and report.

The motion was agreed to.

The committee of the whole then arose and reported to the Convention as follows:

The committee of the whole have had under consideration the preamble and declaration of rights and have considsidered the same and desire to report progress and ask to sit again.

The Convention then, at 5:35 o'clock p. m., adjourned.

TWENTY-THIRD DAY.

THURSDAY, March 26, 1895.

The Convention was called to order by the President at 10 o'clock a. m.

The roll was called and the following named members were found in attendance:

Adams	Larson, L.
Allen	Lemmon
Anderson	Lewis
Barnes	Low, William
Bowdle	Low, Peter
Boyer	Low, Cache
Brandley	Lund
Button	Maeser
Buys	Mackintosh
Call	Maloney
Cannon	Maughan
Chidester	McFarland
Christianson	Miller
Clark	Morris
Coray	Moritz
Corfman	Murdock, Beaver
Crane	Murdock, Wasatch
Creer	Murdock, Summit
Cunningham	Nebeker
Cushing	Page
Driver	Partridge
Eichnor	Peters
Eldredge	Peterson, Grand
Emery	Peterson, Sanpete
Engberg	Pierce
Evans, Weber	Preston
Evans, Utah	Raleigh
Farr	Richards
Francis	Ricks
Gibbs	Roberts
Goodwin	Robertson
Green	Robinson, Kane
Hammond	Robison, Wayne
Hart	Ryan
Haynes	Shurtliff
Halliday	Snow
Heybourne	Spencer
Hill	Squires
Howard	Stover
Hughes	Strevell
Hyde	Symons
Ivins	Thompson
James	Thoreson
Johnson	Thorne
Jolley	Thurman
Kiesel	Van Horne
Keith	Varian
Kearns	Wells
Kerr	Whitney
Kimball, Salt Lake	Williams
Kimball, Weber	Mr. President.
Lambert	

Prayer was offered by Elder M. B. Shipp, of the Church of Jesus Christ of Latter-day Saints.

The journal of the twenty-second day's session was read and approved.

Mr. Preston was excused by request.

Mr. Maeser presented a petition, signed by fifty citizens of the fourth ward of Provo, praying for an article on prohibition to be inserted in the Constitution.

Referred to the committee on schedule, future amendments and miscellaneous.

Mr. Partridge presented a petition, signed by John Styler and forty-five other citizens of Provo, asking that an article on prohibition be submitted to the people for a separate vote.

Referred to the committee on schedule, future amendments and miscellaneous.

Mr. EICHNOR. Mr. President, I move that we resolve ourselves into committee of the whole for the consideration of the preamble and declaration of rights.

The motion was agreed to.

The Convention then resolved itself into committee of the whole, with Mr. Thurman in the chair.

COMMITTEE OF THE WHOLE.

Mr. HART. Mr. Chairman, I would like to have read the substitute that Mr. Van Horne, of Salt Lake, offered to section 24.

The CHAIRMAN. I think there was no substitute offered to section 24, there was an amendment proposed to section 23.

Mr. SQUIRES. I understood Mr. Varian to move to strike out the section. Mr. Van Horne moved to amend that by substituting that which he had offered as an amendment to section 23.

Mr. VARIAN. Mr. Chairman, I sub

mit the question before the committee is the motion to strike out. I apprehend if that is carried, it wouldn't preclude the offering of another matter.

The CHAIRMAN. If you raise that point of order the chair will sustain it.

Mr. Hart moved to amend the section so that it would read as follows:

Private property shall not be taken for private use unless by consent of the owner, except for reservoirs, drains, flumes or ditches, on or across the lands of others, for agriculture, mining, or milling purposes, and in no case shall such property be taken without due compensation.

Mr. VARIAN. Mr. Chairman, on the principle that it is desirable to perfect an amendment as nearly as may be in the event of its carrying, I offer an amendment to the amendment by striking out the word "private" and inserting the word "public," in the second line, so that in case this amendment should be adopted we would not be in a position of permitting the law of eminent domain to be diverted to private use, but that it can declare the uses mentioned by the gentleman from Cache to be public uses, which I understand is the substance of the article of the gentleman opposed to the motion to strike out of yesterday.

Mr. PARTRIDGE. Mr. Chairman, I have a substitute, which I wish to present to this section:

Private property shall not be taken for private uses, except for uses, which in their nature may be considered of a public benefit, and in no case shall private property be taken without due compensation shall first have been made.

Mr. VARIAN. I submit, Mr. Chairman, that this is an equivalent motion to the original section.

The CHAIRMAN. I think it is in order to offer the substitute, it may be equivalent in meaning, but the language is different, and it goes to the question of phraseology.

Mr. PARTRIDGE. We had considerable discussion here yesterday in regard to taking property for public uses without just compensation being first made, and I was in favor that it should not be done. Neither am I in favor that private property should be taken for private uses without just compensation having first been made. I concede that it would work a great injury to individuals; I do not wish to go over the ground that was gone over yesterday, gentlemen, upon a similar subject, but I can conceive of instances where it would work a great injury if the right were not conceded to take private property in some way, in some manner, and in case where it might be construed as a public benefit, although not literally or legally a public use. In case of water ditches, that are calculated to benefit perhaps a good many acres of land, it would result in a public good. At the same time I want to guard the private interests of individuals that they should not be robbed of their property without having compensation first made to them, without their having to await a long process of a law suit, which they are not able, perhaps, to carry on; that is the position I take on it.

Mr. ANDERSON. Mr. Chairman, I would object to the amendment of Mr. Hart for this reason, I think the public would want to use property for other purposes than that mentioned in this connection. Now, suppose the public would want to use property for roads or streets, etc., or any other use, it seems to me that the way this section is now worded that the public would not obtain private property for those uses; therefore, for that reason, I would object to it.

Mr. EICHNOR. Mr. Chairman, I am in favor of the section as it stands, this is the law in the state of Wyoming. It is in the constitution in the state of Washington. Now, Wyoming and Washington have been states since 1889; these dire calamities of which our friend Varian spoke, of building outhouses and

chickencoops on the neighbors' premises have not occurred in those states. Those states are well governed. On the other hand, if you wish to change it, then I would be in favor of changing it according to Idaho and Montana. Idaho and Montana declare certain uses as public uses. The bill of rights of Idaho reads:

The necessary use of lands for the construction of reservoirs, or storage basins for the purpose of irrigation, or for rights of way for the construction of canals, ditches, flumes, or pipes to convey water to the place of use for any useful, beneficial, or necessary purpose, or for drainage, or for the drainage of mines or the working thereof by means of roads, railroads, tramways, gates, tunnels, shafts, hoisting works, dumps, and other necessary means to complete the development, or any other use necessary to complete the development of the material resources of the state, etc.

Mr. VARIAN. Will the gentleman read where it declares it to be a private use?

Mr. EICHNOR. The declaration of rights of Washington provides that private property shall not be taken for private use, except for private ways of necessity and for drainage, flumes, or ditches, on or across the lands of others for agriculture, domestic, or sanitary purposes.

Mr. VARIAN. What does Idaho say?

Mr. EICHNOR. I read Idaho. Wyoming provides that private property shall not be taken for private use, unless by consent of the owner, except for private ways of necessity, and then it goes on in the same language as section 24 here.

Mr. CREER. The present section is an exact copy of Wyoming.

Mr. EICHNOR. Yes, sir. Section 15 of the declaration of rights of the state of Montana provides that the use of all water appropriated now or that may hereafter be appropriated for sale, rental, distribution, or other beneficial use and the right of way over the land of others for all ditches, drains, flumes, canals and aqueducts necessarily used in connection therewith, as well as the sites for reservoirs and necessary for collecting and storing the same, shall be a public use, and that private roads may be opened in the manner to be prescribed by law, but in every case the necessity of the road and the amount of damage to be sustained by the opening thereof shall be first determined by a jury, and such amount, together with the expenses of the proceedings, shall be paid by the person to be benefitted. Now, Mr. Chairman, there are two views, they all tend toward the same thing. One is to declare these uses a public use, the other is to embody right in the section a declaration that private property shall not be taken for private use, and then the section goes on and enumerates for what purposes it may be taken for private use. I am in favor of the section just the way it stands, and I think Wyoming and Washington have not been ruined. No one has been injured by having that section in the declaration of rights.

Mr. CREER. Mr. Chairman, there is one condition that has not been referred to, which I desire to draw attention of the committee to, that is why I am in favor of the section as it stands. That is, that private property may be taken for private roads. I find that New York has a provision that private roads may be opened in the manner prescribed by law, but in every case the necessity of the road and the amount of all damage to be sustained by opening thereof, shall be first determined by a jury of freeholders and such an amount named with the expenses of the proceedings shall be paid by the person to be benefitted.

Now, in the near future the probability is that a great many of the canyons will be taken up as private claims under the grants that have been provided by the government, and it will work a great hardship if the private roads could not be established or ac-

quired over that land. If it should necessitate the use of a county or public road, the people would be prohibited from going through these canyons to obtain timber or coal or such property as there is in the mountains, and I think it is absolutely necessary that the provision should remain as it is in this section or as provided by New York and other constitutions; that not only ditches—that are certainly absolutely necessary for drainage and for carrying water over the private lands of others—but for private roads; I would be in favor, however, of the motion of the gentleman from Cache—adopting what he has suggested simply by striking out "for sanitary or domestic purposes," but for everything else I think the section covers, that should remain in there to conform to the necessities of the present, and of the near future. Therefore, I am in favor of the section as it stands. There can be no question as to the necessity for drainage. In the neighborhood where I come from the irrigation of the upper bench land which will increase materially from what it is at the present time—why, the lower lands are soaked with water and there must be some way of draining those lands. It will be absolutely necessary. Nearly one-sixth of our city has been made almost useless by the soakage from the upper lands, and therefore the necessity is obvious that we must have an opportunity of draining those lands and crossing private lands that may be adjoining. It seems to me, gentlemen, that there is no necessity for transforming this into a public use. It is a distinction, it seems to me that is not necessary. The precedent is established by New York. Allow me to read a little further: "General laws may be passed permitting the owners or occupants of agricultural lands to construct and maintain for the drainage thereof necessary drains, ditches, and dykes upon the lands of others." They provide that general laws may be passed, therefore, I am in favor of it—not having to depend upon authorities or precedent, but put it into the fundamental law that these rights may be preserved to the private citizen.

Mr. ELDREDGE. Mr. Chairman, I realize that if this measure is properly arranged it will add materially to the development of the resources of this incoming State of Utah, and if it is improperly arranged, it will work great disadvantages to the accomplishment of such ends. Perhaps what might apply to the state of Washington or the state of New York would not apply to this intermountain region. We are somewhat differently situated in regard to the questions that are here involved than either of those states are. And consequently, I feel that it is not within the line of reason that we should look to either of those for precedents with which to guide us in our deliberations in this matter. I can see that should this remain as we now find it, where it would work a great hardship to many sections of this country without furnishing an equivalent thereof—I can cast my eye upon my own county and under these provisions I can see that parties that might wish to establish a reservoir, and so locate as to submerge many farms, that are now improved and that are yielding sustenance to the family, and that they would destroy the rights of private citizens or a number of private citizens in order to build up and foster the rights of other private citizens, a measure which I consider is too insignificant for us to consider for one moment; I think that the rights of one person, let them be ever so small, should be just as sacredly guarded and maintained as the rights of any other individual, irrespective of its size, when you come down to the individual rights; still I think there should be a way provided by which these measures can be attained when it is in the interest of the public welfare, and therefore I am

opposed to the section as it stands now; and I am opposed also to the substitute that was offered by the gentleman from Utah, and I would favor it so far as it goes, the amendment of the gentleman from Cache, but with a view that it would still be amended until it had reached that which would in our judgment be the nearest to the wants and necessities of the people at large. "Private property shall not be taken for private uses unless with consent of the owners," so far very good, if they would only stop there. "Except for private ways of necessity and for reservoirs, drains, flumes and ditches."

Supposing that the people of Salt Lake went down here to Utah County and raised the dam which is at the line between Salt Lake and Utah County, if this went into effect, they would have a perfect right to do that, and submerge to that extent the adjoining country. They could do it on the ground that they were doing it for a reservoir, and under this they would have a right to do it, and those people could only seek redress in the form of compensation. It is putting the liberties, it is putting the privileges and rights of one class of citizens at the mercy of another class in a private sense; a measure which we should strictly guard. I can see that where in the mining industry there can be a great many obstacles thrown in the way that would work injury unto legitimate enterprises, by persons that were designedly operating for the purpose of extorting money from those that were following a legitimate purpose. It is a very broad field to look over; it is not only the domestic, it is not only the agricultural, but it includes the mining, and it should draw out the thought of the agriculturist, and of the miner, and of the man that favors corporations, and in fact of every branch of industry that is characteristic of the country in which we live. I think that those words should be supplanted with the word "public," not only in the second, but also in the third, and that it should be arranged so as to provide that this work could go on, when it is for public benefit. I shall favor the amendment that was offered by the gentleman from Cache.

Mr. CHIDESTER. Mr. Chairman, I am in favor of the section as it now stands. I do not believe that any law can be passed in this connection, which, if it was administered arbitrarily, would not work a disadvantage to some one. Now, while my friend, who has just spoken, is situated as he says in his county, I can point out numerous cases in my own county that would work the opposite, and I believe that in the interests of the poor man the section as it now stands should be his interests. I believe that if I owned a quarter section of land, and my land, for instance, is on the main water ditch or canal, another man below me owns a small farm, we will say, and he is not able to pay for his right of way, right at once; now, I know a number of that kind of cases, and I also know of a similar company that has endeavored to make a road for the benefit of the public, and there was no fund, and the road was a necessity for the greater portion of the settlement, yet, under this as was proposed, they would be debarred from making that road—a road which they must all use, and they could not haul their products out of thier fields until it was made. They would have to wait and raise the means and pay for this before they could use the road. Now, while it worked to his interest the other way, I think that the general good—it would work to better satisfaction to have the section as it now stands.

Mr. VARIAN. I believe that we are playing at cross purposes perhaps. The only vital objection I make here, and those who are in accord with me, is in overlooking the distinction between a private and public use. We do not object if it be the sense of this people to

declare mining, milling, and agricultural purposes as public uses, if you want to put that into the Constitution. The objection is that this section declares it a private use, entirely obliterating the distinction between public uses and private uses. Now, let me illustrate that by the suggestion made by Mr. Creer, from Utah County. The very statement of a possible condition that he made indicates that the road there would be for the public benefit. It would be for the benefit of more than one person—a number of people. I doubt very much if the necessity should arise, even under the territorial laws, if a number of people in a community or perhaps a town, should use a canyon road for the purposes of getting out wood or any other purpose, or for the purpose of crossing the range and getting to their ranches, but what that would be a public use and the county or the Territory could open a road. No man could build a fence across it and say "I will defeat the object and purpose of the entire community." But with this provision in, one single individual, if he wanted to cross the property, and if it were convenient for him to have it established under the constitutional enactment, could do so. So as to ditches, so as to water rights, so as to mining. A large company, owning and developing a large mine, might want to take in a claim of the miner along side of its property. It is clearly a private use that it would be advocating, and under such a section as this, it could do it. I do not see any reasons why one man's property should be any better protected than another.

You have, in your opening declaration of the declaration of rights said, "All men have equal, inherent, inalienable rights, among others to acquire, possess and protect property." Of course that is subject to the good of the community. If it be necessary to take that property for public use, well and good; declare mining to be a public use, declare agriculture to be a public use, declare milling to be a public use, declare as the constitution of California has declared, all use of water now appropriated or that may hereafter be appropriated for sale, rental, distribution, is hereby declared to be a public use—not a private use, that is the objectionable feature that we have to this. It is not that it proceeds to speak for agriculture, for mining, for milling, and for reservoirs, drains, flumes, and ditches, but it is because it permits private individuals to advance their interests as against the interests of their fellow-citizens. Now, I have no objection to the amendment proposed by Mr. Hart, except, I do not think it ought to come in at this place. By implication if adopted it might confine the question of public use to those specifically mentioned in the amendment. What I apprehend is intended is that these particular uses, shall be declared to be public uses anyhow, leaving the subject open to the Legislature as to any other public use that may exist. It is not intended to confine the question to the particular limitations in the amendment as I understand it, is that right?

Mr. HART. Yes.

Mr. VARIAN. Therefore, if that be so, would not it be better to take the substance of the amendment offered by the gentleman from Cache and add it to section 23, which provides that private property shall not be taken or damaged for public use without just compensation first made? If you want another section, provide that private property may be taken for a public use in certain specified cases. Would it not by implication at least raise the question whether or not the Constitution did not forbid taking for any other public use? If you add to section 23 the substance of the amendment offered by the gentleman from Cache with the reservation that it shall not exclude any other public use, as public uses are understood now, at the same time, it would accom-

plish the purpose intended. For that reason I should oppose the amendment to section 24, without some qualifying or supplemental clause, as I have indicated.

Mr. EICHNOR. Mr. Varian, would not the same result be obtained by declaring it a public use as a private use?

Mr. VARIAN. No.

Mr. EICHNOR. You spoke about a mining company taking a miner's claim; if you declare mining a public use, the company can do it, can't they, the same as if we declare it a private use?

Mr. VARIAN. Is that all?

Mr. EICHNOR. That is all.

Mr. VARIAN. I will explain the distinction that I made and it is well settled. A public use contemplates something for the good of more than one person or one company. If mining shall be declared to be a public use throughout this Territory, it would be because the general development of mines—the general business and occupation, the explorations and excavations for the precious and other metals, from the earth would be declared to be for the benefit of the whole community. So of agriculture, so of the distribution of water and the getting of it from one place through long distances to the point of application of it. All these would be declared by the fundamental law, to be public uses, and the applications of the fundamental law would be upon well settled principles, first by the Legislature, second under the supervision of the courts, guided by the Constitution so that the property of the citizen would receive all the protection that it is possible under governments made by man to afford it, but if you put in private use any individual can say, "I want the private use of necessity here; I want to take my neighbor's mine; I want to run my ditch across my neighbor's field; I want to use his property for my domestic and sanitary purposes; or I want to use it for my mill, for my drain," everyting of that kind; do you not see, Mr. Chairman, that we are departing from the broad fundamental principle which would underlie all fundamental governments and that of necessity we are putting a contradiction in this declaration of rights to the first declaration that every man had a right to secure and possess and protect property, equal with his fellows; starting and keeping in his mind all the time that the very foundation of this taking of property is a use of necessity? That necessity is founded upon the good of the entire community, or a great portion of it as distinguished from the good and benefit one man or one individual should receive, and in answer to the gentleman from Summit County, my friend, Mr. Eldredge, in which he said that Mr. Hart had accepted my amendment, I say that the only objection I have to the declaring of agriculture, mining, milling, and such matters as drains, flumes and ditches, public uses is to the place where it comes in; and that it ought to have an addition expressly stating that that is not the only public uses for which the private property may be taken. The chair will appreciate the force of the suggestion without question. If his declaration shall be modified and presented so that it will exclude the Legislature from passing other public uses, why I have no doubt that it will be acceptable. Certainly as far as I am concerned, I see no objection to it. The objection I make to it now is if it comes in just that way, it will be a qualification and modification of section 23 in a way that I don't believe the Convention will maintain.

Mr. EVANS (Weber.) Mr. Chairman, by the courtesy of a member of the committee on preamble and declaration of rights, I secured that part of which they at that time had agreed to report to the Convention. At that time I discovered this article or section we are

now considering and conceived a deep seated prejudice against it; but the committee, before the article was printed, modified it in such a way that after a careful consideration of every word and every line in it, I believe the committee has shown great wisdom in reporting that section as they now have it before this committee. I see absolutely no danger in it. It is established by precedent that such uses as are mentioned in the section are proper uses for the advancement of any country or section situated as we are in this. I want to call the committee's attention particularly to some points in the section and undertake in a brief way to dissipate if I may some of the arguments made against it. I would like the committee to understand in the first instance that under this section it is not true and cannot be true under any sort of reasonable construction that any individual can take at will or at his own caprice the property of another individual, should he covet it or desire to take it. There must be first an adjudication of the fact that that use is a necessary use and the court would first determine it. If the court considering a question of this kind, should conceive the idea or if the evidence should develop the fact that one individual through mere caprice or whim for the purpose of designedly injuring his neighbors, wanted one of these rights of way across his neighbor's land, he could not exercise the right at all. The court would simply say, "This right, under the Constitution of the State, guaranteed to the people, does not mean any such thing as that, but it only means when it is necessary, that he should have the right—for what—for agriculture, for mining, for milling, for domestic or sanitary purposes."

Now, let us take for illustration one or two words in this section for the purpose of giving the committee an idea what it means. We will suppose that one individual has land so situated that cesspools should form upon it—water which becomes stagnant, and which required for the good of the community at large and for the good of the neighbors in the locality that it should be drained from that land, and suppose it were impossible to drain it from that land without draining it across the land of his neighbor. Then, under this section, that right would be guaranteed. And if a court should find that it was necessary to drain off that land for sanitary purposes the court would give the right to that neighbor to cut a drain across the land of his neighbor, in order to conduce the sanitary conditions. The benefit is not to the individual alone, but incidentally it is a benefit to the public at large, and so it is with respect to mining. Ditches may be dug when necessary for mining or milling purposes along the land of another; and so it is for private rights of way. If it be necessary, mark you, the court would permit one person to have a private way across another's land. Why, gentlemen, this right is already granted, not constitutional, but in a court of equity. If a man's land is so situated that it is impossible to remove from it without going across the land of his neighbor, he can go into a court of equity and the court will grant that right. But we desire here to make the Constitution so that these things will be easier of access than to have to apply to a court of equity every time some such right should be secured.

Now, my brother Varian states that he has no particular objection to these words, but if they can be declared to be public uses, then the principle which we a reconsidering would not be violated in the same measure that it would be by the passage of this section. I would ask any reasonable minded man to tell me the difference. Suppose we say that agriculture, mining, milling, domestic and sanitary things——

Mr. VARIAN. That is stricken out.

Mr. EVANS (Weber)—are public uses, suppose we say that.

Mr. VARIAN. That is not under discussion.

Mr. EVANS (Weber). I did not know that that was stricken out.

Mr. VARIAN. Yes, in the amendment it is stricken out.

Mr. EVANS (Weber). I am opposed to all amendments. I am for the section as it stands with some slight amendments, which we shall propose hereafter; I say if these things are declared to be public uses then under the right of eminent domain, they would be taken and we would reach exactly the same result as we reach by this section, because this section only permits these things to be taken for these uses. The section is carefully guarded. I congratulate the committee on preamble and declaration of rights for their wisdom in selecting this section and formulating it in the language which we find it before this committee to-day. But, gentlemen, there is another thing, we talk about the sacred rights of property and the vested rights of property. Of course they need guarding, they need to be held sacred; but, gentlemen, I would permit a policy to be adopted in this Territory, situated as we are in an arid region, where it is necessary to bring under cultivation and till out land, to dig ditches and build reservoirs, where it is necessary in order to develop the mining resources of this country, to build roads, and to have private ways for ditches; to say that this thing shall be done: it is not infringing upon the private right of the individual at all. We provide for an adequate compensation for the property which is taken and it is given to him and the public is incidentally benefitted. The country is developed by reason of the fact that these rights may be exercised by the individual for these particular purposes. What is our country without irrigation? What is it without mines? What is it without agriculture? Have we a country fit for anything else? We must do those things which will develop the country and these particular resources. No man would knowingly raise his hand against any action of this Convention which would promote its progress. The only question is one of policy, not one as to what ought to be the legitimate result. But, gentlemen, Colorado, which the gentleman from Salt Lake has handed to me, and which he failed to cite, has provided substantially the same thing as is provided in this section, only in different language. We find all this arid region around us providing for the same thing. We find in a recent constitutional enactment in 1894 in New York, where this very subject was taken up and where these rights were given after two hundred years of experience, not as broadly as we take it up here, because the conditions did not require it, but for drainage purposes, for the digging of ditches, and for private ways, these rights were given to the private individuals to take the property for particular purposes. Gentlemen, have not many of you seen farmers, sometimes, or some men who were not farmers, or some men who were in the mountains prospecting, acting like dogs in a manger? We do not want any dogs in the manger policy in our new State. If a man happens to be so situated upon an elevated piece of ground that a canal can be built that will develop the country, are we to say that that particular piece of ground shall not be taken? I say that it should not be if we did not provide an adequate consideration, but when we do provide it, and when it becomes absolutely necessary in order to develop this country, why not do it? How many of you, my fellow committeemen, who are farmers, have been annoyed with securing a private way to or across your lands; how many of you have seen either in that respect or in the digging of ditches, some man having a mean, penurious disposition, squatting down upon a piece

of land and preventing the development of the land, because these rights could not be secured? Is not it frequently the case and people of this Convention know it to be? But, gentlemen, I would say this, before we take private property for private use, even for the purposes named in this section, we ought to say that compensation shall be first made, because in the question of taking private property for private use, there is no urgent necessity for immediate possession; and I say, too, that it ought to be amended, if we reach that point, so that private property shall not be taken or damaged, because it would not be right for a large reservoir to be built upon an individual's land, the seepage from which might destroy a great deal of ground around it, without receiving compensation for such damages. With these two amendments which I expect to propose if this substitute is not voted out, I shall stand by the committee on preamble and declaration of rights.

Mr. HART. Mr. Chairman, it seems to me that section 24, as it is printed, is too broad. I particularly object to the words, "domestic or sanitary." I think in particular that those words should be stricken out. The gentleman from Salt Lake, Mr. Eichnor, suggested that this section is from Wyoming, and that Wyoming thus far has experienced no inconvenience from this proposition. That argument to my mind has absolutely no weight for the reason that Wyoming is so situated, so sparsely settled that a question of that kind under those words would, in the nature of things, not arise this early after the adoption of the constitution. Now, in regard to the words, "private use or public use," I admit that there is very great weight to the argument made by the gentleman from Salt Lake, Mr. Varian, when you consider this section in connection with 23. I adopt the suggestion of the gentleman himself in thinking of the question simply by itself, but in considering it in connection with section 23 I can see that it will possibly lead to the fault that he suggested—that is, it would be construed that these were the only public uses for which private property could be taken. I have no objection, Mr. Chairman, to declaring that ways of necessity or rather ways for ditches, drains, flumes, etc., for agricultural purposes should be declared public uses. The idea of the Idaho proposition on that subject is a wise one. I have never seen any inconvenience arising under that proposition of the constitution as framed in Idaho, but of course, to meet that objection or to make that provision, it would probably be necessary to revise this whole section. Therefore, in view of the situation, in comparing the two sections, with the consent of the committee, I would withdraw the proposed amendment, changing from private to public, and permit it to stand as it now is, "private." It has the same effect; I am not particular which way it goes, if we could construct this, making an absolute provision that ways for ditches, flumes, etc., for agriculture, mining, and milling purposes should be declared public uses; I favor it in that shape.

Mr. VARIAN. I would ask the gentleman not to withdraw his amendment. The committee by an addition of a word or two can obviate that objection, as growing out of the context of section 23, and say that you do not mean to exclude other public uses.

Mr. EVANS (Weber). May I ask the gentleman from Cache a question.

Mr. HART. Certainly.

Mr. EVANS (Weber). I understand you to say, you would strike out "for sanitary or domestic purposes?"

Mr. HART. Yes, sir.

Mr. EVANS (Weber). I suppose you desire sewerage into your property; that would be a sanitary purpose?

Mr. HART. That is already covered by your word "drains." This is amply covered by the former part of

the proposition. When you come to insert the words, "domestic or sanitary purposes" in there you let down the bars and make such a broad foundation. You let in any conceivable abuse of the section.

Mr. EVANS (Weber). Don't you think drainage means drainage for lands through which the water percolates?

Mr. HART. It would be a drainage including sanitary.

Mr. EVANS (Weber). If you wanted fresh water to your house for domestic purposes, suppose you could not get it without running a pipe across your neighbor's land, that would not be a ditch, it would not do anybody any harm, it would simply give the right to put the pipe in the ground and cover it up, and then you could have your fresh water for domestic purposes. I think those two provisions are just as essential as any other.

Mr. JAMES. You spoke about domestic purposes in Wyoming; was not that provision put in there on this condition, that it is an arid country with large tracts of land, and enterprises such as mining, lumbering, etc., were denied the right of water passage over these large tracts of land—was it not for the purpose of supplying it with water?

Mr. HART. I was going to suggest, that the gentleman make his speech after I finish mine, not interject it in the shape of questions to my remarks. As I was about to say, I would be willing to provide that ditches, drains, etc., for agricultural purposes, should be declared a public use. I think it is an absolute necessity for our State, that there should be a right of way for ditches or drains, and also for milling and mining purposes, but the section as it stands, leaving the word "private" there, I think is sufficient, without reforming the whole section which I think we will probably have to do in order to declare these public uses, and for the present, without proposing a new section in line with the Idaho and some other states declaring these public uses, I would favor the matter standing as it is so far as the private use part is concerned. The section as it stands is too broad in my opinion, perhaps I have narrowed it too much by striking out the words, "way of necessity."

Mr. ROBERTS. Would the gentleman permit a question?

Mr. HART. Yes, sir.

Mr. ROBERTS. Would your amendment then merely touch the words, "domestic and sanitary purposes"—that is the only amendment you then offer?

Mr. HART. Well, I do offer an amendment to line three—"private ways of necessity;" in view of the suggestion of the gentleman from Utah County, Mr. Creer, I don't know but what it would be right to leave in there these private ways of necessity, but however, I am willing to leave the amendment to stand as it is and take a vote on it.

Mr. BUYS. Mr. Chairman, I am in favor of the section as it stands; I am opposed to striking out the words, "domestic or sanitary," and perhaps the gentleman from Cache, having lived out in the country where we are obliged to have water for domestic purposes, understands it. And again he says, the words "drains" and "flumes" cover the question of sewers. I will call the attention of the gentleman to the fact that it says, "private ways of necessity for reservoirs, flumes, or ditches, etc." Consequently, drains could not cover that unless it was mentioned. Sanitary and domestic purposes, I think it really necessary. There are many places where wells cannot be had out in the country, and they have got to have water for domestic purposes, and it is just as necessary as agricultural—if agricultural and milling purposes were declared to be public, I certainly think domestic pur-

poses should be. It is just as necessary as any other, and I am certainly in favor of the section as it now stands, but I would like to see the word "damaged" in there as well as "taken," because in many instances, property may be damaged as well as taken and I think that ought to be in. With that amendment I would like the section and will vote for the section as it stands.

Mr. RICHARDS. Mr. Chairman, I am opposed to all these amendments. I do not think that this section is perfect by any means. I think that some amendments should be proposed, but I don't believe that any of the amendments that have been proposed ought to be adopted, because if they are adopted, in my estimation, they will destroy the force and efficacy of this section. Now, I see no danger in it; it is said here and has been reiterated on this floor time and time again that one individual ought to have the right to take the property of another individual. Well, now, we all admit that. That does not require any argument. Nobody is going to dispute that proposition—except in cases of necessity. Now, this presupposes that in every instance where private property is taken for private use, the matter will be brought before a tribunal which has jurisdiction, which will hear both sides of the controversy and which will determine whether or not there is any absolute necessity for this private way or private use, whatever it may be, and some of the uses that are entertained here are in their nature public, although they may not be strictly and legally public. Still, they are in their nature public. The court will determine in every instance as to the necessity for taking of this property or for the use of it for this purpose, and I say that there is sufficient safeguard; I would be in favor of requiring compensation to be first made in cases of this kind, because I think there is a difference between the taking of private property for private use and the taking of private property for public use. I say also that there is no danger in permitting the words, "domestic or sanitary purposes" to remain. In fact, if these words were stricken out, if the gentleman from Cache will examine the section carefully, he will see that by scratching out these words the section would be mutilated and would not mean even what he intends by his amendment. I am not in favor of striking out the words "private ways of necessity," because circumstances may arise, circumstances have arisen, where it was absolutely necessary that private ways should be granted, and as I say, these matters coming before the court, the right of the parties will be protected. Now, we find these provisions in Washington, Wyoming, Montana and Colorado—our neighbors, but it is said they are young states. That there has been no opportunity to test the question of propriety, and therefore it is to be rejected. If the gentlemen will turn to the constitution of Missouri they will find the same provision there. Missouri has had ample time to determine the propriety and expediency of these matters. In New York we find the same, I am told. I don't remember as to that definitely, but I see no danger in this section. As I say, I am in favor of amending, but not such amendments as are proposed here now, because they would destroy the full force and effect and virtue of this section, in my estimation.

Mr. PARTRIDGE. Mr. Chairman, I desire to say a word or two more on this substitute that I introduced. I am willing to withdraw the substitute, but I wish to explain myself. There seems to be a disposition to strike out or materially amend section 24. In the previous section it provides all that it would provide for if the section were amended—to use the word "public" instead of "private" uses, and I think that by substituting that word that

said uses were in their nature public uses—which of course the court would decide, they could then be taken and that would not interfere with the rights of individuals or at least an individual could not take the property of another individual unless it was in the nature of a public benefit. I am willing to withdraw that proposition and leave the section as it is, if that is the mind of the house, providing that they will add at the end of the section after "compensation," the words, "shall first have been made."

Mr. THORESON. Will you allow me to ask you a question?

Mr. PARTRIDGE. Yes.

Mr. THORESON. If you withdraw your substitute to that section, will you allow me to introduce a substitute for the section, providing as follows:

The taking of private property for the use of building and maintaining all necessary reservoirs, canals, flumes and drains for agricultural, mining, milling, or domestic and sanitary purposes, is hereby declared to be a public use?

Mr. PARTRIDGE. Well, I prefer to have my substitute.

The CHAIRMAN. The question is on the substitute of Mr. Partridge.

The question being taken on the substitute offered by Mr. Partridge, the substitute was rejected.

The question being taken on amendment proposed by Mr. Hart, the amendment was rejected.

The question was then taken on the motion of Mr. Varian to strike out section 24.

The motion was lost.

Mr. EVANS (Weber). Mr. Chairman, I now move to insert at the end of the first line in section 24 the words, "or damaged," and to add at the end of the section after the word, "compensation," the words, "first made."

Mr. CORAY. Mr. Chairman, I would like to make an amendment to that amendment, that the word "ditches" be stricken out, and the word "aqueduct" be substituted. That would cover the objection of some gentlemen of putting pipes in the land.

Mr. RICHARDS. I submit that motion would not be in order.

The CHAIRMAN. There is no second to it.

Mr. NEBEKER. Mr. Chairman, it seems to me that there may be some objection to that section in this—that the damage could not be ascertained before the improvement is made and it might stand in the road of an improvement being made.

Mr. GIBBS. Mr. Chairman, I am in favor of the amendment of Mr. Evans, the first amendment, but I am certainly not in favor of the second amendment to it at the end of the section, "first made." After the gentlemen have voted on the first proposition, "or damaged" I would like to vote for it, but as it is I cannot vote for it.

Mr. FARR. Mr. Chairman, those are my sentiments exactly.

A division of the question being called for, the question was taken on the motion to amend by inserting the words, "or damaged" and the amendment was agreed to.

Mr. HART. Mr. Chairman, I would suggest to the gentleman from Weber, that the amendment read, "first being made" it is a small item, but that is the language used in constitutions in all other states having the provision.

Mr. EVANS (Weber). That is the way I wrote it, but the other provision as to public property says, "first made" and it was to make it harmonious that I changed it. I will accept the suggestion of Mr. Hart.

The amendment was agreed to.

Mr. HOWARD. Mr. Chairman, I would like to offer an amendment to section 24, to add after the word "others" in line 5, the words, "and then only when no other reasonable way is obtainable."

Mr. RICHARDS. Mr. Chairman, I move to insert after the word "flumes,"

the words, "sewers, conduits, pipes," so that it will read, "except for private ways of necessity, and for reservoirs, drains, flumes, conduits, pipes, or ditches." Now, the object in making that amendment is this, it seems to me that if it is proper to take property for a private use for a drain, it would be for a sewer, or a sewer might or might not be a drain, also if it is proper to take private property for a ditch it would be proper to take private property for a conduit or pipe to convey the water under the surface. The ditch implies that the water should be conveyed on the surface and in order to make the right complete, so that the water may be conveyed either upon the surface or below, I think those two words, "conduit and pipe" should be inserted and in order to make it complete as to sewerage—carrying off sewage for sanitary purposes, I think the word "sewers" should be inserted. I therefore move as an amendment, that the word, "sewers, conduits, pipes," be inserted.

The amendment was agreed to.

Mr. HART. Mr. Chairman, I move to insert the word, "necessary" after the word "for" and before the word "reservoir" in the third line. It would then qualify everything that follows and provide in accordance with the arguments of the gentleman from Weber that these rights were to be taken only where necessary. It would limit somewhat this particular provision.

Seconded.

Mr. EVANS (Weber). Mr. Chairman, that, of course, is implied in the section. I have no objection whatever, however, to its going in.

Mr. RICHARDS. I think that too, but I think it will do no harm to make it more explicit.

Mr. EVANS (Weber). It will do no harm and I favor that going in that respect.

Mr. ROBERTS. Does that strike out "for private ways of necessity?"

Mr. HART. No, sir; it doesn't strike out anything; it simply adds the one word "necessary."

Mr. ROBERTS. Then it would read, "except for necessary private ways of necessity."

Mr. HART. No, "for private ways of necessity and for necessary drains," etc.

Mr. VAN HORNE. Mr. Chairman, I move to amend by adding after the word "necessary" the words "dumps, tunnels, millsites and." The object of that I take it, is that almost everything is provided for here as a right to take private property; my own opinion would have been, that it was better to declare those uses that are desired under this right of eminent domain to be public uses, but we have provided now for agricultural, for the irrigation and so far as I can see have left wholly untouched the question of necessary mining, and I think that the amendment proposed would perhaps cover that; for that reason I am in favor of it.

Mr. FARR. Mr. Chairman, I prefer to have each amendment put separately. When there are three or four amendments, we get confused and we do not get anything done.

Mr. VAN HORNE. I will withdraw it until the word "necessary" is inserted.

The amendment was agreed to.

Mr. VAN HORNE. Mr. Chairman, I desire now to offer that amendment, after the word, "necessary," in line four to insert "dump, mill and tunnel sites and," before the word "reservoir."

The amendment was rejected.

Section 25 was then read as follows:

Section 25. The right of every citizen to the fruits of his labor and his freedom to sell the same, shall not be abridged, and shall be protected.

Mr. RICKS. Mr. Chairman, I move to amend by striking out in lines two and three, the words, "the same" and in lieu thereof, insert the words, "his

labor" so that it will read, "the rights of every citizen to the fruits of his labor and his freedom to sell his labor, shall not be abridged and shall be protected."

Mr. Coray offered the following as a substitute for section 25:

"The rights of every citizen to the benefits and sales of his labor and the enjoyment of the fruits thereof, shall never be abridged.

Mr. EVANS (Weber). Mr. Chairman, I really do not see the necessity of the section at all, and I do not understand it either. I think it is just as well out of there, together with all amendments. According to the very spirit and genius of our institutions a man has a right to the fruits of his labor. It is protected in other parts of the bill of rights but the idea of giving him his freedom to sell his labor—it seems to me we might be giving him the right to sell himself into bondage for a term of years, it might give the right to make a contract by which he might make a slave of himself forever, and then under the latter part of the section, that shall be protected. It reminds me of the Welsh woman who said she was a Democrat because she believed in free trade and high tariff.

Mr. VARIAN. Some Democrats do.

Mr. PIERCE. Mr. Chairman, I am in favor of the motion to strike out the section. I think everything that is accomplished by the section is accomplished by section 1 of the article.

Mr. SQUIRES. Mr. Chairman, I do not understand that any motion has been made to strike out yet.

Mr. PIERCE. Well, then, I am opposed to the substitute. It says in subdivision 2 of section 1, all men have the inalienable right to enjoy and defend their lives, liberty and to acquire, possess, and protect property. It seems to me that sentence is all that is necessary.

Mr. FARR. Mr. Chairman, to obviate further discussion, I move to strike out section 25.

Mr. RALEIGH. I second the motion.

Mr. JAMES. I would like to inquire of the committee that adopted this section what their object was, and I will ask while on my feet if it was not to protect the farmer, when he came into the city, from a tax being put on by corporations that would keep him from peddling in the city.

Mr. RICKS. The section was introduced to meet a contingency that has arisen lately all over this country——

Mr. RALEIGH. If that is the object of the section, I withdraw my motion—that is, if the question of Mr. James shall be answered in the affirmative, I shall withdraw my second to the motion.

Mr. RICKS. There is a tendency, Mr. Chairman, of organization of labor, when they make demands at certain times upon corporations to increase their salaries, and when those demands are not yielded to, to go on a strike. This clause is made to protect the men who are willing to work for the wages that are offered to them, and I think that is an inalienable right of every man to work for what he pleases and for whom he pleases, and he ought to be protected in that right.

Mr. PIERCE. Is not that declared?

Mr. RALEIGH. If that should be answered in the affirmative I ~~still~~ withdraw my second to the motion.

Mr. ROBERTS. Mr. Chairman, after listening to the remarks of the gentleman from Sevier I should still be opposed to the insertion of the section here, on the ground that the protection to be sought by workingmen who will be willing to work, if not prevented by those on a strike, would be proper matter for the Legislature to deal with, and since we have provided or declared the right of men to be free, it would be for the Legislature to make such provisions as contemplated by the remarks of the gentleman from Sevier, and it is not at all necessary that they should find their way into the Constitution.

Mr. CREER. Mr. Chairman, the object of the committee, as I understand it, in inserting the subject matter of this section, was that the laboring man should not be boycotted, that is that he should not be systematically proscribed. Gentlemen on this floor have told the members of the committee—in fact there were members of that committee who stated that the railroads have a systematic way of prohibiting a man that is following that occupation from selling his labor—that is, if he should give umbrage or offense to his employers—he cannot then get employment from any railroad line in the country. They have a systematic way of boycotting the laboring man in this respect, and it was insisted that something of this kind should be put in the bill of rights that he may be protected in the fruits of his labor and the right to sell his labor. That was the object, as I understand it, of putting it in there. I do not know the extent that this aggravation goes to, but that was indicated by members of the committee.

Mr. RICHARDS. I would like to ask the gentleman from Utah a question, that is how this section does or would protect that class of people in their labor, or in the fruits of their labor?

Mr. SMITH. Mr. Chairman, and gentlemen, I am opposed to the section and the substitute; it seems to me it is one of those things, if you put it in the Constitution, that is going to return to plague us. A man can run a little still or he can do anything in the world almost under that provision, and it seems to me that laws in the future would be passed under the Constitution that would give ample liberty to the citizen. This thing we don't know what it is. It is one of those uncertain things, and I am opposed to the whole proposition. And I am in favor of striking it out.

Mr. RYAN. Mr. Chairman, I would be very much in favor of striking out that section if for no other reason than for the reason stated by the gentleman from Sevier. I don't think the Convention should enter into that subject and it should be left entirely to the Legislature for future provisions.

The question being taken on the motion to strike out, the motion was agreed to.

Section 26 was read as follows:

Section 26. The provisions of this Constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise.

Mr. ROBERTS. Mr. Chairman, I have a substitute to offer for section 26.

The same was read as follows:

To guard against transgression of the high powers we have delegated to the government of the State of Utah by this Constitution, we declare that everything contained in the bill of rights is excepted out of the general powers of government and shall forever remain inviolate.

Mr. ROBERTS. I realize this is scarcely a change in substance; it is a change in the style of declaring, practically the same thing, but it has in my opinion this other thing in its favor, that as the section is now proposed, there is nowhere a declaration that the rights that we here declare for the citizens of the new State are excepted out of the powers of government and are forever to remain inviolate, as a guaranty to the citizens of the new State that as to those rights they shall not be interfered with, and I therefore move you the adoption of the substitute for section 26.

Mr. SMITH. Mr. Chairman, I move the section pass as it is.

Mr. EVANS (Weber). Mr. Chairman, I am in favor of Mr. Roberts' substitute for that section. The section as it now stands only has such significance as the law gives it anyway—that the provisions of this Constitution are mandatory and prohibitory, unless by express words they are declared to be other-

wise. A bill of rights is always mandatory and it is always prohibitory, unless it is otherwise expressed. This section means nothing at all. It means nothing except such significance as the law gives without it. I am inclined also to think that the amendment offered by Mr. Roberts, is one which the bill of rights itself would guard by force without it. But it seems to me it would be better to have in there something of that nature, so that present and future generations in reading it will understand exactly what a bill of rights means, and that is all that it is.

It is simply a declaration of what the bill of rights is. Let your young child study this provision that the provisions of the bill of rights are mandatory or prohibitory, they would not understand anything at all about it. They would gather the idea that those rights were declared by the bill of rights and were the rights which the people undertook to secure and maintain inviolate. I like it very much better. It is used in so many constitutions, too, that I shall support the amendment.

Mr. EICHNOR. Let me ask the gentleman from Weber County a question, or perhaps I should put the question to Mr. Roberts. You do not mean to infer that the bill of rights could not be amended as any other part of the Constitution could be amended?

Mr. EVANS (Weber). Oh, no; certainly not.

Mr. ROBERTS. Certainly not.

Mr. WHITNEY. Mr. Chairman, I am willing to vote for the substitute, and defer to the wisdom of the gentleman who submitted it, provided that the argument is eliminated from it. I see no need of beginning this section with a declaration that it is in order to guard against the transgression of the high powers delegated or declared in this declaration.

Mr. ROBERTS. If he would permit me a further explanation, I would say that in the constitutions of the majority of the states, where such a declaration as that is made, it goes as the last section of the bill of rights.

Mr. WHITNEY. The point I wish to make is this, that it would be sufficient to declare that everything contained in the bill of rights is excepted out of the general powers of government and shall forever remain inviolate.

Mr. RICHARDS. Mr. Chairman, if this substitute is to prevail, I am in favor of the amendment, if the gentleman from Salt Lake offers it as an amendment. I will ask him if he does?

Mr. WHITNEY. Yes; I will offer it as an amendment.

Mr. RICHARDS. I am in favor of it as an amendment, if the substitute prevails at all, but I am opposed to the substitute. I think this section should pass as it stands, and then if it is desired to add to this article the substitute proposed or the section proposed by the gentleman from Davis, as modified by the gentleman from Salt Lake, I shall vote for it, but it does not seem to me it takes the place of the language that is in this section and that ought to remain there.

The amendment of Mr. Whitney was rejected.

The substitute of Mr. Roberts was rejected.

Section 27 was read.

Mr. WHITNEY. Mr. Chairman, I move that the section be transposed to take the place of section 26. I think it is out of its order.

Mr. EVANS (Weber). That will be for the committee on compilation and arrangement.

Section 28 was read and passed without amendment.

Section 29 was read as follows:

"Section 29. Frequent recurrence to fundamental principles is essential to the security of individual rights and the perpetuity of free government.

Mr. VARIAN. Mr. Chairman, I just rise for information. I have no motion to make. I would like to ask the chair-

man of the committee how this is to be enforced—what the purpose of it is? Under section 26, it is mandatory and prohibitory, on whom—on the citizen or the Legislature, or the courts? Are the individual members of the commonwealth frequently to recur to fundamental principles, and how? And if they do not, what is to become of the security of individual rights and the perpetuity of free government? And if they do not, how will we compel them to do it, and see that every man does frequently recur to fundamental principles? Possibly my friend Eichnor can inform me. Possibly it is found in the constitution of Washington. If so there is no necessity of going any farther.

Mr. VAN HORNE. Mr. Chairman, I move to strike out section 29.

Motion seconded.

Mr. WELLS. Mr. Chairman, the committee deem this to be a patriotic utterance, that frequent recurrence should be made to fundamental principles, because the tendency of the times might be as it has been in the past, not to recur very often to fundamental principles. When the people are oppressed and do not get their rights, it may be necessary to recur to fundamental principles. We thought it a patriotic utterance that did no harm in the declaration of rights, and as the gentleman says, we copied it from Washington.

Mr. WHITNEY. Mr. Chairman, I shall oppose the striking out of the section. This is not the first section in this document which declares a fundamental principle without guaranteeing it. We declare that all men have the inalienable right to enjoy and defend their lives and liberty. We suppose that the Legislature shall provide how they will be secured to them. The declaration of a general principle does not hurt anything. I think it ought to stand as it is.

Mr. RICHARDS. Mr. Chairman, I hope this motion will not prevail to strike this out. Of course this, like some other portions of this article, is simply a declaration of rights and the criticism that was made about not being enforcible or whether it is binding upon the officer or the citizen, or the application that should be made of it, I think ought not to weigh in determining this question. It seems to me that it is there as an admonition from the great sovereign power of this State to every officer and every citizen and every person within the State, that there shall be frequent recurrence to fundamental principles, and to say that it is not enforcible in itself, is not an objection to the section, and I hope it will stand.

The motion to strike out was lost.

Mr. MALONEY. Mr. Chairman, section 25 was stricken out. Is it in order to propose a substitute in the place of 25?

The CHAIRMAN. If there is no objection it may be offered.

Mr. Maloney offered the following as a substitute for section 25.

Every citizen of this State shall be free to obtain employment wherever possible, and any person, corporation or agent thereof, maliciously interfering with or hindering in any way any citizen from obtaining or enjoying employment from any other corporation or person shall be deemed guilty of a misdemeanor.

The substitute was rejected.

Mr. VARIAN. Mr. Chairman, I move the committee rise.

Mr. WELLS. Mr. Chairman, I do not rise to oppose the motion for the committee to now rise, but I just wish to call the attention of the committee to the fact that section 4 has not been passed upon, so that when we again resolve ourselves into the committee of the whole, the declaration of rights will still be the order upon the calendar.

The CHAIRMAN. The article except the preamble and section 4 has been disposed of.

Mr. RICHARDS. Mr. Chairman, I desire to ask for information whether or

not this whole article is not still before the committee?

The CHAIRMAN. I do not understand so. It seems to me that the time must come when debate in committee of the whole will have to cease. Of course, it is open for amendment in the Convention.

Mr. VARIAN. You will remember that a motion was made in the beginning that we proceed to consider this article by sections, and amendments to be offered were to be received by sections; under that state of the case, I should think the chair's idea would be the correct one.

The CHAIRMAN. That is as I understand it. The motion is that the committee rise.

The motion was agreed to.

The committee rose and reported as follows:

The committee of the whole, having had under consideration the preamble and declaration of rights, beg leave to report progress.

The Convention then took a recess until two o'clock p. m.

TUESDAY AFTERNOON, March 26, 1895.

The Convention re-assembled at 2 o'clock p. m., with President Smith in the chair.

Mr. Squires moved that the Convention resolve itself into committee of the whole, which was agreed to.

The Convention then resolved itself into committee of the whole, with Mr. James in the chair, and proceeded to the consideration of section 4 of the preamble and declaration of rights.

COMMITTEE OF THE WHOLE.

Mr. CHIDESTER. Mr. Chairman, I would like to know how many amendments, if any, are before the house on this section.

The CHAIRMAN. There are four amendments, as I understand, before the committee. One by Mr. Eldredge, one by Mr. Maloney, one by Mr. Buys, and one by Mr. Kimball.

The first business in order will be the amendment by Mr. Eldredge.

Mr. SQUIRES. Mr. Chairman, if I understand the status of section 4, it now lies upon the table. I move that section 4 be taken from the table for consideration.

The motion was agreed to.

The CHAIRMAN. I suppose, gentlemen, the first matter in order of these amendments will be that of Mr. Kimball, of Weber.

Mr. ELDREDGE. Mr. Chairman, I have a substitute that I wish to offer to take place of and supersede all of those amendments.

The CHAIRMAN. Do you wish to withdraw your amendment?

Mr. ELDREDGE. Yes, sir; the one offered by myself and also the one offered by Mr. Kimball.

Reads:

No public funds or property in this State, whether accruing from taxation or otherwise, shall be appropriated or used for the purpose of founding, maintaining, or aiding, directly or indirectly, any church, religious denomination, religious or anti-religious society.

Mr. RICHARDS. I second the substitute.

Mr. ELDREDGE. Mr. Chairman, I mean this to begin at the word "no" in the twelfth line and strike out all thereafter.

Mr. KIMBALL (Weber). Mr. Chairman, I am willing to accept Mr. Eldredge's substitute for the first clause of the amendment I offer. It is substantially the same.

The CHAIRMAN. Then you withdraw your amendment?

Mr. KIMBALL (Weber). I withdraw the first clause of the amendment I offered.

The CHAIRMAN. If there is no objection, the first clause of Mr. Kimball's amendment will be withdrawn.

Mr. VAN HORNE. Mr. Chairman, I hope that the amendment will be voted down. I don't think it covers the

ground completely. In our speeches here the other day on the same subject, the question was made about leaving out societies other than religious, benevolent societies, fraternal societies, or infidel societies, so that they might receive by vote of the Legislature part of the public funds, and I don't understand that this amendment covers that objection, and it is entirely in line, as it seems to me, with the purpose of the amendment, that we should guard the public funds from going to any society that deals with the question of religion or merely conduct, and guard the public funds from being diverted from their ordinary and proper use. I have an amendment, if the amendment is voted down, that I think covers that and I am ready to propose it. It includes not only the religious organizations and societies, but benevolent and fraternal organizations and societies, and I think that that ought certainly to be included in some way in this provision.

Mr. EVANS (Weber). Mr. Chairman, I am going to vote against the substitute because I don't think it goes far enough. It would permit the appropriation of money to the Masonic fraternity, Odd Fellows, A. O. U. W., or any other society; I think the gentlemen on the other side of the house are entirely too particular about this section. I don't believe there is a lawyer who would say that "secular" would include corporations by which bounties could be precluded. I think it would include all organizations and at the same time they are not anti-religious societies, neither are they religious societies, and it does not cover that class of people, and for that reason I shall vote against it.

Mr. CANNON. Mr. Chairman, I would like to offer as an amendment to the substitute——

The CHAIRMAN. The amendment is out of order, Mr. Cannon.

Mr. ROBERTS. Mr. Chairman, I, too, shall vote against the substitute, not because I do not want it adopted in this clause of the Constitution, but for the reason offered by Mr. Evans, of Weber. It seems to me, sir, that in this connection the word "secular" merely stands in antithesis to "religious societies." If the word secular had remained I would be only to glad to vote for this substitute, but as it now stands, I could not vote for it, but shall vote against it, but hope that it can come up in some other form with the change that is suggested.

Mr. ELDREDGE. Before the question is put, I would ask, if I could get consent of the house, to simply propose the adding of two words to the motion. I will simply state what they are, add "anti-religious or fraternal societies."

Mr. EVANS (Utah). Mr. Chairman, I object to it; I have got mixed up. I wanted to do away with the whole thing and return it to the same committee.

Mr. KIMBALL (Weber). Mr. Chairman, now, I move to strike out all that language of section 4, beginning with the word "no" in line 12 and ending with the word "establishment" in line 16, and insert in lieu thereof the following, "no public funds or property in this State, whether accruing from taxation or otherwise, shall be appropriated or used for the purpose of founding, maintaining, or aiding, directly or indirectly, any church, religious denomination, religious society, or any other institution, society or undertaking which is wholly or in part, under sectarian, secular, ecclesiastical control."

Mr. EVANS (Utah). I second the motion.

Mr. VARIAN. Mr. Chairman, I move as an amendment that the word "secular" be stricken out.

The amendment of Mr. Varian was agreed to.

The question being taken on the amendment of Mr. Kimball, of Weber, it was rejected.

Mr. BUYS. Mr. Chairman, my motion to amend was to insert the words, "as a qualification" after the word "required," in the sixth line, so that it would read, "no religious test shall be required as a qualification for an office of public trust or for any vote at any election."

The amendment of Mr. Buys was agreed to.

Mr. VAN HORNE. Mr. Chairman, I move to strike out, beginning with the word "no," in the twelfth line of section 4, and ending with the word "establishment" of the language in the section and inserting, "no public money or property shall be appropriated for or applied to the founding, maintenance, or support of any religious, agnostic, anti-religious, fraternal, or benevolent organization, society, or order, or for the support of any establishment or institution under control of the same."

Mr. SQUIRES. Mr. Chairman, I move to strike out the word "benevolent;" I do not want all the charitable institutions of the State barred by any proposition of that sort.

The question being taken on the amendment of Mr. Squires, it was rejected.

The amendment of Mr. Van Horne was rejected.

Mr. VARIAN. Mr. Chairman, I move the adoption of the section as it stands.

The motion was agreed to.

Mr. EVANS (Weber). Mr. Chairman and gentlemen of the committee, I have a section which I desire to be added to section 25.

Mr. VARIAN. Mr. Chairman, I suggest a point of order, that under the order of the committee, we have gone through every section and the matter has been subject and open to amendment. We have concluded the business of the committee so far as this article is concerned, with the exception of the preamble, and further amendments are not in order in committee of the whole.

The CHAIRMAN. I think the point of order is well made.

Mr. EVANS (Weber). Mr. Chairman, I ask an appeal from the decision of the chair.

Mr. WELLS. Mr. Chairman, the gentleman from Salt Lake, (Mr. Varian), says we have concluded the consideration of the declaration of rights all excepting the preamble. While I recollect that there is a rule which provides that the preamble shall be considered last, I call the attention of the committee to the fact that we read this preamble and passed upon it in the first place.

Mr. VARIAN. The gentleman will pardon me, I understood that to be the case. I did not state that as an absolute fact.

Mr. WELLS. We have absolutely passed upon the preamble.

The CHAIRMAN. That is as the chair understands it.

Mr. VARIAN. I move, Mr. Chairman that when the committee do arise they report the preamble and article one to the Convention with the recommendation that it be adopted.

The motion was agreed to.

Mr. EVANS (Weber). Mr. Chairman, I would like to ask unanimous consent to have these sections which I prepared read. It is absolutely necessary to go into the bill of rights; I want to explain as a matter of personal privilege (and I will be frank when I do it) it was prepared and inserted in the bill of rights by the full committee but some of my democratic friends object to it. They thought there was something wrong about it, and upon careful consideration, I find that they were wrong, and I am willing to say now that they were wrong, and that that ought to go in. It is one of the most important things that can be put into that bill of rights and there ought to be absolutely no division about it.

Mr. VARIAN. Do I understand the gentleman to say that it was reported by the committee?

Mr. EVANS (Weber). It was at first.

Mr. VARIAN. It did not come to the Convention.

Mr. EVANS (Weber). It was agreed to be reported, but it was stricken out out of deference to some of our democratic friends, and I now ask to have it read.

The CHAIRMAN. If there is no objection it will be read.

The same was read as follows:

And every grant of franchise, privilege, or exemption shall remain subject to revocation, alteration, or amendment.

Mr. EVANS (Weber). Mr. Chairman, I offer it as a section. Every gentleman who has studied this question knows that any grant made to a railroad company or to any individual, for instance, to go into a canyon for a coal road or to take out timber, should still be within the powers of the Legislature to revoke. That question has brought more mischief in this country than any other. In the Dartmouth College case, it was decided that when the Legislature made a grant to an individual or an association without any power to recall it, it became a contract and to recall it the Legislature would be infringing upon the other provisions of the Constitution that no law shall be passed violating the obligation of a contract, so that if our Legislature were to give any grants to any individual for any of these purposes named, it would then become a contract irrevocable and subsequent Legislatures never would have any power to revoke it, and I put this just as they had it in the bill of rights, except changing the words to make it plain. If I may be permitted, I would cite a good many instances where this matter has worked a great mischief, but I will not attempt to do it now. Surely the Legislature ought to retain the power over those kind of grants, so that it can recall them. For instance, if a certain manufacturing establishment is exempt from taxation, or any other kind of property is once exempted from taxation by any act of the Legislature, that exemption becomes a contract forever, and that the Legislature never can have the power to recall it. So it would be if the Legislature granted the right to go into our mountains and take rock from a quarry to any individual or corporation, if it were granted without any power to revoke, it would become a contract between the individual and the State, and they would hold it as long as they or their successors lived, or during the life of the corporation. Now, we do not want to do that—no Republican does. I congratulate my Republican friends that they put it in there; it is in all the modern Constitutions.

Mr. EICHNOR. Washington included?

Mr. EVANS (Weber). Every one of them, Republican and Democrat. There is nothing political about it at all. It is simply right that we should retain this power to recall these privileges and grants when they are granted by the Legislature. I move its adoption.

Mr. SQUIRES. Mr. Chairman, I understand that the particular article which was stricken out by this committee was not exactly like the article which Mr. Evans has sent up to the clerk's desk. That article was in this language: "No law shall ever be passed granting irrevocably any franchise, privilege, or immunity," and that article, as I understand it, was stricken out with the understanding that the matter should go to the judiciary committee, with the idea that they should make some report of a similar character on this subject.

Mr. EVANS (Weber). We cannot provide that in there at all. It is no place for it at all.

Mr. SQUIRES. Mr. Chairman, if it was the intention to have the article that was stricken out, presented now, why not have the article that was stricken out presented?

Mr. EVANS (Weber). I am perfectly willing.

Mr. SQUIRES. I would like to offer the original section as a substitute for the one offered by Mr. Evans.

Mr. EVANS (Weber). I simply changed the word "immunity" to "exemption." According to the definition they are exactly the same in meaning. Everybody understands what exemption is, and everybody does not understand what immunity means. I accept the substitute. I do not want to quibble about words. It is exactly the same.

The substitute as amended was adopted.

The CHAIRMAN. The chair observes ex-delegate Rawlins present. He is invited to a seat on the platform. [Applause.]

By request of Mr. Hill, the privilege of the floor was extended to Mr. Merrill, of Montana.

The committee then proceeded to the consideration of the article on education as follows:

EDUCATION AND SCHOOL LANDS.

Mr. LEWIS. Mr. Chairman, I move to amend the title to this article by adding the words, "and school lands."

The amendment was agreed to.

Section 1 was read.

Section 2 was read.

Mr. KERR. Mr. Chairman, I move to amend section 2 in line three as follows, by striking out the word "free," and adding after the word "schools" the words, "in which tuition shall be free, except as hereinafter provided."

The exception referred to is in section 7, where provision is made that tuition may be charged for admission to the university. It would be better to have this so worded that there can be no doubt as to the meaning. There is no exception to the public schools, the exception being made only as to the charge for admission to the schools.

Mr. VARIAN. Mr. Chairman, I do not agree with the gentleman, that that would obviate his objection. I think it goes farther than is intended. I move to amend by striking out the words, "except as hereinafter provided."

The CHAIRMAN. I understand you, then, Mr. Varian, you move an amendment to Mr. Kerr's amendment.

Mr. VARIAN. Yes, sir; I see no necessity for his amendment, but if he wants to put "free" after "schools" I have no objection.

Mr. KERR. Mr. Chairman, the objection I have to the amendment offered by the gentleman from Salt Lake is this: Should the appropriation to the university be insufficient, it may be very desirable that the regents shall have the power to charge a tuition fee. For instance, I understand that the appropriation made a year ago to the university was inadequate, but the law was such that only ten dollars could be charged for admission to the several courses of the university. Now, where the attendance is four or five hundred students, a charge of fifteen or twenty dollars a year is of great assistance to the institution, but if the amendment proposed by the gentleman from Salt Lake should prevail, then all the schools of the public school system, including the kindergarten, primary, and grammar grades, and the high schools and the university must be closed, there being no power in the officers of these schools to charge a tuition. That is the objection I would offer to the amendment of the gentleman from Salt Lake.

Mr. VARIAN. Mr. Chairman, my attention being called to section 15, I see no necessity for my amendment, or the gentleman's either. I presume it is the intention of this committee to provide for a free school system, other than the university, but I can confess I cannot see the necessity of it. It is perfectly clear. A uniform system of free public schools, except as hereinafter provided, and the proviso referred to is in

relation to the university. That is the understanding, is it?

Mr. MAESER. Mr. Chairman, I hardly agree with Mr. Kerr in striking out the word, "free" before public schools, for the reason which he has already assigned. There is also the provision that such kindergarten schools as may be established by law; they also should come under that reason that Mr. Kerr has spoken of, because they are not absolutely free. That word free that is asked to be stricken out, before "public schools" should come after that—"common schools, which shall consist of primary and grammar grades, in which all children of the State, between the ages of six and twenty-one years may be instructed free." I should desire that that word free be taken off from before "public schools," as Mr. Kerr has proposed, and put it down where it should belong, after "twenty-one years." That would make the common schools free. That is those of the primary and grammar grades. There is a difference between public and common schools. Public schools comprises all from the university down to the kindergarten, but common schools are only comprised under the primary and the grammar grades. They ought to be absolutely free, Mr. Chairman,—the primary and grammar. Therefore, I move that that word free be placed down in line 10.

Mr. PIERCE. Mr. Chairman, I am in favor of the article as it stands.

Mr. CREER. Mr. Chairman, I second the motion of Mr. Maeser.

Mr. PIERCE. I am in favor of the article as it stands. It is simply a declaration that we are establishing a system of free schools in the Territory from the lowest grade up to the highest; that is all, and the proviso here, "except as hereinafter provided," refers to the university. There may be times when the university is in such condition that the regents find it necessary in order to maintain its standing to collect tuition, and perhaps that should be left so that they could do it, but we for one thing, want to declare in our Constitution that the system that we have in this Territory is free schools, and that we maintain the proposition.

The CHAIRMAN. Mr. Varian, did you withdraw your amendment to Mr. Kerr's amendment.

Mr. VARIAN. Well, I will withdraw it.

The CHAIRMAN. Do I understand then that Mr. Maeser moves to amend Mr. Kerr's amendment?

Mr. MAESER. I shall state Mr. Kerr's amendment. The word "free" was to be stricken out before "public schools." I move to amend that the word "free" should be placed on line 10 as referring only to schools of primary and grammar grades, because as has already been stated the university is not absolutely free; that should be left to the Legislature; it is not a business of the Convention to bind it down. Certain circumstances and conditions may arise in the future, which may make it extremely necessary to not have the university entirely free. In fact propositions are proposed to be made now that the regency will be empowered to charge fees for tuition under certain conditions. That would not make the university absolutely free. Therefore, in order to be consistent, we have to declare that the schools of primary and grammar grades are free and that it is not left to the discretion of the Legislature, but the rest should be left to the Legislature. Now, this is an open question. Mistakes can be made and will be made by the Legislature, Mr. Chairman, and they may be made also by this Convention, and find their way into the Constitution, but there is that difference between a mistake in a Constitution and a mistake made by a Legislature; that mistakes made by a Legislature can be rectified within two years, while a mistake made in the Constitution is a very great deal more serious. There is a great deal more

trouble connected with rectifying them than mistakes in a legislature. Therefore, the provision reported by the committee empowered the university to charge if they thought necessary and conditions should arise where it becomes indispensable—to charge fees for tuition. Now, that would make it not free.

Mr. CREER. I desire to ask the chairman of this committee if it is the purport and intent of this article that from the kindergarten up to the university they shall be sustained and supported from the State school fund? Is not that the purport of the article?

Mr. PIERCE. No, sir; not at all—supported by taxation as provided by law.

Mr. CREER. Is not that then supporting the university from direct taxation?

Mr. PIERCE. Direct taxation, yes, sir; part of it.

Mr. CREER. Kindergarten as well?

Mr. PIERCE. The Legislature may provide for free kindergartens. In certain cities, Mr. Chairman, in answer to the remark made by Mr. Maeser, I will say that if his amendment prevails, you will notice that the system of the schools that we should have, only the kindergarten and the common schools would be free. It leaves the high school in such a shape that tuition may be charged in the high school, and I am opposed to that. You will see by examining the third subdivision of this section that such high schools that may be established by the Legislature or by cities, one or more districts, or one or more counties, as provided by law. Now the Legislature will provide a law very likely so that a high school need not be established in any county uhtil the county is ready to support the high school. But if the county is ready to support the high school, then it is to be free to pupils in the high school. We ought to provide a system of free schools so that education in this Territory in all departments should be free. And my own idea is, that we should be free in the university, but it is possible that times may arise when it should be left to the discretion of the governing board of the university to charge certain tuition and that is what the bill provides for. I believe in letting the section stand as it is. I think that it meets the wants of the Territory just as it is.

Mr. LEWIS. Mr. Chairman, I think that the entire system should be free. No system of schools can claim to be national that is not so established. I take the position that when the state takes a child in the kindergarten and leaves him at the threshold of the high school, its work is incomplete. We believe it the duty of the state to fit and qualify the child for the citizenship in this State. We believe that every child in the State regardless of his financial condition should have equal privileges with others. That there should not be a provision to establish an aristocracy, and a distinction between the child of the rich man and the child of a poor man, but that the child of a poor man, if he has the desire and ability, can rise above the condition of the common schools, and go on through the high school and university, and that it is not only the duty, but it is the high prerogative of the state to fit and qualify the students for the high position in the state, and that no child should be left in a position that he cannot comply with the demands of the state. Now, my friend from Utah County, by cutting off this system of free schools at the threshold of high schools, leaves the child in his education incomplete, therefore, we say it is the duty of the state to fit and qualify this child for all the demands of the state, carrying him through, commencing with the kindergarten, for I believe in the language of Dr. Harris, United States Commissioner, that through the kindergarten schools, especially in cities of

ten thousand inhabitants, educational forces reach the slums of society, and can reach in that way when they can reach them in no other way. And by taking the child to the kindergarten and carrying it through all the grades of the common schools to the high schools and universities it qualifies it for every demand of the state. Therefore, I wish to sustain the proposition as set forth in this section, that the system shall be free—not all by state taxation, but most of it by local taxation of county and district; that wherever a district or a county is amply fitted and qualified to establish a high school that they can, by legislative enactment, provide for that condition and establish their high school, and where the State is qualified to establish a university in all departments, that they have that opportunity to do so, in connection with the State taxation, out of the funds so generously appropriated by the national government. Therefore, I hope the members of this Convention will, when they consider this section, extend the duty of the State to the citizen and the child and see that every child has every opportunity in fitting and qualifying himself for the demands of the State.

Mr. GOODWIN. Mr. Chairman, if there is any one thing in the world that the American people are more unanimous about than any other, it is in favor of the establishment of the public schools. There is nothing the American people are so jealous about having taxes as their public schools. I presume the committee that have had this under consideration, have wandered over the same ground that has been wandered over here, and have crystallized on this section. In connection with the other section providing that tuition when necessary in the university may be charged for, it is absolutely necessary. When we speak of free schools, not one in forty will ever think of the university. Their idea is to take the child of rich and poor all alike—educate them in the same schools, until they get to that point where, if the spirit is in them, they will have a university education anyway, and if they do not they will be fitted to go out and take their chance in the competitions of this world. I hope the time of the committee will not be taken up, and that the amendments will be voted down, and the section adopted as it reads.

Mr. KERR. May I just explain that my motion was not to contemplate any change in the reading of this section at all? This provides that we maintain a uniform system of free public schools, except as hereinafter provided. This section is in reference only to the university, and hence, I proposed my amendment. My motion does not change the meaning at all.

Mr. MAESER. Mr. Chairman, I have listened with great attention to the remarks of Prof. Lewis and Judge Goodwin, but it does not touch the question at all. The question here is not the merits and demerits of the free school system. I am in for this. I am a strong advocate of free school systems. That is not the question here at issue. It is only this, whether it shall go into the Constitution or if it should not be left to the Legislature for the time being—that is the schools of the primary and grammar grade are already fixed. I raise no objection to that. The question is only for the high schools just now and the kindergarten. Not that I was objecting to them coming also under the free school system. As soon as we possibly can reach it, by all means let us have them free also. Now, we are entering into statehood. This Territory and the people will have a heavy taxation to stand. Can we afford it? Perhaps we can and perhaps we cannot. I do not know, I am no financier. I leave this to the Legislature to decide. Our first Legislature—whatever they say will be done, and if there is a mistake made

that mistake can be rectified, gentlemen, after two years, but if we to-day make a mistake and fix it up and burden the new State of Utah with a heavy expenditure, and heavy taxation necessary to meet it, and it should prove to have been a mistake, it is a very serious difficulty—much more so than if only the Legislature had made it for two years.

Mr. BOWDLE. Mr. Chairman, we discussed this matter very fully when we went over this article. I think it was the sentiment of the committee that if we are going to be economical, we had not better put our economy to too strict a test upon the free school system. I am in favor of economy in this new State. It will be absolutely necessary, but I am not in favor of curtailing one single iota of the free school system. I remember when in a country school of reading somewhere that sentence that you have all heard, that we must educate or we must perish. It is the fact, gentlemen, that we need all our institutions based on the idea of giving to the child an education that will fit him as a citizen. It is the first duty as we declare here that the State should provide ample means for the education of its children. Now, what does this bill provide? This bill provides that they shall be free, but it does not provide absolutely that you are to establish a high school. That is not established here, it is left with the powers that may follow us—with the Legislature to say—the Legislature can say a high school in such cities or in counties or in districts, as may be required shall be established, but whenever this is done, let it be free—let it be free—do not go and make that a kind of a public academy, with tuition charges. That would bar the poor boy and girl out and let the rich boy and the rich girl have the school right at their home. I am not in favor of that; I am in favor of it if it is to be a high school at all, that it shall be a free high school and the territorial powers by the Legislature will not establish that high school until it shall be demanded by the people, and when it is demanded by the people, I am in favor of letting it then be free. I favor this section just as it stands.

Mr. CREER. Mr. Chairman, I desire to say a word or two in behalf of the taxpayer. I am perfectly willing that our aspirations in behalf of the poor man's child should be laid in that direction, if we could afford it, but I am entirely opposed to this article as it stands to-day. I do not think with the increased burdens that will be placed upon us by taking upon us the garb of statehood, that we are prepared to support those higher branches of education by direct taxation as it does seem to me, Mr. Chairman, that if we are able to give to the scholar a good common school education as has been inferred by Professor Maeser, that we are then doing sufficient. Now, only the last year after the territorial tax of three mills and the county tax of two mills, I paid seven and a half mills out of eleven for school purposes, and it seems to me now that commencing with the kindergarten and going through the high school grade, and all those technical branches of education and that to be supported by direct taxation, is just simply a matter of impossibility. It is placing a burden upon the taxpayer that he cannot carry. I believe, too, that California has just as good institutions in behalf of learning as we may aspire to. In support of this I would read section sixty-one, article nine, of the California constitution: "The public school system shall include primary and grammar schools and such high schools, evening schools, normal schools, and technical schools as may be established by the legislature or by municipal or district authority, but the entire revenue derived from the state school fund and the state school tax shall be applied exclusively to the support of primary and grammar schools." Now, Mr.

Chairman, the university had a very liberal donation granted by the general government and it seems to me that if it is desirable to give those higher branches of education that, that together with such preparations as may be made by the Legislature, would be sufficient without laying the foundation that these must be supported by direct taxation. I say that we must consider well the situation, whether we can afford to establish such a doctrine as this. It seems to me that California is sufficient in this direction. It is only placing these embellishments there. Why not go a step further and put the scholar into his office with a professional shingle out that he may be amply qualified to support himself in future life? I am opposed to doing this by direct taxation and I refer to the fact that we have all we can stand as the law is to-day, with regard to educating the youth of our Territory, but, together with the increased burdens that will naturally come upon the new State, it seems to me that we should not leave this in the Constitution, that it may sustain the university and all those technical branches by direct taxation. I believe California is right. That has passed through years of experience when they established this law that I have cited you to, and I am in favor of Professor Maeser's proposition. I think it is sufficient and then let the university be supported by private means.

Mr. IVINS. Mr. Chairman, I have not taken up very much time of the Convention in debate; I do not intend at this time to delay you but a few moments. The fact to which I wish to call your attention is this, that under the amendment proposed by Doctor Maeser, every child in this Territory between the age of six and twenty-one years will have the opportunity of attending school—a common school, just as good a district school as can possibly be provided, and that school will be maintained by taxation which will be general. Now, gentlemen, if we go farther, the question which confronts us is this, will we be able with the increased burdens of statehood that we must of necessity bear, will we be able to extend to every child in the State a higher education, and if that higher education cannot be made general to all of the children of this State, then I should be opposed to its being applied to any particular locality or county. It would be possible under the provisions of this section that higher schools might be established in some of the more populous counties, but it is not to be expected that for a long time in the future, if ever, those higher grades of education could be taught in the outlying counties.

I very much doubt the propriety—I very much doubt, gentlemen, the expediency of our fixing in this Constitution a rule by which we may be required to pay our taxes for the support of schools where the higher branches are to be taught. I should be very willing indeed to lend my support to this idea if it can be shown to be tangible. I should oppose anything that would in any way curtail the efficiency of the common school system in this Territory, the system of district schools that is now in vogue, and I do not believe that it is proper for us to put ourselves on record here as being in favor of a school system which will give opportunities to the higher branches to all of the children of this Territory. We cannot carry such a load. For the present leave it with the Legislature of the State. Adopt the suggestion that is offered by Professor Maeser, and it will make our primary schools effective, and as I have said, give every child between the ages of six and twenty-one years the opportunity of obtaining a good common school education, and after we have done that, it is as Judge Goodwin says, if they are made of the right kind of metal they will get into a higher school and get a higher school education any-

how, with the assistance that we may be able to render them. I am in favor of the amendment proposed by the gentleman from Utah County.

Mr. VAN HORNE. Mr. Chairman, it seems to me that the gentleman either has the wrong view of this case or else that I have. I may be mistaken, but it seems to me that it simply provides that such districts or counties as want a high school may have one as part of the public school education, and in that case will have to pay for it themselves I understand that that is the case.

Mr. IVINS. May I ask the gentleman a question?

Mr. VAN HORNE. Yes, sir.

Mr. IVINS. Under this section it is provided that the Legislature shall provide for the establishment or maintenance of a thorough and uniform system of free public schools, except as hereinafter provided. Now, it goes on to say that the public school system shall include all of those different grades that are referred to in that section, so that whenever a time shall come that the Legislature may see fit to establish a high school in any county or city or precinct, that school becomes immediately entitled to its proportion of the funds, and under this section would be made free—just as free as the kindergarten. That is the way I interpret it.

Mr. VAN HORNE. I do not understand it as being that way at all. I understand that the Legislature may provide for those schools and provide a way by an open taxation, by which they can be supported and it says, "such high schools may be established by the Legislature first or by the cities next or by one or more districts in the third case or by one or more counties, as provided by law." The Legislature might say that one or more counties should join and have a high school for those counties, and might provide a way in which taxes should be levied to support that. The other provision with regard to the university—it seems to me that the subsequent sections provide for that. We have a large fund already in hand, or we will have when we become a State, for the support of that university. The question of technical education coming in as a part of the general school system, I think is open to objections, unless it is supported by a general fund. But I do not believe and I do not think we ought to say that the high school education is in anywise one in which the State should not take measures to provide for some localities having a high school, and supporting a high school, but I do not see anything in this section that requires it shall come out of the general common school fund. The Legislature may say that if Salt Lake City, or Ogden, or Provo, establishes a high school, that the high school in such cities shall be supported by a local tax to be given for the purpose. I understand the provision to be that common schools, just as Doctor Maeser has suggested—the primary and grammar grades, are the ones to receive the whole benefit growing from the sales of land, etc. That these high schools, when they are established, are to be supported by the localities which establish them, under the provisions of the Legislature, as to where they shall be established and the method of taxation—the method of levying it, as it is done now, to legislative enactment, and special school tax in the district and on the vote of the electors and property owners of that district. I am in favor of the section as it stands.

Mr. MAESER. Mr. Chairman, I have one more remark to make. I appeal to Mr. Lewis, he is the commissioner of our common schools, and he will bear me out in one statement that I am making as a fact. Now, there are a great many of our district schools now that are not able with the support which they are getting from our taxation to keep up the whole year. Now, in Provo if they have to close up at the end of the third term for want of funds,

they cannot keep the schools all the year round. We have not been able thus far under our free school system in Utah Territory, to sustain our district schools with the funds at our disposal—to keep them open during the school year. They may do in Salt Lake City, I do not know, but they have not been able to do so in Provo. The teachers a year ago in Provo offered to teach for nothing if only the trustees would open the schools. They volunteered to teach one whole term for nothing. The trustees and authorities of the city did not except the offer. Now, this is not as it should be. We must secure our common schools, our primary and grammar grades first before all, because that means all the children of our people; it means them all. We have to secure them first and then, if there is any more left, by all means let us have the higher education. My record as a teacher has been for thirty-five years before this people. Nobody can charge that my heart was not devoted to the cause of education from the kindergarten up to the highest grade, but when I see the condition of affairs, I must say, as President Cleveland would say, that it is not a theory but a condition which confronts us.

Mr. PIERCE. Mr. Chairman, it seems to me that the argument of Doctor Maeser can be answered in this way. This bill does not call upon the Legislature to establish any high school in any place until that place demands it. If a county is only able to maintain the common schools, that is all the Legislature will require of them, but if the county grows and there is a demand for higher schools, then it ought to be so that the high schools can be established; and this Constitution is providing that the Legislature may establish those high schools whenever they find the demands of a locality require the schools to be established; and I say that in all the states, so far as my experience goes, there is an established system of free schools, and we do not want to be the State that is behind. If our schools are not in the condition that they ought to be, if our Territory is not in the condition that it ought to be as far as education goes, why, we will come up to that gradually, if we have the proper system behind us, and I think the section should be passed as it is.

Mr. ROBERTS. Will the gentleman permit me a question?

Mr. PIERCE. Yes, sir.

Mr. ROBERTS. Providing that the Legislature concludes to establish a high school in any locality, is that high school to be supported out of the general school fund raised by general taxation?

Mr. PIERCE. Never, sir; it is voted by local taxation, I suppose.

Mr. ROBERTS. You suppose, but I wish the direct question.

Mr. PIERCE. Yes, sir; the taxation in the district.

Mr. ROBERTS. And not out of the general school fund of the State?

Mr. PIERCE. Never. The idea of that may be a little ambiguous in words, but the Legislature provides a method by which it can be established, giving to the people of a certain locality the right to collect funds of the various property owners and taxpayers to carry on that system when the locality demands it.

Mr. ROBERTS. Mr. Chairman, I was not here at the commencement of this discussion. There seems to be a misunderstanding even between members of this committee, some understanding that high schools shall be established by the Legislature, being paid out of the school fund raised by general taxation, and others believing that such high schools must be established and maintained by a local taxation. I understand that first to be the position of Doctor Maeser. If that be his understanding, then, sir, I am in hearty

accord with his amendment. If, however, the contention made on the other part that these high schools established by the Legislature in cities or towns in different localities are to be sustained by local taxation, then I could not have any very great objections, at least to voting for those high schools so established and maintained to be free in the district. But I believe that it is the part of wisdom to move slowly in this thing and to be very sure of the ground on which we are standing. I believe, sir, that it is the duty of the State to provide first for the reasonable education—the common school education of all the children of the State. I believe that that is of first importance, and I shall be satisfied if the new State can get that far in the matter of providing education for its children, and I am in accord too with the gentlemen who hold that that is about all we can do and do it well. If those who contend that the high schools established by the Legislature are to be sustained out of the general school fund raised by taxation, if they are right in this contention, then I call the attention of the committee to this fact, that if that be conceded, from every section of the Territory there will come petitions and appeals for the establishment of high schools in this locality and that locality and the other locality, until they burden the people with the establishment of high schools that will render the efficiency of the common schools far below that which we wish to make them. I would rather see secured to all the children a good common school education than to undertake to educate a few in the higher branches of education. We know, sir, the tendency of high schools——

Mr. GOODWIN. May I interrupt you a moment?

Mr. ROBERTS. Certainly.

Mr. GOODWIN. Is not it absolutely true that the money raised by taxation for the school fund will have to be absolutely equally divided among all the children of the State, and that no particular locality can get anything extra?

Mr. ROBERTS. My answer to that proposition would be this, that while there is a provision made for the division of the school fund, it would be diverted upon the theory that these high schools would be supported out of the general fund raised by taxation, and it would be diverted to the support of higher schools, when as a matter of fact to make our common schools efficient it ought to be employed in them and not diverted from the common schools to the high schools.

Mr. LEWIS. May I ask you, how does the law operate to-day? We have a territorial fund that amounts to so much per capita, this year about $3.95, that fund goes to each county. It is distributed per capita through the counties in proportion to the census enumeration. Some of the counties establish their high schools, others do not. Now, in no instance has that fund robbed the people of the common schools for the high schools. The same thing can be done under this law in the new State.

Mr. ROBERTS. Answering the proposition now submitted to me, will say this, I will take it for instance in my own county. Suppose the condition exists that the gentleman has supposed, that in addition to our common schools, we should have also one of these high schools. Then, sir, the amount that is distributed to us per capita would not only have to sustain the common schools, but the high school as well. I am arguing this question upon the supposition that the gentlemen are right who say that these high schools are to be sustained out of the public tax. Now, sir, proceeding with my argument, we know the tendency of educators. It is a proper one, and that is to carry the people just as far as they possibly can in the direction of higher education. I don't complain of that,

but men who are engaged in any special profession are very apt to become men of one idea. To them the matter of education becomes paramount. They lose sight of every other consideration, and they would lead us to such heights at the very first bound in the matter of education, that instead of leaping to the pinnacle they hold out to us, we would be more apt to fall in the ditch at the foot of the mount. Now, sir, it is to provide against such contingency as that and to secure first as the basis of our educational system and as the basis of preparing men for good citizenship, to have an efficient and splendid common school system established first, and then let these higher educational institutions come gradually. They are not of so deep necessity to the welfare of the future State as the public school is, and I think it is the part of wisdom to go slowly in this matter and by going slowly to build well.

Mr. KERR. May I ask you a question?

Mr. ROBERTS. Certainly.

Mr. KERR. Is it your desire that there should be a provision in here prohibiting the establishment and maintenance of free high schools in the State?

Mr. ROBERTS. No, sir; that is not my desire.

Mr. KERR. Well, then does section 2 provide otherwise than that the Legislature may establish them? There can be no other interpretation given to the statement here.

Mr. ROBERTS. I am very pleased that the gentleman asked that question for the very reason that it brings to my mind an item that I intended to refer to and that was this, that it is granted to the Legislature to establish these high schools; then, as I think I pointed out the fact that from all sections of the Territory there will come up a clamor for the establishment of high schools and the demand will be immediate and universal, until our efforts at establishing the best system of education for the people of the State, will be diverted from the common school system which I think we ought to make efficient.

Mr. CANNON. Mr. Chairman, I think upon this question, the gentleman has made a mountain out of a molehill. In the first place, a distinction is drawn between high schools and public schools. The gentleman in his remarks referred to public schools, clearly making a distinction as against the high school, as if the high school is not a public school. As contemplated in this article, and as it exists in fact, the high school is as much a part of our public school system as is the primary grade, and why should we object to a class or a community establishing high schools if the pupils who reside in that vicinity are fitted for the high school? Would you place a premium upon ignorance and upon stupidity? Would you say to the boy who did not learn anything but went to school and idled away his time, "yes, you may attend school and we will give you your per capita tax, but if you are bright, if you are progressive, if you advance and after a while need a high school, then we will not allow the per capita tax to which you are entitled?" I think the gentleman has a misconception of the manner in which the school fund is applied under the law of Utah, and as it doubtless would be applied under the provisions of this Constitution. It does not matter whether there should be a clamor or not from all sections. Let the clamor come, and if the people want high schools, let them have the high schools. They draw only the same amount per capita, whether the high school is a primary grade or a higher grade. It is distributed according to the school census that is taken, and not according to the class of schools that are established. Then, that being true, should they clamor for high schools, they would have to provide the funds with which to sustain them, drawing only from the general fund the amount that would be allotted if they

did not have high schools. And in case of primary instruction, if any section of country—if in any county or in any city there are students enough who have sufficiently advanced that they wish to enter a high school, should the community there be deprived of the privilege of establishing a high school and devoting their proportion of the school fund which they draw to the maintenance of that? I would say that to deprive them of that would be to take away from them all encouragement to advance, to say, "We will give it to you if you stay in the lower grades, and forbid it if you rise to the higher."

Mr. NEBEKER. Mr. Chairman, I do not intend at this time to give this body of men a dissertation on education, but it seems to me the section as it now stands is all right. It does not prohibit the Legislature, as all the gentlemen, I believe, will agree, from establishing high schools. At the same time it provides that the Legislature may establish high schools, and when the Legislature does that, there is no doubt but the law that creates the high schools will carry with it such provisions for the support of the high schools. They may even say that the high school may be maintained by a partial tax and by tuition fee. The Legislature will regulate that. I think it is safe to leave it with them.

Mr. ANDERSON. Mr. Chairman, I am in favor of the section as it is. I think that we can afford to economize in any other thing pertaining to our Constitution rather than the free school system, and I do not think that the objections of Doctor Maeser are well taken, because the way I understand this section, it does not follow that high schools will be established immediately, but they are to be established according to the needs of the districts and counties by the Legislature hereafter. Therefore, it will come upon the State gradually as has been suggested by those opposing it. Therefore, I am in favor of the section as it stands.

Mr. EVANS (Weber). Mr. Chairman, I know that it will be presumptuous on my part to speak on the subject of education. I never have had any except that which I have acquired myself, and I do not possess any superabundance of that, but I can see from the trend of this article that some gentlemen in this committee are mistaken. If I understand the language right, this whole article of education is drawn upon the theory of giving free education, not only in common schools, but in universities as well. The gentlemen who formed the committee have so stated to me, out of the committee, and I think there is no doubt but what that is the intention. It is to provide and establish high schools and universities where children are taught free of charge at the expense of the State. That is the way I read this entire article. I will ask the gentlemen upon the committee if it is not true—if they did not consider that and agree in the committee that it was for the purpose of giving a higher education and not a common school education?

Mr. KERR. In section 15 let me call your attention——

Mr. EVANS (Weber). I have read the entire article with a great deal of care. Was not that the intention of the committee? I will ask Mr. Lewis, was it not the intention of the committee that the State should give free education in universities as well as in common schools?

Mr. LEWIS. Yes, sir.

Mr. EVANS (Weber). There is no use, gentlemen, of dodging the question. I admire the honesty of Professor Lewis, he believes in the position which he occupies. Some of us take a contrary view——

Mr. KERR. Pardon me, I will call your attention again to section 15, and I know that the understanding of members of that committee was, that

where it was found necessary or desirable by the regents or managers of the board, they could charge for tuition. It does not require it, but that they might do so.

Mr. EVANS (Weber). As I understand it, we are considering section 2. That language is unmistakable. It is incumbent upon the part of the new State to establish universities for the instruction of pupils free of charge under this section, and there is no escape from it. Gentlemen make the objection that if the locality desires a high school, why not let it have it? I say so, too. Is there anything to prevent them from voluntarily associating themselves together in a corporate capacity and establishing a high school, if they desire it at their own expense? But this section draws from the people by way of enforced taxation money to support these higher schools. But, gentlemen, I am not opposed to education; no man, of course, in this committee is, but can we afford to say that we will establish universities where our children will be taught free of charge at the public expense? A system of that kind, admirable as it may be, desirable as it may be, upon the part of many, is wholly impracticable in Utah Territory or in the new State. Our finances will not afford it. The poor people who work and toil upon their farms and in their shops and who need the services of their children about the time they are ready to enter universities, will be required to take the services of their children in order to support themselves and their families, and they are the very class of people who will not get the benefit of the higher education. It is in the interests of the child who can afford the time, whose parents can afford to let him go to the university, and not in the interest, as Doctor Maeser says, of all the people. The common school system, when established free, is the best system known, I think, and the only one which ought to be adopted under conditions such as we have in Utah. I think the State has performed its duty, and I think the State has not performed its duty when it has done less than to provide free education in the common schools, if all the people alike have access to them. And if it be in the child, it will develop. He will secure education in higher schools that are not supported at the expense of the State, even if he has to do like Doctor Franklin did, make his gruel thinner while he is securing his education. I will tell you, gentlemen, we sometimes move in the groove toward the goal of education and get our ideas so exalted, that we forget, as has been stated, everything else. We forget that it is necessary for some people to toil and labor with their hands, that it is necessary to have occupations, that it is necessary to produce. Some of us get the idea that all that is necessary is to give a college education and then the child will live in the world by acquiring and practicing some profession. That will not do. People are not so constituted. We require some work. Somebody must work and somebody will work. But you give all the children a university education and they will conceive the idea that they can live without producing anything, without having any particular manual employment.

Mr. LEWIS. I would like to ask the gentleman to state if he can cite a single instance in history where a free people ever expressed regret at having made ample provision for the education of the people. Even in this Territory, have the people ever expressed any regret at having too much of education?

Mr. EVANS (Weber). We have not had too much of it, but we are now taking a step too far to suit me. I say that if we get that far we will regret it. What will we do? Shall we establish a university in Ogden and Salt Lake and Provo, and every other city in the Ter-

ritory? If not, will the people be upon an equality? Will they have the same access to the schools?

Mr. SQUIRES. The section provides for a university.

Mr. EVANS (Weber). Exactly—a university, but when we confine it to the common schools, then those schools are in every precinct and every child has an opportunity to enter the portals of the school house and to secure a common school education at the expense of the State. I think the State has performed its duty when it has done that, and you will find, gentlemen, in going through this article that you will be confronted with this question from one end to the other. We ought to have an expression now as to whether we want these high schools at the expense of the State. If we do, the article is all right. If we do not, it must be reformed because it is drawn upon that idea. No man could tell me that a venerable teacher like Doctor Maeser would have a mistaken idea about this. Gentlemen, there is a man who has a spent his life in the education and training of the young. He knows the benefits of education. He knows the interests of the child and he has studied the interests of the State, and I shall support the amendment which he proposes.

Mr. IVINS. Mr. Chairman, I wish to crave the attention of the house for a few minutes more. There is undoubtedly a misunderstanding in regard to the provisions of this section. If I could be led to understand it as it is explained by the gentleman from Salt Lake, who is the chairman of the committee on education, I should have no objection to it at all, but I certainly cannot understand it as he interprets it. Now gentlemen, before a vote is taken upon this question, I wish to call your attention to the section as it reads at present, and then I wish to call your attention to the section as it will read under the amendment offered by the gentleman from Utah, Doctor Maeser. At present the section provides, (reads). Now, gentlemen follow me in this. Doctor Maeser proposed to strike out "free" in line 3 and to insert the word "free" in line 10 after "instructed." The section will then read, "May be instructed free." Now, gentlemen, such high schools as may be established by the Legislature or by cities—one or more districts or one or more counties, as provided by law, and a university. I submit, gentlemen, that the amendment offered by Doctor Maeser brings this question precisely to where my friend, Mr. Pierce, says that he designs it should be. Precisely where my friend, Mr. Nebeker, says that he desires that it should be. It provides that these lower grades—the kindergarten and the common school—shall be free, and that after that the Legislature may provide for higher schools, and may provide the method by which they may be maintained by taxation or otherwise, as provided by law. I do not object to this. I am in favor of it. I believe that we should have high schools just as soon as the Legislature shall say that we need them, but I do maintain, gentlemen, that except Doctor Maeser's amendment is inserted in this section, it makes every one of these high schools that may be established and this university, entitled to their pro rata of the school funds that are collected from taxation in this Territory. That must necessarily do one of two things, it must either materially increase the rate of taxation for school purposes or else it must of necessity deprive the district schools of their pro rata of school money, and it is this latter point that I am guarding. I tell you, gentlemen, that in the outlying districts, we have not now sufficient to maintain our schools six months in the year, and therefore I object to this section as it stands. I ask you to look at the question carefully, you will find that the amendment of Doctor Maeser proposes to put this thing precisely where my friends, Mr. Van Horne, Mr. Pierce,

say they want it. Therefore, they ought to vote for that amendment.

Mr. CANNON. May I ask a question?

Mr. IVINS. Yes, sir.

Mr. CANNON. As I understand, Mr. Ivins, the amendment offered by Doctor Maeser consists in simply striking out the word "free" in one place and inserting it in another?

Mr. IVINS. That is all there is to it.

Mr. CHIDESTER. Mr. Chairman, I believe that the amendment offered by Doctor Maeser is the proper one. Now, I am in favor of the free school system that would be established by that amendment, but to allow this section to be adopted as it reads, appears to me that it would compel the Legislature to establish a university and then, if you want to put it plain, the other districts could establish free high schools and pay for them. That is the way that I have got it figured down. If I am wrong I want to be corrected. Now, I am willing for the establishment of the free school system and make it universal. Make it so that any section of country if they desire free schools and want to pay for it—all right, but I do not understand it to be that way as the section now reads.

Mr. BUTTON. I would like to ask Mr. Ivins a question.

Mr. IVINS. Yes, sir; I will answer it if I can.

Mr. BUTTON. You make the statement that these high schools would draw from the money. I would like to ask you if Salt Lake City built high schools, would it make any difference with the per capita that each scholar would draw in the outlying districts?

Mr. IVINS. Why, certainly; certainly it would make a difference. I make this statement, that the right of taxation must either be materially increased or else the amount of school funds of necessity be reduced to the district schools. At present it is a well-known fact that in every district in this Territory the school fund is insufficient. Now if you establish a high school, the district shall have to be maintained just the same in Salt Lake or any other county.

Mr. BUTTON. That is not the question I asked of the gentleman. If Salt Lake should establish ten high schools, they pay for those high schools; they draw the amount per capita for each scholar, and do not the outside districts draw their per capita just the same, so you do not have anything but the public schools without high schools? That is the question.

Mr. IVINS. I do not know that I quite understand the theory of the gentleman's question.

Mr. BUTTON. There are so many scholars in the Territory between six and twenty-one years, they draw such a per capita of the revenue of the State, no matter where they live. Well, now, if we establish these high schools in Salt Lake City, would it affect the amount per capita that you will draw in your district for each scholar?

Mr. IVINS. Yes, it would, from the fact that it would very soon become apparent that the present rate of taxation would not be sufficient to maintain the district schools in this county, and also the high schools which would be established. Consequently there would have to be an increase of taxation in order to provide the necessary funds or else the efficiency of either the district schools or the high schools would not be to the grade you wish to bring it. The funds to meet it would be insufficient.

Mr. BUTTON. That is just the point exactly, Mr. Chairman. As I understood Mr. Roberts and Mr. Ivins, they both claimed that it would affect the the free public schools. Now, if Salt Lake City did provide, or any other district wants to establish a high school, and the people that pay the taxes in that district are willing to pay more taxes, to support that high school; why should

any district that does not want that high school object?

Mr. ROBERTS. Will the gentleman submit to a question? Take it for granted that in Salt Lake City you establish your high school and the amount per capita is drawn for the public schools in Salt Lake City, and you sustain your high school by the public taxation. Wouldn't the result be that that means that ought to go to support an efficient district school system, are diverted to the high school, and not used in making efficient the common schools? Wouldn't that be the effect?

Mr. BUTTON. I will say this, in answer to that, that the chances that I had to go to school when I was younger—if the taxes came higher, I am willing to pay the little proportion extra on what I have got to pay.

Mr. LEWIS. Mr. Chairman, if the proposition of Doctor Maeser prevails, it would virtually close all our high schools to-day. Now, it seems to me that this point is so clear and so plain under the provisions of this section as to need no argument. In Salt Lake City and Ogden City, and I presume Provo and other cities, there are pupils who graduate from our high schools at eighteen or nineteen years of age—several years before they reach the limit of the age prescribed by the law as the school age. Now, Salt Lake City draws its amount of the territorial appropriation. It is not applied to the pupil who is in the grammar school or the high school, particularly, but applied to the children of the school age equally. Now, in Salt Lake County or Weber County or any other county that receives that territorial appropriation and makes a provision to establish a high school, the pupil that enters the high school will receive the benefit of his per capita and the district or the county raises the balance to maintain the high school. Now, if Doctor Maeser's amendment prevails, the pupil who has passed through the several grades of the common schools at the time he has reached the age of twelve or thirteen, is thrown out, he can advance no farther, although he is entitled by his age to the territorial per capita appropriation. Therefore, I say that it is unjust. It is not right.

Mr. EICHNOR. I desire to ask a question. You were on the committee?

Mr. LEWIS. Yes, sir.

Mr. EICHNOR. Isn't it a fact that the committee has attempted to legislate in the second section, instead of confining itself within the limits of making a Constitution?

Mr. LEWIS. I think not. We took the idea not from Washington, but from North Dakota.

Mr. EICHNOR. It is in no Constitution, Mr. Lewis.

Mr. LEWIS. Perhaps not in detail. But the idea is the same in North Dakota constitution. North Dakota arranges for a public school system from the primary to the university.

Mr. LUND. I want to ask Mr. Lewis a question.

Mr. LEWIS. Yes, sir.

Mr. LUND. Do you tell us that even a child of twelve is through with the eighth grade?

Mr. LEWIS. There are instances, yes, sir; we frequently have them in the high school at fourteen. There is another thing that seems to me is important to mention, that in connection with our high school system, we wish to maintain a university. I want to ask the gentlemen of the committee how do you expect to reach the university, only through the high school. If you carry your pupils up to the high school after graduating them in the eighth grade, if they have not the means to go any farther, our high schools are defeated, and the feeders for our university are cut off. You cannot, gentlemen of the committee, sustain a State or national system of education unless you aim to make the system free from the primary to and including the university.

Mr. VAN HORNE. Mr. Chairman, it seems to me that there is a question that has not been looked at by this committee, and that is this, that the per capita is fixed according to the school age alone regardless of the grade to which that scholar will go. It seems to me that the prohibition as would be intended by the amendment as to the high school will say that a community was not to be allowed to use the funds properly belonging to it according to its per capita of the school children in the manner that it deemed best for the good of all that mass of school children. That it was limiting them to say that because certain scholars had passed beyond a certain grade in the public schools, they should not be taught at the public expense, out of the fair share belonging to them.

Mr. MURDOCK (Beaver). Mr. Chairman, I am decidedly in favor of the amendment made by Doctor Maeser. There are several features that have not been taken into consideration in this matter. We recollect that the school age has been increased one-fourth—from sixteen, I think was the former age——

Mr. MAESER. Eighteen.

Mr. MURDOCK (Beaver). Well, there is quite an increase you will recollect, and for us to also now, in addition to that, go to work and support high schools, is simply what I would not like to see inaugurated in this body. It certainly is very admirable to have high schools and have people well educated. I fully endorse that. But, as my friend from Weber County says, he has not the benefits and advantages of an education, that is my fix exactly, I like to see education——

Mr. GOODWIN. May I ask the gentleman a question? Suppose a child is ready for the high school at twelve years of age, as a great many are at present in the city. He draws his per capita of the school fund. What are you going to do with him?

Mr. MURDOCK (Beaver). Well, if he wants to go to a high school, I should say let him have the privilege. [Laughter.]

Mr. GOODWIN. What would be done with his part of the money?

Mr. MURDOCK (Beaver). Give it to him that has not got so far along. I say let us have a common school education throughout the country and if we can support that we are doing a mighty work, if we can keep all the schools of that kind throughout the different parts of the country. You will recollect that a university is a luxury, and it has got to be supported out of the general funds according to the provisions of this act. It has got to be supported in common with other schools, but I want to tell you that there is a feature in it that you have not noticed. It is all very nice for those that live adjacent to high schools, to have the privilege of going there and being supported by the general fund. That is all very well; but there is a great proportion of the people throughout the outlying counties that are not able, although that may be a free school, to send their children here to school. They are not able to board here. They are not able to keep up with the association that they would be compelled to keep. Consequently, I should be opposed to supplying out of the general fund the high school, but if we can give them the ordinary grades, such as will prepare them for the ordinary duties of life, then, I think that the public has done a grand thing for the common public. But, my experience is that in the outlying counties there is not sufficient means from the public treasury to keep the schools in a good healthy condition more than six months in the year.

Mr. PRESTON. Mr. Chairman, it seems to me that the whole trouble with this affair we have before us now, is that we are legislating for the next few generations or a hundred years to come. If we confine ourselves to constitution making, and say what the

Legislature may not do it would seem to me it would save a great deal of trouble. Therefore, I move that this whole article be referred back to the committee and let them confine themselves to making such constitutional suggestions here as may be proper in a constitution.

The CHAIRMAN. The chair would hold that that is out of order.

Mr. GIBBS. Mr. Chairman, I would just like to submit one question to Mr. Pierce.

Mr. PIERCE. I will answer it if I can.

Mr. GIBBS. If a high school and a university are kept up from the school fund, will that not make the common school fund much less?

Mr. PIERCE. If it is kept out of the per capita fund, of course it will, but it does not mean they will have to be supported by the per capita fund, as I understand it—not necessarily.

Mr. EICHNOR. I would like to ask Mr. Pierce a question. Did the committee on education follow the North Dakota constitution?

Mr. PIERCE. I do not know.

Mr. EICHNOR. If they did, they followed the poorest constitution west of the Missouri River.

Mr. PIERCE. My own opinion is that this is the best article ever framed for a constitution.

The question being taken on the amendment offered by Mr. Maeser, the amendment was agreed to.

Mr. EVANS (Utah). Mr. Chairman, I move that the word "except" be stricken out of line 3.

The motion was agreed to.

Mr. PRESTON. Mr. Chairman, I move that all after the word "free" that has been inserted in line 10 of that section be stricken out.

Mr. KERR. Mr. Chairman, it seems to me that this motion should not prevail. There is not a thing in this section that should not properly be included in the Constitution of a new state. All it provides is, that a Legislature may establish high schools in such places as Salt Lake, which desire to establish high schools. I cannot understand that it would be desirable to prohibit the establishment of a high school.

Mr. THURMAN. I would like to ask the gentleman a question. Would not the Legislature have all the power you are talking about if that is all stricken out?

Mr. KERR. Well, then, what is the object of putting this in?

Mr. THURMAN. We do not think there is any good object, that is why we want it out.

Mr. KERR. Similar provisions are in the constitution of the state of California and the constitutions of most of the prosperous and leading states of the Union. I can see no object in eliminating this from the Constitution of the State of Utah. It lays the foundation for the educational structure of the State. There certainly can be no objection to allowing it to remain.

Mr. VARIAN. Mr. Chairman, I do not know what the design of this committee is in relation to high schools. I had proposed offering an amendment to be inserted after the word "law," in line 13, to protect the high schools of this city and Ogden. I want to add after the word "law," in line 13. the following, "and all high schools now established in cities of the first and second class, under existing laws, shall remain free."

Mr. EVANS (Weber). Mr. Chairman, I arise to a point of order. My point of order is that an amendment cannot be offered to a part of a section to which a motion has been made to strike out. The question would simply be on the motion to strike out.

Mr. VARIAN. Mr. Chairman, I withhold the offer and keep the floor. I am inclined to think, I do think, that Mr. Evans' point of order is well taken. But I will make that the food for what

I have to say now against this motion to strike out.

Mr. RICHARDS. May I ask the gentleman from Salt Lake a question? I will ask if this point of order is well taken, what would be the effect, if the motion carried to strike out the language that has been indicated by the gentleman from Salt Lake, making the motion, and whether it would not prevent any amendment being offered that would reinstate that language or any part of it?

Mr. VARIAN. No; I think I could offer what I proposed as an amendment, and make a new proposition.

Mr. RICHARDS. I think there is no question about it.

Mr. VARIAN. Now, gentlemen, I assume that gentlemen on this floor, representing other districts and actuated as they all appear to be by a desire to keep down the taxation, speaking for their own localities, can have no objection to the people of Salt Lake City and I assume Ogden City (although there are other gentlemen here who will speak to that question), maintaining a high school if they choose to do it. It is a part of our school system. It has received the approbation and the ratification of our people. We have built up a system of schools here—grammar schools and common schools, including within the system a high school, which is the pride and joy of this city, and I doubt not as you shall become better acquainted with it, you will say that it is destined to be the pride and glory of the Territory or the State at large. We have expended vast sums of money—not money taken from the taxpayers of your constituents, but money taken from our own pockets, and secured upon our own credit. Our people have voted $825,000 in bonds, which to-day stands as a debt against this community, for the very purpose of maintaining a system of schools here, which we desire, not alone the grammar and the common school, as you term it, not alone the kindergarten, but the high school, which is the mecca of the pilgrimage of all our youth and our children, as they travel through the common school.

Such is the rivalry brought about by the opportunities afforded the children of this city that we see twelve or thirteen thousand children and youths of both sexes day after day during the nine months in the year, going side by side and climbing the stairways of learning, all actuated by the single desire of finally reaching the high school. Nearly five hundred pupils in it to-day. Such is the prospect and such is the anticipated increase that next year, as I was informed by the principal in charge of it a week ago, they expected the number of pupils would reach nearly twelve hundred, and so it grows. Why do you object to our going on with that work, if we choose to do it? We realize, gentlemen, that there is nothing that we can do that will tend more strongly to invite the right kind of immigration here, that will direct the eyes of capital to this State and this Territory, that will tend towards all kinds of advancement in progress and civilization, than to maintain and improve the system of schools that we have. We are not willing to take one backward step. We are not willing to cut off the high school. Our people have been tested upon this question. They have voted vast sums of money to create and to maintain and perpetuate this system. Why, then, do you want to strike out this clause providing for high schools? There are two in the Territory. If I am correctly informed although I cannot speak for Weber County, Ogden is desirous of keeping its high school. Why, not leave it as it stands? Let the Legislature provide in its wisdom for other high schools, if your people desire it. Is it not true—and I speak in no offensive way, but is it not certainly true that anything in this article as proposed contemplates as a mandatory

provision the creation of high schools in any city or county or district in this Territory? It simply paves the way. It authorizes the creation of high schools, if the Legislature chooses to establish them. Certainly the Legislature would not establish high schools in districts or counties unable to support them.

Now, as to the university, it strikes me that the argument here against the high school and the expenses and the argument that higher schools of learning are not open to all classes of the community, which is put forth here, as a reason why this matter should not be maintained by the Constitutional Convention, came with a very peculiar grace to say the least, from gentlemen who have represented their districts in the Territorial Legislature year after year, and voted money by the tens of thousands and fifties of thousands of dollars to the maintenance of the university. It never was pretended that a tithe of the children of the people of this State would realize and enjoy the advantages of the university, and yet it never has failed, year after year, from the beginning through decade and decade, for the people of this Territory sent up members to the Legislature to have voted out of the public funds for this higher learning hundreds of thousands of dollars in the aggregate; and if I understand the temper of this people aright, they intend to maintain and continue to enjoy and to improve this higher institution of learning. Why, then, will you stop short of the high school, that intermediate ground between the primary and the final completion of a college education? Why should we stop there? Hundreds and thousands of your youth will never get beyond the high school—hundreds and thousands of them. The university itself, as has been suggested, will only be enabled to afford the advantages to a few comparatively of the youth of the State, but in the high school a boy or girl can get very nearly a college education. As they are carried on to-day, with the system in vogue very many of the youth of the State will be content to stop at the graduation from the high school. That is the feeling in this city. Our desire is to continue and improve it. It is now in such a state of excellence that every citizen who has children and every man and every woman who has the good of the State at heart takes a pride in it, and we want to see it go on. We speak of it reverently; we feel for it, and we ask you not to interfere with our operations in that behalf. Leave it alone as it is. If you do not want a high school for your district, guard the Constitution if you will, but leave it open to us to go on. Vote down this amendment; it is not necessary to strike that out—and permit this amendment I mention to be offered as the section stands so that Salt Lake City and Ogden (if she desires it, and if she does not desire it, the gentlemen representing that city can strike out "second class"), may be permitted to maintain this high school free in accordance with the will and the wishes of our people.

Mr. EVANS (Weber). I desire to ask Mr. Varian a question. Is there anything in the matter which is proposed to be stricken out, and in your amendment, which the Legislature would not have the power to provide in the absence of this constitutional provision? That is all I want to ask.

Mr. VARIAN. I would say, Mr. Chairman, that ordinarily if nothing were said about it, I presume the Legislature could define and create such schools as it saw fit, in its wisdom, but if you are going to enact part of a section and distinctively mention kindergarten, common schools, primary, and grammar grades, etc., as free schools, there might be a very serious question if the Legislature should afterwards under that constitutional provision undertake to create a free high school for the city of Salt Lake. What objection, may I

ask, is there to making them free and clear in the Constitution?

Mr. EVANS (Weber). I would like to ask you the further question. If you strike that out, whether it will impair the free school system we have in Utah?

Mr. VARIAN. It will not affect, I presume, the system outside of Salt Lake and Ogden. I think it will affect the system there. I cannot see for the life of me, why the gentleman from Weber County or from the other counties should desire to hamper us and restrict us in this matter. If he would take the amendment that I would offer, if this motion were denied and read it, with the context of the section after "instructed" in line 10, he will see that it protects us and simply provides for the maintenance and continuance of such high schools as under the territorial law we were permitted to have. We could maintain them.

Mr. EVANS (Weber). My idea is this, if you can point out anything that will impair the system that they now have, I shall vote against striking that out, because I do not intend to impair the system at all. If my remarks have been so understood, they have been misconstrued.

Mr. VARIAN. I will call the gentleman's attention to the section as it will read if this is stricken out.

[Reads.]

Now, if that is not a clear statement of what shall constitute the free school system, I am unable to interpret the language, and if, with that section standing as it does, particularly after the action of this Convention striking out the provisions in relation to high schools—if the Legislature should undertake to create a system of free high schools, for Salt Lake City and Ogden, I submit to the gentleman what the judicial judgment would be as to its power in that particular. And if there is any doubt about it, why should it not be permitted to remain as it may be explained and modified by the amendment that I would like to offer?

Mr. EVANS (Weber). It is simply empowering the Legislature to do something.

Mr. SMITH. Mr. Chairman, it seems to me that the motion to strike out the balance of this section wants to be considered with very great care. There are established in several sections of the country these high schools and they are a necessary element in our education. We must have teachers, and we must prepare our young men, many of them for various walks of life. If we strike a blow at this higher education and these possibilities, it seems to me that we are doing a grievous wrong to the children and young people of this Territory, and I trust that the motion of Mr. Preston to strike this portion out will not prevail, and that somewhere in the future these amendments will receive further consideration as bearing upon this school system. There are none of us but what believe that the Legislature, so far as it is concerned, would not force it upon any section. The liberty of the people in this matter to make up their minds as to the character of the schools they shall have in their district should not be questioned. It seems to me it would be sufficiently broad and comprehensive in its character, that if any section of the country desires this high school we would not question the intelligence of that people, but put them in a position that their wish could be granted. And I trust in the further consideration of this proposition the motion to strike out that part of the section after the word "instructed" will fail, and that the section will remain as it is, and that at some future time the Convention will consider the proposition as a whole.

Mr. CANNON. Mr. Chairman, I do not understand this antipathy to the high schools or to the university. I do not understand why the gentleman from the third precinct should make

this motion at this time or why we should feel that we are too weak at this stage of our history to support a university. As far back as the 28th day of February, 1850, the provisional government of this then supposed to be State provided for the creation of a university. It was a little more than two years after they had come into these valleys and at that time, though they had scarcely enough to keep themselves alive, though they were poor in every sense of the word, so far as wealth was concerned, they sought to establish then the foundation of this university. Why should we, after thirty-five years, feel too weak to perpetuate an institution which the pioneers themselves attempted to found? For years it struggled along scarcely recognized by public appropriation and attempted to encourage among the people of this Territory a love for higher education and to do that which it could to elevate the educational standard among the people. Why should we now say, that in our Constitution we shall not make mention nor provide for the establishment or perpetuity of this university that was thus early prepared and founded by those who came into these valleys. It is not an unusual provision. It is not unusual for constitutions to provide for the establishment and maintenance of institutions of learning. If we look up Massachusetts—the state which of all others prides herself upon her educational institutions, we will find that in her constitution provisions are contained for the establishment and maintenance of a university; we will find it in many of the other states of the United States, and I cannot understand why any man should suggest at this time that it should be stricken out, and I am opposed to the motion.

Mr. RICHARDS. Mr. Chairman, I sincerely hope that this motion will not prevail. I do not want to detain the committee with a speech on this subject, but it does seem to me that the public high schools are just as much a part of the public school system and ought to be just as much a part of the public school system, as any other department. Certainly they are as essential as the kindergarten schools. Now, we have accepted them as a part of the public school system. The high school as I say is a part of the public school system, it is a part, not only of the public school system in this Territory, but elsewhere. Take the New England states, from which we got our public school system, those who set the example in this country, and we find that there the high schools are just as much a part of the free school and the public school system, as are the grammar schools or the primary schools, and I endorse what has been said with regard to the university. And one word now on the subject in reply to the suggestion of the delegate from Weber, as to leaving this matter to the Legislature. I think myself that there would be serious danger in leaving this matter to the Legislature. We attempt here to prescribe what shall be done in regard to the establishment and maintenance of public schools, and if we cut this off and say that it shall not be a part of the public school system, I think it is a very serious question as to whether the Legislature of the new State would be enabled to engraft that on to this system. As has been said, it is not asking that these high schools shall be supported out of the general fund. It is only asked that we will make such provision as will permit the localities who desire themselves to maintain high schools, and pay for them by their own taxation, to have that permission, and I think certainly that they ought to have it.

Mr. GOODWIN. Mr. Chairman, the language to be stricken out of the article ought to stop at "schools" then the Legislature would have something to go on. If you state certain things that must be established, the Legislature, if

anything like this committee, will be very liable to say, "We cannot go any farther." Yesterday we legislated all day in the interest of poor men. To-day we are legislating in the interests of poor children, and if we keep on we will get to think pretty soon that Utah is too poor to raise an umbrella. It makes me tired. When I think of New England—the people there cutting down the forests, living on indifferent food, but pursuing a career which has made them famous all over the world, doing what, as Daniel Webster said to a friend from the south in reply to the question, "What in the world do you raise on this miserable soil?" He said, "It is to poor to raise anything else, so we built school houses and raised men." We had better cultivate a little of that spirit. We had better build school houses and raise men. Now, about this petty prejudice (for it is that) about the centers getting more advantage than the circumference, there is nothing in it. We are told that a great many children in the outlying counties are too poor to attend the high schools. Possibly that is true. That is their misfortune; but in everyone of those outlying counties and in everyone of the hamlets and villages, there will be here and there a boy and a girl that will want to attend the high school and that boy and girl and the parents of that boy and girl will make it possible for that child to go some place where there are high schools. Again, the whole sentiment here seems to be a sort of a sneer at higher education. These high schools, if they are abandoned—why not stop the grammar schools and leave it all to the kindergarten and conclude that when that is over that we have graduated and that is enough?

Now, the way to support a university is to have a high school. The only thing the university here has been more deficient in than any other is that the students when they entered were not prepared for their courses in that university. The question is whether the people in the communities shall say whether they shall have high schools or not, or whether they shall stop right at the door. Those three lines at the bottom of section 3 are an advertisement worth more to Utah than all the money that has been expended in advertising this Territory in the last year. A man from the east with capital and with a family reads that over and says, "Yes, they are providing there for high schools and universities, that will be a good place to go to, that is a good place to recommend other people to go to." The people of a State are estimated by the character of their schools, and I beg this committee, representing every part of this Territory, not to give their schools a black eye, and advertise to the world that maybe after a while, in two or three generations, they will be able to give their children a decent education, but they cannot do it now.

Mr. PRESTON. Mr. Chairman, it is not my object by any means to prevent high schools in the State of Utah, but to encourage them in every way, but my object is that they should be subject to future legislation as the State may be able or get able to support and sustain these high schools. There are common schools in this Territory now that have to close because there are not sufficient funds to carry them on, and I maintain that it is the first duty of the State to give to every citizen of the State a common school education, or a district school education, before we commence to extend lines to establish the higher branches of learning. As soon as the State is able to provide high schools and universities, the arts and sciences and languages, and all this, I should be most pleased to see them provide for it out of the public treasury, if we have anything in the public treasury, but I maintain that it will keep people and capital out of this country if we go to

taxing them to such a fearful extent as it would seem to me that we are piling up. From the recommendations of the various committees that come in before this Convention, we will pile up taxes so high that capital will stay out of the State rather than come in. Of course we want higher education and we want to support it and sustain it as far and as quickly as the State is able to maintain it, but I maintain they are not able to now, and the language of this section, I maintain, is in a dreadful condition at the present time. If the gentlemen who understand more thoroughly think they can make it so clear that there can be no misunderstanding about it, that the Legislature can and may provide for these high schools of education, I am very willing and agreeable to withdraw my amendment or suggestion to strike out that part of it, and to put it in the shape that it may be thus amended here, I will withdraw, with the consent of my second, the amendment.

The CHAIRMAN. The gentleman withdraws the amendment; if there is no objection it will be withdrawn.

Mr. Varian offered the following amendment: Insert after the word "law" in line 13, the words, "And all high schools now established in cities of the first and second class under existing laws shall remain free."

Mr. IVINS. Mr. Chairman, I just want to say a word in regard to this question of education, which has been so generally discussed here this afternoon. In the first place, I want to say in my own behalf, and I believe that in speaking for myself I can speak for every colleague I have on this floor, who comes, as I do, from the outlying counties of this Territory, that there are none of us who are opposed to higher education, that there are none of us who are opposed to any aid that has been heretofore rendered or that may hereafter be rendered to the university of the State of Utah. The record of past Legislatures in this Territory will show that the representatives of the people in the outlying counties have maintained that institution by voting appropriations for it, and we are willing to continue to maintain it by voting appropriations just so far as any Legislature which may assemble may think that they are capable of doing. This much I wish to be fully understood. There is no opposition from the outlying counties to the maintenance of a State university here. We may perhaps have objections to the maintenance of a great many other institutions of higher learning which may have been almost parallel with this university. Now, if the motion of the gentleman from Salt Lake contemplates that these schools shall be maintained free by such local taxation as may be provided by the Legislature, after they shall have received their pro rata of funds from the general fund, which they are entitled to, I am heartily in accord with it.

Mr. VARIAN. I agree with that. That is the way it was before and that is the way I expected it.

Mr. IVINS. That is the understanding I have of the amendment of the gentleman from Salt Lake, and I am heartily in accord with it, and therefore willing to vote for it.

Mr. HART. Mr. Chairman, I am not certain about this amendment. I think it is going back to the question we have been discussing all the afternoon. The amendment offered by Doctor Maeser would leave the system applying to high schools and university out. We confine it to common schools and kindergartens. Now, this amendment proposes to place some of the high schools free absolutely, so that it cannot be changed by law. Legislatures hereafter may provide for certain high schools. They may provide tuition for these high schools but they cannot provide tuition for these schools that have been so fortunate as to have been heretofore established in Salt Lake City or

in Ogden. In other words, we are liable under this provision to have two kinds of high schools, a free high school in Salt Lake, a free high school in Ogden, which is provided and maintained free by virtue of a provision in the Constitution, and we are liable to have other schools that are part free, but maintained in part by tuition. Therefore, Mr. Chairman, I am opposed to this amendment; I am opposed to the possibility of having two kinds of high schools, and this is the very question we have been discussing all the afternoon.

Mr. VARIAN. Mr. Chairman, I would like to know what the spirit moving the gentleman is. He certainly cannot be ignorant of the position taken on this matter. We are not affecting Cache County. We are simply asking for justice for Salt Lake and Ogden. Suppose it be true that hereafter the Legislature may want to establish, at the request of the citizens of Cache County, a high school at Logan. Suppose the population of that city waxes strong and wealthy, at least in a sufficient degree to demand a high school. Suppose they do not feel able to keep the high school absolutely free. Suppose that the law enacting the privilege would permit the board of education of that city to exact a tuition, if in any degree, is that any reason why we should be denied the privilege of having a high school here absolutely free, if we are able to do it? How can that affect the citizens or the school children or the taxpayers of Cache County? The fact that the people of Salt Lake City desire to maintain that class of schools absolutely free? I doubt not that the citizens of the gentleman's county would like to have a high school there free, but they may not be able to work up to it all at once. It may be necessary to provide for a partly free and a partly tuition school. What argument lies in that then? Simply the argument that the harmony and consistency of the statute book would be disarranged, because the eye would fall upon a provision relative to Salt Lake, which provided for a free high school, and on the next page it would fall upon a provision providing for a partially free high school in Logan. That is no reason, gentlemen, why we should not be permitted to maintain this school just as we want it. The people have voted away eight hundred and twenty-five thousand dollars to maintain this system. Our children are all in accord with it. The mothers and fathers, the heads of families are in accord with it. We expect to build up this high school. We want to see it enlarged and grow. We look forward to the time when we will be enabled to put up a magnificent high school building, which will be a crowning glory to the public school system in this city, and we are anxious for you, gentlemen, to have the same when you are ready for it, but for goodness' sake do not deny us the privilege because you are not ready now.

Mr. BARNES. Mr. Chairman, probably it is in consequence of the little education I have that I feel this to be a very important subject. In walking around this city, I see magnificent school buildings, of which, I, as a citizen of Utah, feel proud, and I would be sorry to do the first thing that would in any way hamper the citizens of Salt Lake City in educating their sons and their daughters and in providing as far as they can means whereby those in the outlying districts can always be educated. Now, I believe it would be unfair in us who live in the outlying counties to say to the citizens of Salt Lake City or Ogden, "Gentlemen, you shall not—you have no right to have high schools." If they desire to spend their amount of taxes in high schools, it is their business and they should have the right and privilege. That is the way I view it and I think that if this section could be added to Mr. Varian's amendment, it probably would settle the matter, "Provided the entire revenue

derived from the State school fund and the State school tax shall be divided pro rata according to the number of children in each school district in the State." Now, if this is done, gentlemen, when the child who lives in the remote portion of the Territory receives his pro rata, when the gentlemen who have charge of the funds in that neighborhood provide the best means in their power for the education of those children, they have that right. Then, if they have that right, the citizens of Salt Lake City and the citizens of Ogden have the right, I maintain, to provide for their children according to the means in their hands the best education that they can. And therefore, I favor Mr. Varian's amendment.

Mr. EICHNOR. Mr. Chairman, I hope that no gentleman of this committee who has lived outside of Salt Lake City and Ogden will misunderstand the import of Mr. Varian's amendment. We don't ask anyone of you to contribute one cent to the support of our high schools here. We only ask that we are in such a position that we can maintain them and carry on the system that we have started, and carry it on until we have reached the highest perfection in the public system. We do not ask Washington County or Cache County or any other county to contribute a dollar. Only we ask of you, gentlemen, make us secure, let us adopt this amendment and then we are safe, that we can proceed and continue our system, not only for the good of Salt Lake City and Ogden, but for the good of the whole Territory. Gentlemen, I hope that no one will vote against this amendment, because it does not take a dollar from any other county, except from Salt Lake City and Ogden.

Mr. KERR. Mr. Chairman, I think the committee will discover now that a mistake was made when the amendment offered by the gentleman from Utah was adopted. I fully appreciate the situation with respect to the views of Salt Lake City and Ogden. If I understand the position of the gentleman who offered the amendment it is this, that without any amendment the clause, "the public school system shall include," etc., would not permit Salt Lake City or Ogden to make these high schools free and hence the necessity for this amendment.

Mr. VARIAN. That is right.

Mr. KERR. I submit that we are not framing a law that can be amended next year or the year after, but we are writing a Constitution for the State of Utah, and we may expect that conditions which prevail in Salt Lake City and Ogden today, will prevail in Provo or Logan, probably five or ten years hence, and if the position of the gentleman from Salt Lake is correct, even should this amendment prevail, the cities of Logan, of Provo, and counties in which high schools may be established in the future and in which the people may be desirous of levying a tax sufficient to make these high schools free, will by this provision in the Constitution be prohibited from making such high schools free. Gentlemen, of the committee, I submit that this entire action on the part of the committee is a mistake. The mistake was made when the amendment offered by the gentleman from Utah, which prohibits any city, district, or county from maintaining a free high school, was adopted. I am in favor of Salt Lake City and Ogden having the power to maintain free high schools if they can raise the means sufficient to maintain such high schools, and I am opposed to prohibiting other cities or other districts in the new State of Utah from maintaining high schools also free if they are able to do so. I am in favor of this amendment in the interests of the schools of Salt Lake City and Ogden, but I am opposed to it, because of it not being broad enough to include all the

cities and districts of Utah, which any time in the future may be able to maintain free high schools.

Mr. HART. Mr. Chairman, I would like to assure the gentleman from Salt Lake that there is no feeling on my part in this matter and that local considerations did not enter into my remarks whatever, but the only consideration was this, as to where the funds are to come from to maintain these high schools. You provide absolutely by the Constitution that these certain high schools already established shall be free, and the only logical inference under that is that they shall be made free in the same way that the common schools and the grammar schools are made free, and that is out of one common fund, and in that way the high schools now established would be maintained out of a territorial fund, while high schools hereafter established would be maintained out of local taxation.

Mr. VARIAN. Will the gentleman, before he sits down, permit me a question? As that remark was in the nature of an interrogatory, permit me to put the reply in the shape of an answer. As I understand it the system and the only system as to the distribution of State school moneys in future, as in the past, is this, there will be a school fund created by taxation, as well as from other sources, the income of which will be used. Annually through the public officers a distribution will be made to come to the different counties and districts of the Territory. Salt Lake County and city will gets its proportion, dependent upon the school population. If that proportion is not sufficient for the City of Salt Lake to carry out this scheme, as organized, of necessity the people within the limits of the city will have to burden themselves with additional local taxation to do so.

Mr. HART. I am afraid when you come to divide the fund for the common schools that the construction of this constitutional provision will be that these high schools now established must come in with the common schools all over the Territory, and take a proportionate part of the territorial fund for them. If there is no question about that, then all the argument this afternoon was to no purpose. As I understand it, that was the main direction to which all the arguments this whole afternoon were directed, and if there is nothing in the suggestion I make, then there is nothing in the objections to the former provision of this section.

Mr. ELDREDGE. Mr. Chairman, I regret to see this school question having reached the condition in which it is at the present time. I believe there is a misunderstanding on this floor, relative to the question, and that there is no disposition on the part of any delegate, it matters not from what part of the Territory he may come, to oppose here schools and even to allow them to continue until they can reach any magnitude that might be within the comprehension of man. Rather than see this motion prevail and to leave this section in the form in which it will be after that prevails, I would prefer to see the motion lost, and then for all that part of this section after the word "school" in the third line, stricken out, so that the only thing upon the question would be the Legislature shall provide for the establishment and maintenance of a thorough and uniform system of free public schools, and leave it with the Legislature to so establish it, that they can reach then everything that would be desired, and it would be then a form in its nature and there would be no barter in the way of going on with the schools that we have not established.

Mr. BOWDLE. Mr. Chairman, I move that the committee now rise and report progress.

The motion was agreed to.

The committee then arose and reported as follows:

MR. PRESIDENT:

Your committee of the whole have had under consideration the draft of the preamble and declaration of rights and recommend that the same as amended be placed on file for its third reading. We desire to report further that we have also had under consideration the proposed article on education and school lands, upon which we report progress.

The report was adopted.

Mr. Button offered the following amendment to RULE XX:

To strike out of RULE XX the following words, "Nor limit be made as to the number of times speaking," and substitute therefor the following words, "No person shall speak but once, except the mover of the motion or amendment, who may speak twice and be limited to ten minutes, without unanimous consent of the committee."

The amendment was referred to the committee on rules.

The Convention then, at 5:28 o'clock p. m., adjourned.

TWENTY-FOURTH DAY.

WEDNESDAY, March 27, 1895.

The Convention was called to order at 10 o'clock a. m. by the President.

The roll was called and members found in attendance as follows:

Adams	Larson, L.
Allen	Lemmon
Anderson	Lewis
Barnes	Lowe, William
Bowdle	Low, Peter
Boyer	Low, Cache
Brandley	Lund
Button	Maeser
Buys	Mackintosh
Call	Maloney
Cannon	Maughan
Chidester	McFarland
Christianson	Miller
Clark	Morris
Coray	Moritz
Corfman	Murdock, Beaver
Crane	Murdock, Wasatch
Creer	Murdock, Summit
Cunningham	Nebeker
Cushing	Page
Driver	Partridge
Eichnor	Peters
Eldredge	Peterson, Grand
Emery	Peterson, Sanpete
Engberg	Pierce
Evans, Weber	Preston
Evans, Utah	Raleigh
Farr	Richards
Francis	Ricks
Gibbs	Roberts
Goodwin	Robertson
Green	Robinson, Kane
Hammond	Robison, Wayne
Hart	Ryan
Haynes	Shurtliff
Halliday	Snow
Heybourne	Spencer
Hill	Squires
Howard	Stover
Hughes	Strevell
Hyde	Symons
Ivins	Thompson
James	Thoreson
Johnson	Thorne
Jolley	Thurman
Kiesel	Van Horne
Keith	Varian
Kearns	Warrum
Kerr	Wells
Kimball, Salt Lake	Whitney
Kimball, Weber	Williams
Lambert	Mr. President.

Prayer was offered by Rev. E. G. Hunt, of the Methodist Episcopal Church.

The journal of the twenty-third day's session was read and approved.

Reports of standing committees.

The committee on legislative reported as follows:

MAJORITY REPORT.

Your committee on legislative, appointed to draft and present an article on that subject, to whom was referred:

File No. 3, introduced by Eichnor, of Salt Lake.

File No. 13, introduced by Eichnor, of Salt Lake.

File No. 14, introduced by Maloney, of Weber.

File No. 19, introduced by Hart, of Cache.

File No. 27, introduced by Evans, of Weber.

File No. 28, introduced by Maloney, of Weber.

File No. 38, introduced by Ryan, of Juab.

File No. 39, introduced by Ryan, of Juab.

File No. 51, introduced by Eichnor, of Salt Lake.

File No. 55, introduced by Varian, of Salt Lake.

File No. 94, introduced by Thompson, of Millard.

File No. 100, introduced by Bowdle, of Salt Lake.

File No. 103, introduced by Strevell, of Weber.

File No. 115, introduced by Brandley, of Sevier.

File No. 122, introduced by Francis, of Morgan.

File No. 129, introduced by Kimball, of Salt Lake.

File No. 131, introduced by Bowdle, of Salt Lake.

File No. 138, introduced by Kiesel, of Weber.

File No. 140, introduced by Howard, of Emery.

File No. 154, introduced by Raleigh, of Salt Lake.

Respectfully report that we have carefully considered said propositions, and return the same herewith, together with the draft of an article upon the subject referred to us, and recommend its adoption as a substitute for said propositions.

VAN HORNE,
Chairman.

MINORITY REPORT.

While we approve of the matter presented by the majority of the committee on legislative, and to that extent concur in their report, we are of the opinion that the additional sections which are herewith submitted should be incorporated in the Constitution. They are designed to prevent any grant or appropriation of public property or money by the State or any political subdivision thereof, to any individual, association, or corporation, and to prevent the State, and its counties, and municipalities, from giving or lending credit to private corporations, associations, or persons. Similar provisions have been adopted by other states, and as a part of the organic law, with favorable results, and we respectfully recommend that these sections be inserted in the Constitution of the State of Utah.

Respectfully,
LORIN FARR,
EDWARD PARTRIDGE,
CHAS. H. HART,
EDWARD H. SNOW,
B. H. ROBERTS,
F. S. RICHARDS,
W. J. KERR.

Members of the committee on legislative.

The committee on apportionment and boundaries reported as follows:

Your committee on apportionment and boundaries report the following article for the Constitution of the State of Utah, and recommend its adoption.

On motion of Mr. Varian, the Convention resolved itself into committee of the whole, with Mr. Kimball, of Weber, in the chair.

Mr. VARIAN. Mr. Chairman, the pending business before this committee is the consideration of the article on education. It is a very long article, and the committee has reached the consideration of section two only. Sufficient has been developed to show that there are considerable differences of opinion existing. In accordance with what I believe to be the feeling of the committee, and at least to sense the same, I move that when the committee rise it report the entire article back to the Convention, with the recommendation that it be recommitted, with the direction that it be remodeled and simplified.

Mr. THURMAN. Mr. Chairman, I would like to ask the gentleman from Salt Lake if his motion contemplates passing from this business now to something else?

Mr. VARIAN. Certainly.

Mr. THURMAN. I am in favor of the motion, but I am in favor of continuing work and going through the article, and get the sense of the Convention on the various parts of it, so that when it is referred back, the committee who has charge of getting up the article can understand something about what the Convention thinks about it.

Mr. VARIAN. The intent of the motion is not as the gentleman understands it. The idea, if this motion prevails, is, that the entire article be removed now from the consideration of this committee and reported to the Convention when the committee shall rise at the proper hour, with the recommendation indicated. It is conceived by many that this article is entirely too elaborate. There is too much in it; and if this committee has to go to work and revise it section by section, it is believed that it will take more time than it will if the committee on education and school lands shall revise it and present a shorter article for the consideration of this committee. If we are to discuss it and debate it section by section, as I am quite clear we will, I know for one, from looking through the article, that there are several propositions, if not more, which will require elucidation, explanation, and perhaps modification, and I am informed by a number of my fellow members, that they entertain the same views, but, of course, it is a matter of no concern personally.

I simply make the motion to test the sense of the committee upon it.

Mr. SMITH. Mr. Chairman, I am in favor of the motion of Mr. Varian on this proposition. We have here presented to us on education some twenty-four sections, in and of itself almost as large as the Constitution of the United States. It seems to me that this class of work is simply going to encumber our Constitution and make it of such enormous proportions that everyone of us will blush for it when it is completed. In looking in the Pennsylvania, I discovered that their article in regard to schools simply takes about eleven lines. New York, if I remember correctly, has about four short sections or five, and ours here strings out a yard long and it is complicated. And it seems to me if it is possible for that committee, in consideration of this matter, to bring to us a proposition on education, which shall not seem to indicate in and of itself that we propose to legislate upon this question entirely and leave nothing in the future for the Legislature to do, they ought to do it. And I am, therefore, in favor of the motion and trust that the committee will consider it prudent to pass by this matter, but can bring it up in another form by the committee, so that we may be enabled at some time in the future, to accomplish our work. I am satisfied that an entire week will be consumed in the discussion of this matter; the committee itself has been divided upon it, and the discussion before this committee has been almost entirely by the committee on education, or largely by that committee. Therefore, I favor the motion of Mr. Varian.

Mr. CANNON. Mr. Chairman, I think it would be better to allow this matter to go until Mr. Pierce, the chairman of this committee, is present. I do not know whether the gentleman will be here before long, or whether he will be here at all this morning, but as chairman of that committee he could probably tell us better whether or not their report would change the matter if it were referred back to them. If it could be temporarily laid over until he comes, I think it would be better.

Mr. VARIAN. I just want to suggest to the gentleman, that the purpose of this motion is that the instructions of this Convention shall go to the committee to remodel and simplify it. To that extent they must obey the directions of the Convention, if it is so ordered.

Mr. CANNON. I simply wish to state, that that being true, I would favor Mr. Thurman's idea. I do not feel that it would be well to refer this back to them, without telling them in what respect we want it modified, and how we want it simplified.

Mr. LOW (Cache). Mr. Chairman, I wish to state by way of explanation, in behalf of the committee on education and school lands, that that article was of necessity made cumbersome, from

the fact that we gave them an additional committee's labor to perform. We imposed upon them the necessity of making provision for school lands and added that to the duties of the committee on education, and consequently the length of this article; and I am in favor of the suggestion made by Mr. Cannon, postponing the consideration of this question, until the chairman of the committee shall be present.

Mr. CHIDESTER. Mr. Chairman, I am in favor of the motion, but I do not think that the article, comprehending as it does the school land question, is exceedingly long. I noticed in other constitutions where similar provisions have been handled under the same heading, that a general school law is enacted, and then separate and apart from that, the university clause comes in, which if it was simplified in this manner would at least meet all the objections that have been raised here on the floor to the article as it stands.

Mr. KERR. Mr. Chairman, I would like to make a few remarks in defense of the committtee on education and school lands. I do not object to having this article referred back to the committee, but I think in view of the statement which has been made, and in justification of the work of the committee on education, I should state that the article is not any longer, when we consider what it contains, than the article in the constitutions of many of the other states, including that of California. As suggested by one of the speakers, we were not limited alone to the common schools, but it includes also all that is to appear in the Constitution on school lands. Now, in California there is a long article on education, another article on state institutions, and then under public lands are the provisions which we have made in this article on school lands. There are really included in this article three matters, one on the general education of the State, one on the State institutions of higher learning, and one on school lands. Furthermore, Congress has granted to this State upwards of six hundred thousand acres of land for higher institutions of learning, nine million acres of land for the maintenance of the common schools of the State, and in accordance with the provisions of the Enabling Act granting these lands, we have included sections which shall provide for the location and disposition of these lands, and for the investing of the funds. Personally, if this should be referred back to the committee, I think we should have some instructions from the Convention showing just what is required of us. It is not sufficient to say that we should cut it down, because I believe that in the main the committee on education are unanimous in the opinion that there is little that can be accomplished. In what particulars do you desire to have it revised or cut down?

Mr. THURMAN. Mr. Chairman, I favor the motion to report as suggested. At the same time, I think we will save time in the future if we would devote a half hour or an hour in running through this bill, and in determining at least what ought to go out. There are probably a half a dozen sections or more in this article that I am satisfied this Convention will say ought to be struck out, because it is purely legislation, and we could determine that, and that would be an instruction of this committee, or a basis for it when we arise.

Mr. PIERCE. Mr. Chairman, I am opposed to recommitting the article. The committee on education had the article in hand and devoted a great deal of attention and thought to it, and it was in the main, as the gentleman from Cache says, almost unanimous consent that the article was to go in as it is, and I endorse the remarks of the gentleman from Utah County. If there are any provisions here that the Convention does not de-

sire to have inserted in the bill as passed, this Convention ought to notify us what they are as we pass along through. It seems to me, perhaps with the exception of one, two or three sections, that the article ought to stand as it is, and probably will stand as it is with some slight amendments, and I think, as chairman of the committee, I would be at a loss to know what was the wish of this Convention, if this article was referred to the committee as it is, with instructions to make it shorter, and I am opposed to referring it again.

Mr. VARIAN. Mr. Chairman, of course, if we were going to go through this article and spend days finding out just what our views are, there is no use in referring it to the committee. Of course if you are going to do that, we do not need to send it back. Now, it occurs to me that that committee can take this article and look it over, and can see many places where the pruning knife of elimination will be applied. This article has developed as it proceeds into legislation. I think it ought to be remodeled, and I think more, with all deference to the committee, that so far as our State is concerned, at least—the leading educators, and those charged and entrusted with the administration of the schools here, may well be called upon and permitted to give their views to the committee. It is not the design to cast any reflections upon the committee. I suppose that committee is like other committees, they may or may not present views concerning the subject matter committed to them which will be acceptable to the Convention. If they should happen to miss it, it does not imply any reflection upon the committee, but my idea was, Mr. Chairman, that a committee of eleven would be better enabled to revise in the line indicated and strike out everything that may be safely left to legislation, than we. That is, they can do it more conveniently. It is going to take time to go through this, and when they get through then it can come back to the Convention and be taken up in the committee of the whole carefully. That is the way we feel today, and in accordance with the suggestion of my colleague, Mr. Smith, I suggest that there seems to be no difficulty about many of these subsequent suggestions, modifying them or eliminating them wholly in some instances, and still retain the grand work of constitutional prohibition. The committee should bear in mind, of course, that the State Constitution is a very different matter from the Federal Constitution. The Federal Constitution is simply an instrument in which certain powers are expressly granted by the people to the Congress and the departments of government. Those not expressly granted or by implication are not exercised. The Legislature has full power to do everything in accordance with the function of government unless appropriated expressly or by implication by the Constitution, so that we simply need restraint, not grants of power, not implications of how the law should be, but simply lines of demarcation beyond which the Legislature may not go. Bearing these principles in view, it seems to me, this committee will be enabled to present an instrument here that we can act upon.

The motion was agreed to.

The CHAIRMAN. The next order of business on the calendar of the committee of the whole is the article entitled, "counties, cities and towns."

Section 1 of the article was read and passed without amendment.

Section 2 was read as follows:

No county seat shall be removed unless two-thirds of the qualified electors of the county voting on the proposition at the general election shall vote in favor of such removal, and two-thirds of the votes cast on the proposition shall be required to relocate a county seat. A proposition of removal shall not be submitted in the same county more than once in four years.

Mr. CANNON. Mr. Chairman, I wish to move as an amendment, that the word, "four" in the last line, be stricken out, and the word "ten" be substituted. In explanation of this motion I will state that I do not think it is a good thing to have constant agitation going on in any county as to the removal of the county seat. I think that this has been a serious injury to many counties, not only in Utah, but in adjacent states and territories. I think if a proposition has been settled upon once by vote of the people, a proposition should not be renewed oftener than once in ten years. In that length of time, conditions might have so changed that it would be advisable to remove the county seat. But I think if you leave it that every four years they can be agitating the subject, it may put the people of the Territory and the different counties to a great deal of trouble. For this reason I would like to see the period made longer.

The amendment was rejected.
Section 3 was read as follows:

There shall be no territory stricken from any county unless a majority of the voters living in such territory shall vote therefor, and then under only such other conditions as may be prescribed by a general law applicable to the whole State. Every county which shall be enlarged or created from territory taken from any other county or counties shall be liable for a just proportion of the existing debts and liabilities of the county or counties from which said territory shall be taken; provided, that in such accounting neither county shall be charged with the debt or liabilities then existing incurred in the purchase of any county property or in the purchase of any county buildings then in use or under construction, which shall fall within and be retained by the county.

Mr. VARIAN. Mr. Chairman, I want to ask for information concerning the proposition contained in the first three, four or five lines of section 3, which provides in substance, that no territory shall be cut off from a county without it being affirmed by a vote of the people of that county, but how is it about the county to which the territory is to be annexed? Is it the intention to permit that to be done without a vote of the majority of the voters of the county to which it is to be annexed? It will be observed that by subsequent provisions, the debt of that county is taken care of, and a proportionate part thereof would be added to the debt of the county to which the territory was annexed. That may have been considered. If that was considered I do not want to antagonize it by offering an amendment unless it is necessary.

Mr. EICHNOR. Mr. Chairman, I do not think it was considered in the committee, only by members individually. I think that lines 4 and 5—"and then only under such other conditions as may be prescribed by law applicable to the whole State" covers it.

Mr. VARIAN. As at present advised I do not like it. I move to amend by adding after the word "territory" the words "and the county to which it is to be annexed." Certainly the burdens of debt ought not to be imposed upon it by the will of the voters of the territory desiring to be taken off from a debt-ridden county and to be annexed to a prosperous debt-free county.

Mr. EICHNOR. I second the amendment.

Mr. RICHARDS. Mr. Chairman, I desire to call attention to the fact that territory may be stricken from one county and yet not annexed to another. It may be creating new counties.

Mr. VARIAN. I will suggest to Mr. Richards, that if it is to create new counties, the territory itself is already provided for. The voters of that territory would pass upon that.

Mr. RICHARDS. Your amendment, as I understand it, would only apply to cases where the territory was taken off from one county and annexed to another, and would not apply to the creation of a new county?

Mr. VARIAN. I suggest to the gentleman that if a new county is to be

created out of a territory belonging to an old county, or out of territory belonging to several old counties, the prior provision would cover the case, "a majority of the voters living in such territory."

Mr. CANNON. Mr. Chairman, I do not think the motion as offered by Mr. Varian would be a just one, unless he would permit an amendment. I would offer as an amendment that the language be changed, so that it would be "as well as of the county to which it shall be attached."

Mr. VARIAN. I have no objection. I will accept it.

The amendment was agreed to.

Mr. BUYS. Mr. Chairman, I move to amend the section by striking out of line 1 the words, "there shall be no territory" and inserting in lieu thereof, the following: "No new county shall be established which shall reduce any county to a population of less than five thousand, nor shall a new county be formed containing a less population than four thousand, nor shall any territory be," etc.

The motion was rejected.

Mr. HOWARD. Mr. Chairman, I would like to provide for an amendment at the end of section 3, by adding the following: "Provided that any public indebtedness, created for any public improvements made exclusively in the territory stricken off, said indebtedness shall be borne by the new county, or by the county to which such territory shall be annexed." I have known of several circumstances, where counties have been separated twice, or a portion of a county taken off and attached to another, where public improvements have been lately made exclusively in that territory, and the old county from which it has been taken has had to assume the debt, when it has been no good to it whatever. I will note an instance of a year ago this winter. Emery County was divided and a new county made out of the northern portion of it. Emery County had just finished building several large bridges, one of which cost in the neighborhood of $1100, and the others cost large sums of money, and amounting in the neighborhood of $3000, and the following winter the county was divided, and these bridges all thrown in Carbon County, and Emery County had to pay for them, and is in debt for those bridges. I think that Carbon County should assume the debt for public improvements made in its territory. This will obviate anything of the kind happening in the future.

The motion was rejected.

Mr. STREVELL. Mr. Chairman, notwithstanding the fact that amendments do not seem to go this morning, I have one which I wish to offer. It is in relation to the creating of new counties where the taxable property is not sufficient to maintain a county organization. I move to amend by inserting in line 6, of section 3, after the word "State" the words, "new counties may be created when the taxable property therein amounts to $3,000,000 or more and when the majority of the voters residing in such proposed county shall, by a vote at an election held for that purpose, approve of the creation of such county."

The amendment was rejected.

Section 4 was read as follows:

The Legislature shall establish a system of county government which shall be uniform throughout the State, and by general laws provide for precincts or township organization, under which any county may organize whenever a majority of the qualified electors of such county, voting at that general election, shall determine; and whenever a county shall adopt precinct or township organization, the assessments and collections of the revenue shall be made, and the business of such county and the local affairs of the several precincts or townships therein, shall be managed and transacted in the manner prescribed by such general law.

Mr, VARIAN. Mr. Chairman, I move to strike out all after line 4 of section 4. It seems to me that the first four lines

covers the whole subject matter, and the limitation as to any increase in new counties, and for the segregation of territory from one county to be added to another; and all the subject matter after line 4 seems to me to be a matter of detail and legislation.

The amendment was agreed to.

Mr. EVANS (Weber). Mr. Chairman, I now move to amend, by adding the letter "s" and a period after the word "organization."

The amendment was agreed to.

Section 5 was read as follows:

Corporations for municipal purposes shall not be created by special laws, but Legislatures, by general laws, shall provide for the incorporation, organization, and classification in proportion to population of cities and towns, which laws may be altered, amended, or repealed. Cities and towns heretofore organized or incorporated may become organized under such general laws whenever a majority of the electors voting at a general or special election shall so determine, and shall organize in conformity therewith; and cities and towns heretofore or hereafter organized and all charters thereof framed by the authority of this Constitution, shall be subject to and controlled by general laws.

Mr. PETERS. Mr. Chairman, I move to strike out all after the word "repealed" in line 6. That whole part refers to the matter of how states may take advantage of legislation that may be passed for them.

The amendment was agreed to.

Mr. SQUIRES. Mr. Chairman, I move to still further amend that section, by striking out all of line 6. What is the use of saying that a clause may be altered, amended, or repealed.

Mr. VARIAN. Mr. Chairman, I apprehend the object of that is to amend the question of contract. There ought to be a reservation mandatory upon the members of the Legislature, I think, to provide that all franchises or charters of that kind should be subject to repeal. Of course that might not apply to municipal corporations. I admit that.

Mr. SQUIRES. I will withdraw the amendment.

Mr. RICKS. Mr. Chairman, I move to amend by striking out lines 1 and 2 down to the word "the." The words to be stricken out are as follows: "Corporations for municipal purposes shall not be created by special laws, but."

Mr. THURMAN. Mr. Chairman, the amendment ought not to prevail. If we do not provide that corporations shall not be created by special laws, then the Legislature will have the power to create them by special laws.

Mr. VARIAN. Mr. Chairman, I think we had better consider this section a little more carefully. I confess that this is the first time I have seen it—this morning. The question is whether we should not permit cities, certainly of the magnitude and class of Salt Lake City, to have their own charters framed especially. Now, it is doubtful whether a general law concerning the framing of municipal charters will in every particular be applicable to a city after it reaches a certain stage in population, etc. Still, I have not given the matter sufficient reflection and consideration to antagonize or affirm any proposition surrounding this section. I confess there is something about it that I do not just quite understand. Now the proposition to strike out the provision that corporations for municipal purposes shall not be created by special laws, would be all right. I would prefer to see a proviso in some place permitting the creation of municipal corporations by special laws. That is the idea. I would like to hear from the committee whether they considered that question in its application to these larger cities.

Mr. EICHNOR. I will state that I introduced a proposition enabling cities having more than three thousand inhabitants to frame their own charters. It was thoroughly discussed in the committee. The proposition was modeled after the California constitution. I was

the only one that advocated it in the committee. All the other members opposed it very strongly, and claimed that it would create confusion, and I withdrew my proposition. I think the section the way it stands now, is perfectly good.

Mr. HART. Mr. Chairman, I would like to ask the chairman of the committee on legislative, or some member of that committee, if they have reported a similar provision in their article, a prohibition on legislative power.

Mr. PIERCE. Yes, sir.

Mr. EVANS (Weber). Mr. Chairman, I am in favor of the section as it stands. I know that if you strike that out, there will be frequent importunities upon the part of small villages to the Legislature to have special charters. I do not think we ought to do that. I do not think we ought to permit it. I think the Legislature always ought to make general laws for the incorporation of cities. We have had experience in this Territory about that, before the law prevailed, that there should be a general law for the incorporation of towns and cities. Little villages, cities here and there and everywhere, will constantly apply to the Legislature for charters, and I see the trend of modern legislation is to make general laws by which cities containing a certain amount of population may be incorporated without such frequent application to the Legislature. It is an expense for the people to get their representatives together, and look into each particular locality and determine its fitness in incorporated towns.

Mr. MALONEY. Mr. Chairman, this provision was copied from section 10 of the Washington constitution. It seems to me that if this amendment prevails, and these lines are stricken out, it would not leave the act complete within itself, as it ought to be.

Mr. EICHNOR. I would like to inform the gentleman from Weber County, Mr. Maloney, that it was copied from the California constitution.

Mr. MALONEY. That may be, but it is also copied from section 10 of the Washington constitution.

Mr. THURMAN. That settles it, if it is copied from Washington.

Mr. RICHARDS. Mr. Chairman, I hope this motion to strike out the lines will not prevail. I do not think that we ought to allow the Legislature in an unlimited way to pass special charters.

The amendment was rejected.

Mr. VARIAN. Mr. Chairman, I offer an amendment to be inserted at the end of line 6, "provided that special charters may be granted to all cities having a population of 20,000 or more."

Mr. KIESEL. I move to amend, and make it 15,000.

Mr. VARIAN. Now, Mr. Chairman, I put in 20,000 there on the spur of the moment, expecting the gentlemen to indicate their preference. I accept 15,000; I understand that is to meet the wants of Ogden City. It must be manifest to the gentlemen of the committee that at the present day, as towns grow into cities, and cities increase in population and wealth, and amplify their area, that it is almost impossible, practically impossible, to make a general law applicable to the ever changing conditions. Everywhere special charters are granted as being adapted to the particular wants of certain cities, differing as they do in different localities in the state, and of course in Salt Lake City we are under practically a special charter now, just as much so as if it was standing out alone from the general statute law. As a matter of fact, the entire system of government in this Territory, from its foundation, has been in accord with this system of special charters. You will remember, gentlemen, that during all the years up to the time when this general municipal act was passed in 1888, each town—each city in your Territory had a special act, each one was a a special charter. The general pro-

visions were alike in all, but particular provisions applicable to one city and not applicable to others. We must have special provisions not applicable to other towns and cities in the Territory, in this city. And this provision is necessary because of the provision preceding it, "corporations for municipal purposes shall not be created by special law;" that is all very well as a general rule.

Mr. JAMES. Mr. Chairman, I favor the gentleman's amendment for the reason that this amendment puts into the hands of the people the control of their own affairs, so far as the charter of their cities are concerned, and it is getting down closer to the people, and I believe in that principle, and therefore I shall support the motion.

Mr. ROBERTS. Mr. Chairman, in order that I might vote understandingly on this proposition, I would be pleased if the gentlemen were able to point out some special reasons why a general law providing for the establishment of municipal corporations could not include all the conditions that exist in Salt Lake City. I am not in favor of the proposition with my present understanding of the evils arising out of granting special privileges to particular corporations, and the argument that has been made that the Territory of Utah up to a few years ago had municipal corporations established by special laws has failed to convinced me of the wisdom or the necessity of that provision. I am rather inclined to the opinion that the experience of Utah Territory has converted the people away from that system of establishing corporations, and I can see no reason why the Legislature cannot pass a general law in regard to corporations, that will include Salt Lake City and Ogden and every other city in this Territory.

Mr. EVANS (Weber). Mr. Chairman, up to 1886 the Legislature of the Territory had the right to grant special charters for municipal purposes. Ex-President Harrison, who was then a senator of the United States, drew a law, which is published in our compilation of 1888, by which the legislatures of the territories were required to make general laws for the incorporation of municipalities, etc. Of course, I do not pretend that that law is an inhibition upon the action of this Convention, but I cite it, together with other matters, to show that the general trend of legislation everywhere, in the states as well as in the nation, is to pass general laws for the incorporation of cities. There is nothing that would have prevented the people of Salt Lake from having just such organization as the Legislature would give them under the section as it now stands. For instance, it seems to me that my friend from Salt Lake, Mr. Varian, does not really understand the force of it, or if he does, it was not clearly expressed. The first clause of the section is an inhibition upon the Legislature from passing or granting any special charters for any municipal purpose, but the second clause fully meets the exigencies of the case as stated by the gentlemen who have spoken upon the other side. "But the Legislature, by general laws, shall provide for the incorporation, organization, and classification in proportion to population of cities and towns, which laws may be altered, amended or repealed." Now, in 1892, the Legislature of Utah had under consideration a charter which would affect Salt Lake City alone, because of its numerous population, but when the Legislature considered that law, of course it had to pass it, if at all, in pursuance of the act of Congress of 1886, and consequently called or denominated, "an act for the incorporation of metropolitan cities." It was a charter, which, if it was made acceptable, would have met all the exigencies of Salt Lake City, and were any other city of the same population as Salt Lake City, they would come in under the provisions of that act. It is

wholly unnecessary that each city should apply to the Legislature for those special charters. In fact it would not be right. It would not be uniform. If Salt Lake City were to apply to the Legislature for one kind of a charter, it might have such influence with the Legislature, that it would secure such charter as it desired. Ogden might be in the same class, and apply for a like charter, and not have such influence as to secure it. Provo might do the same, or Logan, or other cities. The idea of the law as it now stands is this, that the Legislature may by special laws provide that municipal corporations may organize or that they may be classified according to the population, wealth, etc. Now, what is there to prevent the Legislature from doing this? It is expressly authorized. The amendment of Mr. Varian would seek to give a city of a certain number of inhabitants special charters. I do not oppose the Legislature, by general law, granting certain charters to cities having a certain number of inhabitants; it ought to do that, because some cities require one character of government and others a different character, but the cities can be classified. Each city then of that class will have exactly the same kind of charter. But if the amendment prevails, one city might have one kind of a charter and another city of the same population and wealth might have a different charter.

Mr. VARIAN. Why shouldn't they.

Mr. EVANS (Weber). I do not think there ought to be any discrimination. One Legislature might grant a municipality in a certain locality through certain influences which are brought to bear upon it most extraordinary power —powers that are not wanted by the people. It is better to legislate in such a way, that when one city is incorporated, another city of the same class must accept of the same provisions that that city accepts of. The reason is this: That when you classify in that way and generalize, the Legislature is composed of people from all over the Territory. They look after the interests of each particular section of the Territory, and if a few people were to go into the Legislature desiring a certain charter for Salt Lake City, and the people outside of Salt Lake City not being interested at all in it, would say, "all right, you can have just such a charter as you want;" the charter given to Salt Lake may not be the character of a charter that the people of Salt Lake want, although its representatives may be working for it. But when we make them all uniform and classify them, then there certainly can be no danger. My friend from Salt Lake will admit with me I think, that the history of this country is trending in the direction I am talking of; that is a refusal upon the part of the constitution makers, and also upon the part of legislatures, where they are not prohibited by the constitution, to make general laws for the incorporation of cities, but classify them just as we have done here. We have cities of the first, second and third classes. When Ogden City becomes as large as Salt Lake, which will not be very long, then we are entitled to exactly the same privileges that they have. So it is with Provo and Logan. But to say that each one of them shall have a special charter when it arrives at a certain population, is wrong in principle.

The amendment was rejected.

Mr. EICHNOR. Mr. Chairman, I now move an amendment to section 5 by adding file No. 10 which was introduced by myself.

File No. 10 was read.

Mr. RICHARDS. Mr. Chairman, it seems to me that this is a matter of some importance. I think the reason why the committee seems to be ready to dispose of the proposition so soon, is because they probably had not given the matter any investigation. I think that this matter should be considered, and I therefore suggest that this amendment be printed, and that we postpone

the further consideration of this section, that is, that we pass the section temporarily until we can have this printed, and give the matter proper consideration. I am opposed to voting down proposed amendments in this way without giving them any consideration whatever.

Mr. WELLS. I second the motion.

Mr. PRESTON. I think that this is strictly on the line of legislation, and it belongs to that body, and I submit it can be very consistently left for the Legislature to frame such laws in regard to the matter as they want, and it does not belong to us as a Convention to consider.

Mr. RICHARDS. Mr. Chairman, I desire to say in answer to the gentleman from Salt Lake, while this is legislation it is no more legislation than anything else that we have done or are doing in this Constitution. It is fundamental in its character. It is simply determining that a charter may be granted in a certain way by certain people. Now, if such a provision as that is not in the Constitution, it cannot be done. The general power that a Legislature has to do this business would not confer that power upon the people as it is proposed by this section. Therefore, it is not objectionable upon the grounds that it is legislation, because it is not legislation in that sense. It is the fundamental law, or it would be if it is adopted. Now, this has been adopted, as I am told, in California with satisfactory results, and with some modifications in the state of Washington, with very satisfactory results, and I say it is a proposition that is worthy of the consideration of the committee. That is all I ask, is that we have it printed and have it before us, and have an opportunity to consider it before we vote upon it.

Mr. EVANS (Weber). Mr. Chairman, I arise to a point of order on the motion made by Mr. Richards, a motion to postpone in the committee of the whole is not in order.

Mr. RICHARDS. I do not make a motion to postpone, and I insist that the motion is in order. A motion to postpone indefinitely, I do not believe is in order, because that would be an equivalent to a motion to lay on the table, but a motion would be proper to postpone and consider this section at the next session or the next day.

Mr. THURMAN. I am opposed to the motion. I would like to ask for information, whether or not this article was not referred to the committee?

Mr. EICHNOR. Yes, sir.

Mr. THURMAN. And reported back adversely.

Mr. EICHNOR. Yes; I was the only one who advocated it, and I introduced it here at the request of gentlemen deeply interested in municipal corporations. As far as I am personally concerned I do not care, because I introduced it, but I think at the same time, out of due deference to the request that was made, the matter ought to be considered. You can argue it if you please.

Mr. THURMAN. I am opposed to it for the reason it has been considered by the committee and they have deliberated upon it. They brought in a substitute and the house has already expressed by an overwhelming vote, its sense against this kind of legislation, and I think there ought not to be such legislation in the Territory of Utah. There is no reason—there is not a single power that Salt Lake, Ogden or any other town can point to to-day as a necessary power that is not to be found in the general law, and if they are not in the general laws, they can be put into the general laws, and be adopted whenever the city reaches that degree of prominence and importance that renders it necessary. I am not in favor of special legislation of any kind, either in favor of municipal or private corporations.

Mr. JAMES. I am in favor of Mr. Richards' motion for the reason that

probably some of us are not quite so well informed upon the necessities of cities as Mr. Thurman, who has just spoken, seems to be. Now, let us have an opportunity to look into the matter; I do not think it will do any harm.

The CHAIRMAN. The motion now pending before the committee is the motion of Mr. Richards to pass section 5 for the time being.

The motion was rejected.

The CHAIRMAN. The question now recurs upon the amendment offered by the gentleman from Salt Lake, Mr. Eichnor.

Mr. FARR. I do not understand why it is that this Convention wants to tie up the hands of the Legislature and confine them down to a certain routine and route. Why not let them have some latitude to work, as seems under the circumstances to be for the best good of municipalities? I do not underderstand why we are legislating so much in order to tie up the Legislature. I think the Legislature should have power to draft special charters on special occasions, and I could give my reasons why. I will read a suggestion—a proposition which I do not seek to adopt or make any remarks on, if it does not obtain a second it can go for what it is worth, which I think will cover the entire section. I do not see any provision in this bill providing authority to the Legislature to incorporate cities, hence I offer a little suggestion here, which will cover, I think, the whole section, and will provide for the whole business of municipal corporations:

"Section 5. The Legislature shall provide by general law for municipal corporations."

This covers the whole business, gentlemen. If they can provide by general laws, they can provide, if they want to, for any body of men, of four, five, six, or ten thousand. If they see fit to give them a charter, they have a right to, and they have a right to organize under general laws, hence I make this suggestion that the Legislature shall provide for corporations, which will cover the whole ground.

Mr. VARIAN. I second the motion.

The motion offered by Mr. Eichnor was rejected.

The question was taken on the amendment offered by Mr. Farr; the committee divided and the amendment was rejected by a vote of 36 ayes to 45 noes.

Section 6 was read and passed.

Mr. RICKS. Mr. Chairman, I move now that the committee now arise and report progress.

Mr. VARIAN. Does that include the report of this section showing its adoption?

Mr. RICKS. Yes.

The motion was agreed to.

The committee then rose and reported as follows:

MR. PRESIDENT:

Your committee of the whole have had under consideration the article entitled education and school lands, and report the same back to the Convention with a recommendation that it be referred back to the standing committee on education and school lands for modification and simplification. Your committee further report that they have had under consideration the article entitled counties, cities and towns, and have adopted the same with amendments, and report the same with the amendments to the Convention with a recommendation that it go on the calendar for a third reading.

The Convention then, at 11:50 o'clock, took a recess until 2 o'clock p. m.

The Convention re-assembled at 2 o'clock p. m. with President Smith in the chair.

Mr. KIMBALL (Weber). Inasmuch as the regular order was not passed this morning, because of the declaration of rights not having been printed as amended, I now move that we go back to the regular order, and take up the declaration of rights on the third reading.

Mr. RICHARDS. Mr. President, I hope that this motion will not prevail. A number of very important amendments were made to this declaration of rights, and we have not had an opportunity since it was printed to give it the examination that it ought to receive before being read the third time. I think it ought to go over until to-morrow and give us an opportunity to examine it carefully, and individually, before it is brought up on a third reading.

Mr. ANDERSON. Mr. President, I would like to ask if that has been printed and distributed yet?

The PRESIDENT. It is being distributed now.

Mr. RICHARDS. Then I suggest it is manifestly hurrying things too fast. We have had no opportunity whatever to examine it, and the hurried reading of it here in the presence of the Convention is not sufficient.

Mr. WELLS. Mr. President, I just entered and do not know what the subject for discussion is, but I take it from Mr. Richards' remark, that the proposition is to take up the declaration of rights now.

The PRESIDENT. That is the proposition.

Mr. WELLS. A number of the delegates have asked me when the matter came up to move that it be deferred until to-morrow, so that they may have to-night to look over the printed copy and consider it a little further. If it is in order, I will make that motion as an amendment.

The amendment was agreed to.

Mr. RICKS. Mr. President, I now move that we go into committee of the whole, to consider the order of the calendar.

The motion was agreed to, and the Convention resolved itself into committee of the whole, with Mr. Kimball, of Weber, in the chair.

The CHAIRMAN. Gentlemen, the next order of business on the calendar of this committee is the report of the committee on schedule, future amendments and miscellaneous, and the article reported by them entitled, "amendments."

Section 1 was read as follows:

Any amendment or amendments to this Constitution may be proposed in either house of the Legislature, and if two-thirds of the members elected to each of the two houses shall vote in favor thereof, such proposed amendment or amendments shall be entered on their respective journals, with the ayes and noes taken thereon, and the Legislature shall cause the same to be published in at least one newspaper in every county of the State, where a newspaper is published, for three months immediately preceding the next general election, at which time the said amendment or amendments shall be submitted to the electors of the State for their approval or rejection, and if a majority of the electors voting thereon shall approve the same, such amendment or amendments shall become part of this Constitution.

If two or more amendments are proposed, they shall be submitted in such a manner as to enable the electors to vote on the same separately.

Mr. RICKS. I move to amend line 21 by striking out the word "same" and inserting in lieu thereof, "each of them."

The amendment was agreed to.

Section 2 was read and passed without amendment.

Section 3 was read as follows:

Any constitution adopted by such convention shall have no validity until it has been submitted to and adopted by a majority of the electors voting at said election.

Mr. RICKS. Mr. Chairman, I move that the words "of the State" be inserted between the words "electors" and "voting," in the fourth line.

The amendment was agreed to.

Mr. HOWARD. Mr. Chairman, I would make a motion that we amend section 3 by striking out the word "said" in the fourth line, and inserting "the next general election."

Mr. THORESON. Mr. Chairman, it appears to me that by referring to line 4 of section 2 we find the following: "they shall recommend to the electors

to vote at the next general election for or against a convention." Now this other refers to said election.

Mr. HOWARD. Mr. Chairman, that provides for the electors to vote on whether they shall have the convention or not. It does not provide for the electors to vote on the question of the revised constitution.

The amendment was rejected.

Mr. LOW (Cache). Mr. Chairman, I move you to amend section 3 by inserting after the letter "a," in line 3, the words "two-thirds."

The CHAIRMAN. I hear no second to that amendment; unless I hear further amendments, the article entitled "amendments" has passed this committee.

Gentlemen of the committee, the next order of business on the calendar of this committee is the report of the committee on elections and right of suffrage.

Mr. SQUIRES. Mr. Chairman. I move the committee now rise and report on the article just passed.

The motion was agreed to.

The committee then rose and reported as follows:

Your committee of the whole have had under consideration the article entitled "amendments," and after consideration of the same, report the article back to the Convention with amendments, and recommend the article and amendments go on the calendar for the third reading.

The report of the committee was adopted.

The minority on elections and right of suffrage reported as follows:

Committee Room, March 27, 1895.

To the President of the Constitutional Convention:

The minority of your committee on elections and suffrage regret that they feel it their duty to disagree with the majority of the committee on the question of woman suffrage in Utah, and beg to present, briefly, their reasons for such disagreement.

We do not seek to dispute in the least the argument that in all intellectual attributes and attainments women are qualified to vote as intelligently as men, except that women are better than men; they are ruled more readily by their sympathies, impulses and religious convictions, and do not realize as much as men that law is an arbitrary and imperial machine, and knows neither impulse nor sympathy.

But conditions are presented to us that never confronted a people before. The masses of people of Utah have only just begun to study seriously the principles of the government of the United States, and the duties which pertain to citizenship. They have been reared in a school which taught sincere allegiance to a local government and in that allegiance has been woven an absorbing affection and pious devotion. It is hard for a woman's nature to swiftly change, when her sympathies and sense of duty have long controlled her in a particular channel.

Again, it is but a few years since the Congress of the United States thought it necessary to withdraw this privilege from the women of Utah, because in the friction between the nation and the ruling power in Utah, the sympathies and devotion of the women, all bending in one direction, in the judgment of Congress made it necessary to take suffrage from her, in order to begin to place this Territory in harmony with the Union under the laws.

A widespread fear prevails that with the privilege restored, the old overwhelming force would destroy the present equality of parties—which always leads to confusion, if not tyranny—and awaken a terrible temptation on the part of those who ruled before, to resume their sway by working upon the generous impulses and religious instincts of women, which would result in political, if not social and business, ostracism of the minority.

This feeling is not only widespread throughout Utah, but it awakens keen apprehensions and forebodings throughout the nation at large.

As a people we are poor. We need the strong arms and the capital of the more thickly settled portions of our country.

To adopt the report of the majority will be to keep both away until the unnecessary experiment may be tried.

But it is not on selfish grounds that we interpose this report. We are looking not only to the prosperity but the future peace of this region. Surely no one desires a return to the contentions which prevailed here only seven years ago. As true citizens, none of us can look forward with anything but apprehension to the possible placing of the entire power of the government of the new State in the hands of a power in

our midst which might easily, under statehood, become omnipotent.

We are reminded of the pledges of respective political platforms, we do not forget them, but we remember likewise that all platforms are changed from year to year and we are forced to take cognizance of the fact that a most decided change of thought has been wrought on the people of this Territory on this particular subject, since they began to seriously contemplate the possible results of the carrying out of the will of the majority of this committee.

Why not permit the question, which is making so much unrest in the thoughts of men, to be held in suspension for the present?

With the adoption of the Constitution, a Legislature will speedily be convened. The members of that body will come directly from the people. Why not leave the question to them?

We respectfully oppose the report of the majority of your committee, and recommend that the suffrage of women be kept out of the Constitution.

Respectfully submitted,
R. MACKINTOSH,
FRED J. KIESEL,
ROBERT McFARLAND.

Mr. MACKINTOSH. Mr. President, I move that the report be received and printed.

Mr. PRESIDENT. Under the rule it is to be printed and goes to the calendar of the committee of the whole.

What is the pleasure of the Convention?

Mr. THURMAN. Mr. President, I move we resolve ourselves into committee of the whole for the consideration of the regular order.

Mr. WELLS. Mr. President, I do not think it is usual to print reports. The matter submitted for consideration to go into the Constitution is always printed, but reports of committees are not as a rule printed. If it is desired to have this one printed, it would be unusual. I have no objection to it.

Mr. KIESEL. I think the majority report has been printed.

The PRESIDENT. I will read rule 19. (Reads.)

Mr. THURMAN. That does not necessarily say that the article reported by the majority shall be deferred; it does not even intimate that it shall be, and when I made my motion for the regular order, I understood the regular order to be as indicated on the board.

Mr. CANNON. Question on motion.

Mr. ROBERTS. I think that the rule read by the chair is very emphatic on this question. Every ordinance, proposition or other matter for insertion in the Constitution when reported by any committee, shall, with all reports thereon, without further order, be printed and referred to the committee of the whole. The gentleman undertook to say that only the part that is proposed to be inserted in the Constitution ought to be printed. The rule, however, is emphatic, that all reports thereon, which, of course, contemplated the minority report as well as the majority report, and I cannot understand how the Convention can resolve itself into committee of the whole and consider this matter of election of rights of suffrage now, for the reason that here is a report which is not printed and not properly before the committee for its consideration. I wish further to say on this subject, that this proposition proposed brings before the Convention, and before the committee of the whole, the most serious question that it will have to consider; and while, perhaps, the gentlemen who made that minority report, will also be in the minority both in this Convention and in the committee of the whole, I nevertheless believe, sir, that a careful consideration of those suggestions that they have made, ought to be entertained by this Convention and by a committee of the whole, for the reason, according to the judgment of this report of the minority, this question puts in jeopardy the very Constitution that we are framing itself. I say that we ought not to go into a consideration of this subject until this minority report of the committee shall be printed and be before members for their serious consideration.

Mr. CHIDESTER. That is exactly

the condition of things that I was looking for the other day, when I made a motion to make that a special order that it might come up. Now, you see that my fears have been realized; that this minority report comes in here just in time, if their theories are correct, to postpone this matter and put it off. Now, then, I submit that this is not proper, that this business is not on the calendar and it should be considered in the order in which it is placed on there, and the reason that their report is not in is no reason why we should defer this matter——

Mr. ROBERTS. Will the gentleman permit me a suggestion?

Mr. CHIDESTER. Yes, sir.

Mr. ROBERTS. The report of this committee is now in and before this Convention.

Mr. CHIDESTER. And the report of that committee should have been in before [laughter], for the reason that they had due notice of the action of the majority of this committee, and that this section that they opposed would be reported favorably, and from the very first day that the committee met they knew of its action, and they were as well prepared to make their minority report then, as the majority was to make theirs. And now then, sir, to postpone this matter and lay this over so that other measures would come in ahead of it, is unjust and unfair, and is not treating the majority of that committee fair. They claimed it as unfairness before, but what are they doing now? How are they treating the majority? When we stated that we believed that this was their design to fetch in their minority report in this kind of a way and thereby postpone this matter for some purpose that they may have in their heads. I believe that it is unfair and for that reason I oppose it.

Mr. EVANS (Weber). Mr. President, I do not think that I ought to take any particular part in this question at this time except as a member of the committee on rules. It may be that the committee on rules would differ with me in my opinion as to rule 19, but I have a very decidedly difference of opinion from those who have urged that this matter should now be printed, and that it should be taken up after the printing of the minority report. Certainly that rule applies to the report of the committee and all other reports thereon; it contemplates that the minority report should be in at the same time as the majority report. What other construction can be put upon this rule? Have not the minority had just as much time to report as the majority? Can they delay their report until the very moment that this matter is to be brought up to be considered in committee of the whole and then invoke this rule? I say that in fairness they cannot do it. According to the fair construction of the language, they cannot do it. It contemplates that the majority report and the minority report should be filed all together, and it should not be placed in the power of the minority to say when they shall report for the purpose of delaying the matter, even of such importance as this.

Mr. THURMAN. I desire to ask the gentleman a question. Is it not the fact also, that that rule contemplates that the minority report, if there is one, shall contain some propositions to be inserted in the Constitution in order to permit it to be printed?

Mr. WELLS. Mr. President, I arise to a point of order. I understood the president to rule upon this question that this rule would be printed. I raise the same point that Mr. Evans has now raised, that some time ago, as I understood the president, he ruled that the matter should be printed.

The PRESIDENT. I ruled that under that rule it should go to the committee of the whole after being printed.

Mr. WELLS. Then I submit that the

matter can only be reached by an appeal from the decision of the chair.

Mr. EVANS (Weber). I understand that the order so far as this minority report is concerned, should stand just as the president has directed. The minority report should be referred to the committee on printing for the purpose of having it printed, but that does not necessarily imply that there should be a delay of this matter. If that rule should obtain here, the report of the committee on elections and right of suffrage will go down to the order of nine; it will take the foot of the calendar, and the very object of the gentlemen here and their purpose will have succeeded.

Mr. ROBERTS. I wish to ask Mr. Evans a question. I agree with him when he says that the order of business in the matter of committee reports, contemplates that the minority report and the majority report shall come in before the Convention together. But was not this privilege denied to the minority on the part of the majority in this instance?

Mr. EVANS (Weber). That I do not know. I know that the question was raised here and there was a disposition to give the minority time, and I was one of those who believed in granting the time, but that does not necessarily imply that they should take their own time for reporting. I raise this matter as a question of principle, because if this course is to be pursued with other matters, a minority report might be brought in upon any measure which is bulletined, and that would necessarily retard the entire work of the Convention.

Mr. WHITNEY. Mr. President, in support of the remarks made by the gentleman who has just taken his seat, I wish to remind the committee that in the Congress of the United States there is no such thing as a minority report; it is the majority that makes the report, but the minority have the privilege of filing their views, and they are always called the views of the minority in the report proper.

Mr. ANDERSON. Mr. President, I am in favor of the motion of Mr. Thurman for this reason: that the report of the majority has been referred to the committee of the whole and should come up in its regular order. The report of the minority can come up at some future time in its order; I would not object to that, but I do not think it would be fair to postpone the consideration of this in the regular order, which would put it the ninth in the order of business. Now, again, explaining the——

Mr. ROBERTS. I would ask permission to submit a question to the gentleman?

Mr. ANDERSON. Yes.

Mr. ROBERTS. What material hurt to the question will it do if it is put ninth on this calendar? I presume, sir, that there are twenty-six reports of the twenty-six committees; I submit to the gentleman that there are twenty-six standing committees to report, some of them will make two or three reports. Since we are to have twenty-three numbers on the calendar of the committee of the whole, what great harm will come to this question, if it should stand so far down as number nine on that schedule?

The PRESIDENT. Eleven it would properly be.

Mr. ANDERSON. The minority have had ample opportunity to prepare their report. The second day that the committee met we passed upon and adopted this resolution, and they gave notice then that they were going to put in a minority report, and they kept reminding us of that nearly every day of our session, and they have had the last two weeks to prepare this minority report—

Mr. ROBERTS. I wish to submit another question to the gentleman and that is this: You remarked that the first day this question of suffrage was considered, that the minority of the committee knew from that time that this

report would be made; is it customary, sir, to conclude that the committee will in no case change its mind, and is it not right on the part of the minority to presume, or rather believe, that there is a possibility of changing the mind of that committee; and they cannot, sir, be properly supposed to be able to reach the conclusion what the majority report will be until it is made out?

Mr. IVINS. I would like a ruling of the chair on what it takes to constitute a question, Mr. President?

Mr. LOW (Cache). Mr. President, I move the previous question.

Mr. RICHARDS. I ask the gentleman to withdraw his request for the previous question just a moment, until I make a suggestion of a point that has not been raised yet, which I think will solve this question. Will the gentleman consent?

Mr. LOW (Cache). Just for this one case.

Mr. RICHARDS. I am in favor of this motion for the reason that I think it ought not to lose its place, and this is the point I desire to make. There are fifteen sections in this article; now if it be true that fairness to the minority requires that their report should be printed before the committee of the whole act upon the first section, we can still go into committee of the whole and act upon the fourteen sections that follow, and be saving time, and this article not lose its place, and then be prepared to take up the first section when the report is printed. I do not say that is due to the minority, or that the rules require it, but I make that suggestion, it can be done if desired.

Mr. THURMAN. Mr. President, I ask permission to make a suggestion. I do not know whether my friends in this majority will agree to it or not, but I understand the other side—the minority of the committee—are willing to make this the special order for to-morrow morning, giving it the right of way over every other question. Now, if that be true, and we can make it so for to-morrow morning, so far as I am concerned, if those who support me on this motion will consent, I am willing to withdraw my motion to go into committee of the whole and make it the special order, giving it the right of way to-morrow morning. I understand that will suit the minority.

The PRESIDENT. The main question has been withdrawn.

Mr. CHIDESTER. I arise for information. My understanding was, that they propose to allow this to be made the special order for to-morrow morning. Now, if it is in order I will make a motion, that it be made a special order for to-morrow morning after the usual program.

Mr. EVANS (Utah). Mr. President, I submit the previous question is the thing to be put.

Mr. LOW. Mr. Chairman, I arise for the purpose of withdrawing——

Mr. EVANS. I object to him withdrawing and I demand the previous question.

The PRESIDENT. I ruled upon it and the thing is gone by. The question is on the motion by Mr. Chidester that this matter of suffrage be fixed for to-morrow directly after the regular order.

Mr. IVINS. Mr. President, now I wish to say a word in regard to this question. I am opposed to it. In the beginning it can only be done by a suspension of the rules. We have tried twice before in this Convention to make this matter a special order and in both instances we have failed, and there is no reason to believe that we will be any more successful in suspending these rules this afternoon than we have hitherto been. The gentleman asked why the majority should be so anxious to have it come up for immediate hearing. I want to answer that question by asking why it is that the minority are so very anxious that this question

shall be continually postponed? They have had plenty of time to get in their report. Gentlemen, I believe that right now and here is the proper time to take this question up and decide it, and therefore, I am opposed to this motion, and I wish to offer an amendment to it, a renewal of the question made by the gentleman from Utah which was withdrawn, that we now go into committee of the whole and consider the regular calendar.

Mr. ROBERTS. Mr. President, I wish to speak to the question, and also to answer the gentleman from Washington. The gentleman has asked the reason why the minority of this committee have been desirous of postponing this question, and I want to answer that. In the first place, I am not on that committee, nor have I anything to do with their minority report, but when this report on the part of the majority was made, the committee reached, as I am informed, its final conclusion at a meeting about 12 o'clock in the day; it came into this Convention at 2 o'clock, made its report and asked that it be printed and be made a special order for Tuesday last. The minority of that committee then stated that they desired to make a report, that only about two hours before had the committee suddenly concluded to make its report that day, they asked sufficient time to make their report, but, gentlemen, in arrogance, refused to allow them that time, and as I said before I say now, they treated that minority with scant courtesy, because this question could have been discussed five or six days later as well as at that time. One gentleman of the majority of that committee took exceptions to this making any delay on their report, and rushing this thing through the Convention; they at that time assigned motives both to the minority of this committee and also to gentlemen who differ from their report. They then stated that there were tricks, that there were traps being laid to defeat this majority, and from that time until now, every movement on the part of those who wish to floor the consideration of this question before the Convention, have been stigmatized with improper motives, which I here, so far as I am personally concerned, resent and say they are not true.

Mr. EVANS (Weber). Mr. Roberts, may I ask you a question?

Mr. ROBERTS. Yes, sir.

Mr. EVANS (Weber). Are you on that committee on elections and right of suffrage?

Mr. ROBERTS. No, sir. [Laughter.] I wish to say, however, that since I took the floor in connection with this minority and undertook to speak with them in repelling these charges, that there has not been a gentleman that has spoken on this subject from the first, to the gentleman from Washington who just now took his seat, but what has attributed not only to the minority of that committee but to every one who has spoken with them, the same improper motives, and they have been applied to gentlemen who have worked with them, as well as to the minority of the committee itself, and it is useless for men to undertake to deny it, because it is true; the whole membership of this Convention, who do not have the virtue of seeing eye to eye with a majority of this committee, and gentlemen upon this Convention, have been charged with these improper motives. I resent them, they are not right, they are not proper, and I say that these remarks directed to gentlemen of the minority of this committee have been applied to the rest of us who do not see eye to eye with that committee, and the audible smile of the Convention is out of place in that matter. I say that it has reflected upon every man who has not seen eye to eye with that committee. I second the motion to make this a special order for to-morrow morning. Are gentlemen truly afraid that deferring it until that

time, when it shall have the right of way, that there are some pitfalls or that there is great danger of having the ground removed under their feet, and they will suddenly discover themselves in a hole? Why gentlemen, truth—correct principles have nothing to fear from delay; as I understand it, it is always calm, it is always ready that its opponents should sharpen well their weapons and make an able attack upon it, and this feverish insight on the part of the gentlemen is not complimentary to this assurance upon this subject. And now, then, the deferring of this matter until 10 o'clock to-morrow morning gives opportunity for that report of the minority to be printed. Gentlemen will have it before them for their consideration, and they will have all the opportunity that they certainly need to speak upon the subject.

Mr. GOODWIN. There will be more ladies in the world to-morrow than there are to-day. I don't see why this hurry comes up. The committee reported forty-eight hours ago, if I remember correctly—the majority of them; at that time one of the minority gave notice that the minority would produce a report; we are equal in point of fact on this floor. If we go into this investigation to-day, we go in on one side, and it seems to me if the motion is to prevail, it ought to read, "that we go into committee of the whole to consider one side of this question." What is the hurry? What is twenty hours going to do? I take it that every one of that committee, minority as well as majority, are honorable gentlemen; they both have filed a report. The gentleman that has addressed us on this matter, who will, I take it, be the leader on the one side, recognizing that some courtesy was due the minority, kindly withdrew his motion to consider this matter this afternoon, and said if it can be fixed for 10 o'clock to-morrow morning, he would be content. But some other gentleman would not wait that long. Now, it took three weeks and over for the majority to report, and possibly they began two days sooner than the minority. It is an extravagant waste of time that the minority have absorbed in making up their report, we do not know but what they spent all their time in trying to convert the majority of that committee. It seems to me we cannot all keep good natured on this subject, and with the courtesy that we would like to ask for ourselves we can gracefully extend to others, all being equal, all wanting to do the right thing. I hope this motion to rush this thing on this afternoon will be voted down, and that it be set for to-morrow morning, when we will have all the reports and it will give some gentlemen two or three speeches in its consideration. If this goes on this afternoon, speeches will be made by those who favor the majority report, they will want to make another speech to denounce the minority report. Had not we better get it where we can condense it all into one? We have got plenty of time. Our salaries are not such a consideration that one day will make any special difference, and besides there is plenty of work to do this afternoon. Let us be reasonable. It is a very serious thing when we reduce the ladies of a great State from the position which they have occupied, down on the level with common men like ourselves.

Mr. CANNON. Mr. President, I will state that instead of the report being made by the majority forty-eight hours ago, it was made two and a half times that length of time. And in the first place, at the time the report was made, and at the time the special order was asked, personally I opposed the motion for a special order, on the ground that I wanted to see the minority have time to introduce their minority report. Later, on becoming convinced from that which was told me, that the minority report would probably not be presented until the article was ready for consideration by the Con-

vention, I favored a motion which was made setting to-day as the day upon which this proposition should be made the special order. At that time the gentlemen who favored the minority report were strenuous in advocating the course of letting this matter come up in its regular order, and when the objection was raised, that the very action that is now proposed would be proposed by the minority, it was asserted on behalf of that minority that when the regular order came up—that whether or not the minority report had been presented, the matter should be considered. I desire to call attention to rule 21, and that we can only change this by a suspension of the rules. I also desire to call attention to the fact, that as I understand it, this minority presents no proposition for insertion in the Constitution; it simply opposes one of the sections proposed by the majority of the committee, and, in the language of the gentleman from Davis County, if those who favor the minority report are so "cock-sure" of their position, why are they in such an "all-fired" slow mood about bringing it about?

Mr. MACKINTOSH. Mr. President, as one of the minority, I wish to make a little explanation. I think it will allay a good deal of the irritation and feeling that is here presented, and that is this: last Saturday I went into the committee room about eleven o'clock or half past. I was told that the majority report was going to be made. Mr. Kiesel and myself urged upon them to delay it; we had not considered and we wanted to consult with ourselves and the other gentleman, Mr. McFarland. They would not hear it. The gentlemen said that there were schemes on foot to delay this matter in order that it would be beaten in the Convention. Now, on that day, Monday, when it came up it was proposed for a special order of business—Mr. Kiesel left town on Sunday and did not arrive here until yesterday. I have never had an opportunity until yesterday afternoon to consult with him on the matter, and I was very much surprised when I arrived here—I was not at the Convention this morning—we were so near the majority report of the committee on suffrage. I got Mr. McFarland and Mr. Kiesel. We talked the matter over. Certainly we had the report all written and that was the cause of the delay. If Mr. Kiesel had been here, had not gone out of town for two days, I think we would have had the report already, and we are perfectly willing to have it come up to-morrow morning, and if the Convention says so, now, for that matter.

Mr. CHIDESTER. Mr. President, I wish to say that so far as the gentlemen are concerned, that in the committee they have acted very fairly—very fairly; there has been no particular harangue about this matter. There has been more done here than anywhere else, but it seems to me that they have procrastinated their time; while notwithstanding all of this if it was agreed by this Convention that it might come up to-morrow morning at 10 o'clock without any failure, I would not object, but the danger is in letting it go to the foot of the calendar; that I would never consent to, because we have done our part. Now, as to improper motives, all that has been said has been brought out simply by the actions of men here on the floor, and it seems to me to have borne out that proposition, and I presume I have said more in regard to that than anyone else, and I am willing to stand under it. I believed at the time there was some scheme afloat to defeat this or throw this back, and to let it take its place behind other matters until they could be re-inforced, and bring what force they could against it, and such forces that I knew not of. And for that reason I deemed it my duty and my place to insist upon that being favorably considered, and fairly considered, with all due speed, but not in undue speed. But now that the matter has

got where it has, I see no other position only that it shall come up in its regular order and we will go ahead with the business.

Mr. WHITNEY. Mr. President, I wish to sustain the proposition to postpone this question until 10 o'clock to-morrow morning, or until the time arrives when it is proper to take it up.

Mr. CHIDESTER. Mr. President, I ask unanimous consent now for it to go over until 10 o'clock to-morrow morning.

The PRESIDENT. Mr. Whitney has the floor.

Mr. WHITNEY. I see no need of any anger or irritation over this matter, neither do I see any need of hurrying the matter this afternoon. I do not see eye to eye with the majority who have made this report or the minority upon this question upon this floor, but I am perfectly willing to give them the time they need to gather their weapons. I think they will need them, and let us give them all the time they need, or at least until to-morrow morning. Truth can afford to be calm and composed, as has been stated, and let truth and error come in conflict, truth was never worsted in any encounter; though crushed to earth she will rise again. I am perfectly willing that the minority shall have this small respite.

Mr. ANDERSON. Can a member withdraw a motion without the consent of the second?

The PRESIDENT. I should think not.

Mr. ANDERSON. I second Mr. Thurman's motion.

The PRESIDENT. That is all behind us. We are on a new——

Mr. ANDERSON. I object to that.

Mr. RICHARDS. I think that the majority can afford to be generous on this matter, and I am willing that my friends on the other side shall have until to-morrow morning to get ready for the fray. As has been suggested, they need all the time, and they need the preparation, and I am perfectly willing for that, but I would like to have it reached in a different way from that suggested. I desire to have this, inasmuch as it has been insisted upon by the minority—that it shall not be made a special order up to the present moment when their convenience indicates it should be made a special order—I say let it retain its place as the regular order, and let's go on with other business, and let it stand here until we are ready to take it up to-morrow morning at 10 o'clock, or as soon as the preliminaries of to-morrow's session are over. That is my notion of disposing of the matter, not make it a special order at all, but concede to them that this question shall not be taken up until to-morrow morning, but that nothing else shall be done here in place of it unless it be by suspension of the rules, that we might go on and consider the subsequent sections of this article, which I think we might do with profit, because there are propositions in the subsequent sections of the article, and the report of the majority and the minority only relates to the first section. There are propositions in other sections which I believe will require discussion and consideration, and I think that we might go into committee of the whole and consider those sections this afternoon, and let it retain its regular order and still not reach the difficult question they desire to have postponed until to-morrow morning. I am willing that they should have the time, but not willing that this should lose its regular order.

Mr. THURMAN. I desire to state that when I made the suggestion that I was in favor of letting the matter go over until to-morrow morning, it was with the distinct understanding that I had the unanimous consent of my friends. They did not consent, but, however, the motion before the Convention at the present time is, shall this go over and be made the regular order for

to-morrow or a special order? Now, I wish to ask a question, if it becomes a special order, it will be after the third reading of bills is disposed of?

The PRESIDENT. Yes, it will come at the foot of the calendar, as I understand it.

Mr. THURMAN. Then I am not in favor of the motion, if it would defer it to that extent. We might take up all day to-morrow in the third reading of the bills, and before I take my seat, I wish to say one word in reply to my esteemed friend upon my right; he said that somebody was in a hole, intimating that it was those who favored suffrage.

Mr. ROBERTS. Mr. President, I wish to reply to the gentleman's question, because he certainly misunderstood me.

Mr. THURMAN. Very well.

Mr. ROBERTS. My remark on that was simply this: are gentlemen afraid that during the time intervening between now and 10 o'clock, that we would by some skill or other remove the ground from under their feet, and they would find themselves in a hole?

Mr. THURMAN. The gentleman said did we fear we were in a hole or would get in a hole. Now, as far as I am concerned, Mr. President, I have no fears of my getting in a hole on this question, but I have some esteemed friends here, who promised by their acceptance of the platform upon which they were elected, whether they were democrats or republicans, that they would come here and favor equal suffrage without regard to sex, so that only those who oppose the platform on which they are elected will find themselves in a hole. [Laughter].

Mr. McFARLAND. I wish to say a few words on this subject, as I am in the minority. It has been stated on the floor of this house, time and time again, that we have had ample time to prepare a minority report; that we have had the time from the day this article passed in the committee. I deny it. The first few days the committee met I was absent. I knew nothing of the article as it passed the majority, until it came here before the ladies that waited upon us one morning. It was then told them that the article would pass, that their waiting and lobbying around the hall of this Convention was no use at all, that the thing had been passed before it was asked for, and in Nebuchadnezzar's language, "I built this Babylon," they said, "I gave you this suffrage." Now the bill was pigeonholed that morning until it came up before the committee of the whole. We protested against it going into the house at that time, we asked them for time that we might consider it and probably go with the majority if they would give us time. We were accused of duplicity, falsity, trickery, and all such things, and now, gentlemen, if you do not come now, this thing is going to be reported to the house immediately. We asked them to delay it a day that we might have a chance to bring in this minority report. The same answer was given unto us, "No, you cannot have five minutes, this thing is going to be reported at once to this house, and if you want to bring in a minority report, you can do so, but we are not going to delay it one moment." Now, the fact of the matter is this: Mr. Kiesel has been away since that time; we have only had the opportunity at the present time to bring in a report and why should this be stated before the house continually that something is wrong, that we want to take some advantage? If it is so fortified in and of itself, why should the scare be raised of some advantage going to be taken? There is no need of it, there is no need of it. There is only one thing that has put the question of woman suffrage in the shape that it is to-day, and that is the anxiety of some of the committee to rush it through without proper discussion and without due consideration. It is the worst thing that ever happened the

section of the article, that it should be placed in such a position before the house, to be rushed through without any consideration. And, gentlemen, this being the fact of the case, we simply ask now that our minority report may come up in its proper order with the majority report, and be reported together.

Mr. MURDOCK (Beaver). Why this dissension? Men rise upon this floor and tell us that they have not made their report. For what reason? Because they were not here. I think the government pays the men to be here present, to attend to their duties, and shall this whole body be detained because there are a few men that want to go and attend to other parts of the country where they have got business? I say it is not competent for a detention of that kind. We might offer it as competent, and it is proper that whenever a majority report is brought in that accompanying that is the minority report. And for that reason I am opposed to dilly-dallying along with this matter. And the question may arise here, why we want to hurry this along? I do not think there has been any hurry, I do not think there is any hurry now. There is plenty of equality and fairness about me, gentlemen. It is liberality, I believe strictly in liberality. I do not hesitate because there is fifteen or twenty hours asked of a detention. I am not afraid of the position I take, I am going to make my record here, and you and every one of you will make your record, and it will go to the public, and I am not afraid of the stand I am going to take. I am in for suffrage. I think it is taking its course, and if men dilly-daily along, and go to attend to their private business, I do not think it is competent for them to come up here and make such an excuse.

Mr. THORESON. I think we have wasted enough time talking about these difficulties between the minority and the majority of this committee. We were sent here and elected as has been stated, on platforms to put certain things into the Constitution of this State, among other things, equal suffrage for male and female, and I, for one, move the previous question.

The previous question was ordered.

The CHAIRMAN. The question before the house is the motion of Mr. Chidester to suspend the rules in order that we might fix this question for consideration to-morrow directly after the close of the regular order. It is amended by Mr. Ivins, who moved that we go into committee of the whole for the consideration of those propositions.

The question being taken on the amendment offered by Mr. Ivins, the Convention divided and the amendment was rejected by a vote of 44 ayes and 52 noes.

The question recurring upon the motion of Mr. Chidester the ayes and noes were called for and the vote was as follows:

AYES—87.

Adams	Lewis
Allen	Low, William
Barnes	Low, Peter
Boyer	Low, Cache
Brandley	Lund
Button	Maeser
Call	Mackintosh
Cannon	Maloney
Chidester	Maughan
Christianson	McFarland
Clark	Miller
Coray	Morris
Corfman	Murdock, Beaver
Crane	Murdock, Summit
Creer	Nebeker
Cunningham	Page
Cushing	Peters
Driver	Peterson, Grand
Eldredge	Peterson, Sanpete
Emery	Raleigh
Engberg	Richards
Farr	Ricks
Francis	Roberts
Gibbs	Robertson
Goodwin	Robinson, Kane

Hammond
Hart
Halliday
Hill
Howard
Hughes
Hyde
James
Johnson
Jolley
Kiesel
Keith
Kearns
Kerr
Kimball, Salt Lake
Kimball, Weber
Lambert
Larsen, L.
Lemmon
Robison, Wayne
Ryan
Shurtliff
Snow
Spencer
Squires
Stover
Strevell
Symons
Thompson
Thoreson
Thorne
Thurman
Van Horne
Warrum
Wells
Whitney
Williams.

NOES—12.

Anderson
Bowdle
Buys
Evans, Weber
Evans, Utah
Green
Haynes
Heybourne
Ivins
Murdock, Wasatch
Partridge
Preston.

ABSENT—7.

Eichnor
Larsen, C. P.
Moritz
Pierce
Sharp
Thatcher
Varian.

The PRESIDENT. The motion is carried and the time fixed for the consideration of this question is to-morrow directly after we get through the regular order.

Mr. NEBEKER. I understand that this gives this proposition the right of way over everything.

The PRESIDENT. Yes, after the regular order.

The Convention then, at 3:24 o'clock p. m., adjourned.

TWENTY-FIFTH DAY.

THURSDAY, March 28, 1895.

The Convention was called to order by the President at 10 o'clock a. m.

The roll was called by the secretary and the following members were found in attendance:

Adams
Allen
Anderson
Barnes
Bowdle
Boyer
Brandley
Button
Buys
Call
Cannon
Chidester
Christianson
Clark
Coray
Corfman
Crane
Creer
Cunningham
Cushing
Driver
Eichnor
Eldredge
Emery
Engberg
Evans, Weber
Evans, Utah
Farr
Francis
Gibbs
Goodwin
Green
Hammond
Hart
Haynes
Halliday
Heybourne
Hill
Howard
Hughes
Hyde
Ivins
James
Johnson
Jolley
Kiesel
Keith
Kearns
Kerr
Larson, L.
Lemmon
Lewis
Lowe, William
Low, Peter
Low, Cache
Lund
Maeser
Mackintosh
Maloney
Maughan
Miller
Morris
Moritz
Murdock, Beaver
Murdock, Wasatch
Murdock, Summit
Nebeker
Page
Partridge
Peters
Peterson, Grand
Peterson, Sanpete
Pierce
Preston
Raleigh
Richards
Ricks
Roberts
Robertson
Robinson, Kane
Robison, Wayne
Ryan
Sharp
Shurtliff
Snow
Spencer
Squires
Stover
Strevell
Symons
Thompson
Thoreson
Thorne
Thurman
Van Horne
Varian
Warrum
Wells

Kimball, Salt Lake Whitney
Kimball, Weber Williams
Lambert Mr. President.

Prayer was offered by Rev. Stanley M. Hunter, of the Unitarian Society.

The journal of the twenty-fourth day's session was read and approved.

Petitions and memorials.

Mr. Creer presented a petition signed by John H. Hayes and fifty other citizens of Spanish Fork, praying for the submission to the voters of an article on prohibition.

Referred to the committee on manufacture and commerce.

Reports of standing committees.

The committee on lules reported as follows:

The committee on rules, to which was referred resolutions 61 C and 69 A, relative to amending standing rule 20, herewith report the same with recommendation that standing rule 20 be amended so as to read as follows:

RULE XX. The same rules shall be observed in committee of the whole as in the Convention, so far as the same are applicable. Motions to lie on the table or for the previous question are not applicable, and the ayes and noes shall not be taken. No member shall speak more than twice on the same question, nor more than five minutes at one time; but any member may yield his time or any part thereof to another. A motion to arise and report shall be in order at any stage, and shall be decided without any debate.

Resolution number 40 C, relative to announcements of committee meetings, is herewith returned with the recommendation that it be indefinitely postponed.

VARIAN,
Acting Chairman.

Mr. RICHARDS. Mr. President, I see no reason why this amendment should be acted upon to-day or this report. Under the rule, as I understand it, it will come up properly for consideration to-morrow. What haste is there in this matter? Why should we suspend the rules and make this amendment to-day? I am in favor of suspension of the rules when there is necessity for it, but I see no necessity for this. I think we ought to allow this report to take its proper place and proceed with the rules as they are.

Mr. EVANS (Weber). Mr. President, I am in favor of the motion to suspend the rules. I do not see any reason why we should not do it now. We will save considerable time. If any gentleman desires to speak more than five minutes, he can secure the time of some fellow-member and give him an opportunity to speak longer. I am in favor of it going into immediate effect.

The question being taken, the Convention divided and, by a vote of 76 ayes to 26 noes, the motion was agreed to.

The committee on public lands reported as follows:

Your committee on public lands, to whom was referred:

File number 58, introduced by Mr. Warrum, of Cache.

File number 80, introduced by Mr. Francis, of Morgan County.

File number 113, introduced by Mr. Creer, of Utah County.

Respectfully report that it has had said files and the propositions in them contained under consideration, and herewith report the said files back with the accompanying proposition as a substitute for said files, which proposition your committee recommend for insertion in the Constitution.

Respectfully submitted,
L. B. ADAMS,
Chairman.

The PRESIDENT. Under the rule this goes to the printing committee and committee of the whole.

Mr. THURMAN. Mr. President, I move we resolve ourselves into committee of the whole, for the consideration of the article on elections and right of suffrage.

The motion was agreed to.

The Convention then resolved itself into committee of the whole, with Mr. Hart in the chair.

COMMITTEE OF THE WHOLE.

The CHAIRMAN. The first order of business for the consideration of the committee is the article on elections and rights of suffrage.

Section 1 was read by the secretary as follows:

Section 1. The rights of citizens of the State of Utah to vote and hold office shall not be denied or abridged on account of sex. Both male and female citizens of this State shall equally enjoy all civil, political, and religious rights and privileges.

Mr. Lambert offered the following as a substitute for sections 1 and 2:

Every citizen of the United States not laboring under the disabilities named in this Constitution, of the age of twenty-one years and over, who shall have resided in the State one year, and in the county six months, and in the voting precinct ninety days, next preceding any election, shall be entitled to vote for all officers that now are or hereafter may be elected by the people, and upon all questions submitted to the electors at such election as herein otherwise provided.

There being no second, the proposed substitute was not considered.

Mr. Kiesel offered the following as a substitute for section 1:

All elections by the people shall be by ballot.

Every male person of the age of twenty-one years or over, possessing the following qualifications, shall be entitled to vote at all general elections, and for all officers that now are or hereafter may be elected by the people, and upon all questions which may be submitted to the vote of the people:

First—He shall be a citizen of the United States.

Second—He shall have resided in this State one year immediately preceding the election at which he offers to vote, and in the town, county, or precinct, such time as may be prescribed by law; provided, first, that no person convicted of felony shall have the right to vote, unless he has been pardoned; provided, second, that nothing herein contained shall be construed to deprive any person of the right to vote who has such right at the adoption of this Constitution.

Mr. MACKINTOSH. I second that.

The CHAIRMAN. The question is on the adoption of the substitute offered by the gentleman from Weber for section 1.

Mr. ROBERTS. Mr. Chairman——

The CHAIRMAN. Mr. Roberts.

Mr. ROBERTS. I wish to make a few remarks——

Mr. IVINS. Mr. Chairman, I wish to ask unanimous consent of this committee that the speaker who now has the floor be permitted to exceed the limit of time specified in the rules, if he so desires.

Mr. VARIAN. I submit, Mr. Chairman, a point of order on that. We cannot be put in the position of having five minutes before adopted a rule in the Convention, and then overturning that rule in the committee of the whole. We have no power to suspend the rules here. I suggest that the gentlemen who are willing to do so designate their time that they are willing to give to Mr. Roberts.

The CHAIRMAN. The point is well taken.

Mr. VARIAN. I will say here, I will yield my time.

Mr. RICHARDS. Mr. Chairman, I submit that anything may be done in committee of the whole by unanimous consent.

Mr. EVANS (Weber). Mr. Varian is objecting to it.

Mr. RICHARDS. Unanimous consent suspends the rules anywhere.

Mr. VARIAN. Mr. Chairman, since it is challenged, I will make the point right now. I say that the committee of the whole cannot suspend a standing rule of this Convention. I challenge the argument upon it. This Convention five minutes before has declared a standing rule of the Convention to meet the very exigencies of this case. Now, if gentlemen desire to have any particular gentleman's time extended, as provided by the standing rule, they can yield ten minutes, each one of them, to Mr. Roberts, and I will say here, if he has not time enough, I will yield ten minutes of my time, on the opposite side.

Mr. WHITNEY. Five minutes.

Mr. VARIAN. I am entitled to speak twice under the rule, five minutes each

time. If the gentlemen on his own side do not give him time enough, I will extend now the ten minutes of my time to him.

Mr. EVANS (Weber.) Mr. Roberts does not desire to be interrupted. We will secure time for him. There are only a few on his side of the question. We do not want him interrupted in his remarks.

The CHAIRMAN. I suggest that those who wish to extend their time to Mr. Roberts shall designate now, so that he may begin with what time he may have, and that he may not be interrupted.

Mr. KEARNS. I will yield my time.

Mr. KERR. I will yield mine.

Mr. WARRUM. I will yield mine.

Mr. ROBERTS. Mr. Chairman, I have now all the time that I shall require. I will be overwhelmed with time.

Mr. WELLS. Mr. Chairman, I desire to ask how much time the gentleman has got now?

Mr. ROBERTS. All that I shall need at least.

Mr. KIESEL. Mr. Chairman, I will yield nine minutes of my time.

Mr. RYAN. Mr. Chairman, I will yield my time.

Mr. ROBERTS. Mr. Chairman, I appeal to you, sir, to protect me from this flood.

The CHAIRMAN. Mr. Roberts has the floor and all the time he wishes.

Mr. ROBERTS. Mr. Chairman, I shall not detain the committee so long, perhaps as they anticipated had not the rules been changed this morning. I shall not detain the committee so long as I expected myself, this morning, for the reason that this question now before the committee has changed phases somewhat since last evening. I am informed that the gentlemen of the majority of this Convention—I mean our Republican friends, went into caucus last evening and almost solidly concluded to support the proposition in regard to elections and suffrage, as it has been found in the report of the majority. Friends who stood with me yesterday met me this morning and said that the fight was useless. That they did not feel to pursue it any farther. I can very well understand how these gentlemen perhaps are somewhat surprised that in the face of all the discouraging circumstances connected with this issue I should still persist in going on with a discussion. Leaving out, however, a speech to which I had devoted some time, upon the merits of woman suffrage, and contenting myself with an effort to discharge my duty, as I see it, by referring to the expediency of the movement, or the action that is now proposed to be taken on the question of woman suffrage, I waive my argument on the merits of the question, for the reason that it is useless to undertake to reason with those who have already determined to close their eyes and no matter what comes, they determine to follow a given course. I therefore, shall proceed upon that division of my speech that I had prepared on the theory that the adoption of woman suffrage is dangerous to the acquiring of statehood. Before doing so, however, it occurs to me that I have omitted something that I intended to say, perhaps in the way of self defense. That is, I was much disappointed with the report of the minority on this subject. I wish it distinctly understood that I had nothing to do with drafting that report, that I knew no word, nor line that was in it, until it was read here from the clerk's desk yesterday afternoon. Had I drawn that minority report, I should have placed it upon very different ground, or this question upon very different ground to what the gentlemen have placed it upon. The only suggestion that I did make to my friends upon that committee was ignored by them, and had it been placed in their report, it would have gone as I believe directly to the merits of this question.

I have been misunderstood on this floor, because I have resented the arrogance of gentlemen forming the majority on the committee on elections and rights of suffrage. When I contemplated what position I should take upon this subject of suffrage in this Convention, and wondered in my mind how I was to get an opportunity to place my convictions upon this subject before the Convention, not being very well informed upon parliamentary usages, in part at least I looked over all the forms that the question could assume and finally came to the conclusion that if I spoke at all upon this issue, I would have to take advantage of that parliamentary practice which announces a gentleman's determination to make an amendment and then speak upon the amendment that he proposes to offer later, lest I should be found in the unfortunate position of not getting a second to my motion, and therefore, bar the discussion of it. So unanimous the gentlemen appeared upon this question you certainly understand with what satisfaction I learned that there was even to be a minority report upon this subject, and that I was anxious that the report be made, that the issue might be squarely joined on the question. And when gentlemen forming the majority of that committee were unwise enough, ungenerous enough, to undertake to prohibit that minority from filing its report with the majority report, that they might come side by side, it was hardly to be wondered at that I took exception to the actions of the gentlemen as I thought the circumstances warranted. I fought the issue through, until we had at last got a report, and however much I may disagree with the style of that report, I still believe that I was right in insisting that it should be heard. My action with this matter went no farther than that.

And now, sir, coming back to some of the main thoughts that I have to offer upon this subject. I call the attention of the gentlemen in this committee to the gauntlet that the Constitution we are forming must run after we have spent our best endeavors upon it. We are placed in circumstances perhaps different to those in which any other people in any other of the numerous states that have applied for admission have ever found themselves in.

First, I call your attention to the fact that throughout our population in this Territory there is a general sentiment opposed to the material increase of the taxes of the people. I believe there is no gentleman upon the floor of this committee, but what, if he has given thought to the subject, is convinced that taxes will be more than double to the people, and this large increase in the taxation of the people in the new State will be the occasion of much opposition to the Constitution. This opposition will not come alone either from rural districts. You will find it in the centers of our population. You will find it in Salt Lake City, and you will find it in Ogden, and I suggest that they constitute a numerous class who will oppose this Constitution. Next I call your attention to the fact that there will be another class, and not an inconsiderable number either, who will oppose statehood upon the ground that they fear the adoption of prohibition and so far as I am able to test the sentiment of gentlemen upon this floor, there is a determination fixed that shall submit prohibition by a separate article to the vote of the people. Those whose interest require the opposition to this movement and who fear the adoption of prohibition, either by the Convention, or by the people, fear it as much when it is threatened to become a part of the Constitution by the action of the people as they do when it threatens to become part of the Constitution by the action of the Convention. They will exert their influence against its adoption.

Third. Those who were disgruntled over politics in this Territory— I see a smile pass over the faces of some of my republican friends, and I am admonished by that circumstance, sir, to come to the conclusion that those gentlemen entertain the same opinion that I did when this proposition was first made to me, that about the only disgruntled politicians that there were in this Territory were of necessity democrats, who were generally defeated, and when the suggestion was made to me about this matter in defence of my democratic friends, disclaiming their being disgruntled, a prominent republican, in this Territory, one whose opinion is second perhaps in his party to no member in it, informed me that there were factions and divisions, that there were quarrels and heartburnings, over the spoils, within his own party, and that they were as much more or more disgruntled than democrats were.

Fourth. There are those who will oppose statehood because of the woman suffrage in it. I know how heroic gentlemen feel upon this subject. The conduct of the men of Wyoming has more than once been quoted to me upon this subject, and I am almost persuaded at this point to divert a little in order to speak of Wyoming; because Wyoming in the estimation of gentlemen who are supporting the doctrine in the face of everything to support woman suffrage, hold up constantly before us the image of Wyoming, and if there is any reflection upon the subject, then we have cited to us Colorado, and last of course, but not least, Kansas. I might ask gentlemen when they are setting before us a model after which to pattern, what is the matter with old Virginia? What is the matter with New York? What is the matter with Ohio, or Indiana? What is the matter with these states, whose institutions have stood the wear and tear of time for a hundred years? And though they have no woman suffrage, and though some of them have rejected it with scorn, still there are no clanking manacles there, no gyves upon the wrists of woman, nor are women oppressed or tyrannized over by the men of those states. We are told that Wyoming has had woman suffrage for twenty-five years, and it has worked admirably. Of course, when you take into account that influence which woman's power is to exercise over the political natures of men, or the political actions of men, you can certainly concede that after twenty-five years its civilizing influences would be felt. But I have an indistinct recollection, sufficient, however, to remember clearly the circumstances to which I refer, that upon this model state there is a dark blot of shame—the evidence of the savagery of the men who inhabit that state, and that the influence of woman was not able to restrain, and that is the wholesale murder of helpless and defenceless foreigners within her borders. But as a matter of fact, the experiment of woman suffrage in the state of Wyoming has not really been tried for twenty-five years. Oh, I grant you, it was given in 1870, but Wyoming, like ourselves, was in a territorial condition for twenty years of the time, and during that time, I suppose they elected justices of the peace, a delegate to Congress, and a local legislature, just as we used to do. There was no politics under those circumstances, they were a partially settled community.

There were none of the strict party strifes with its attendant heartburnings, as we find in sovereign states where men struggle for place and seek to gratify their ambition. Woman suffrage in Wyoming for these twenty years was very much like woman suffrage in Utah, previous to the time that Congress withdrew the privilege from the women of our Territory. And that is, it was very much like going to a relief society meeting, to going to the polls. And to return to the point that

I had under discussion, the class of men who will oppose this Constitution because of woman suffrage in it, and while the overwhelming majority in favor of this measure upon this floor would perhaps give reason to believe that there is an overwhelming majority in favor of it in the Territory, it must not be lost sight of that gentlemen upon this floor are in peculiar circumstances, and under conditions that the people outside don't feel. And while I concede you that a majority of the people of this Territory are in favor of woman suffrage, there is nevertheless a large number who are not in favor of it, and are bitterly opposed to it, and will vote against this Constitution if it contains a provision granting it, and you may set it down and mark it, because it is true. Then, again, fifth, those who will oppose the adoption of the Constitution for fear that old conditions will be revived. Indeed they believe that they are scarcely slumbering, and the number of that class, already large, will be materially increased if we shall adopt this measure. The report of that minority laid upon the table of the Convention yesterday and read for the first time to the Convention provoked adverse criticism. Gentlemen for whom I have the highest respect told me in moving language how it made their blood boil when it was read, because of the imputation upon the people of Utah that they were not honest in the action that they had taken. I share with them to some extent the feeling against such imputation; I, too, think it is rather hard, after giving so many evidences of loyalty and consistency to the people of this Territory and to this nation of our sincerity now to have a doubt cast upon it. But our indignation, whether the blood boils or only simmers, does not change a fact. It is very discouraging when you cannot convince people that you are honest and that you are sincere and your motives good, and yet I have learned by a rather trying experience that you cannot do it. Why, the house had an exhibition of it here yesterday, and a few days ago. I tried to convince the majority of this committee on elections and suffrage that those of us who did not see eye to eye with them, were acting in good faith, but we failed absolutely to convince them of that, and while it is trying to one's patience, the fact still remains, and so it is in this Territory. There is a large class of people—and you, gentlemen, may as well look that fact squarely in the face—who do not believe the sincerity of this movement, and while I regret with you, my regrets do not remove that fact. The class is there and we will have to take that into account when we are computing the chances of our Constitution passing. Perhaps their faith is not so much lacking in the people as it is that they fear the dominant church organization in this Territory. I grant you they have no grounds for fearing it; I tried to persuade them so. In public and in private I have told them again and again that they found the Mormon people when they were opposed to them steady and consistent opponents, and now that they stand by their side, as allies, they will find them equally consistent and firm, but, nevertheless, the explanation and the argument, they still refuse to be comforted, and hence I set these numbers down as among those who will be arrayed against statehood for Utah, and when you combine them all I confess that in my mind the array is formidable. But the end is not yet even. If your Constitution shall be fortunate enough to be ratified by a good round majority of the citizens of Utah, it still has to go to Washington. We are confronted to begin with in that source with the fact of irregularity in the organization of this Convention, and for my own part I believe it will be questioned, and I believe that there is ground for questioning, not only the regularity of our conduct in the organ-

ization of this Convention in its early days, but the very gentleman who has the high honor of presiding over it, may some day be called upon for his credentials.

Again, there is another proposition that is whispered within the circles of the Convention and that finds advocates, and I doubt not from the doctrine of carrying things without consideration that has been manifested upon this floor, that it will prevail—and that is to so construct the ordinance that shall provide for the ratification of this Constitution and for the election of State officers, for which it shall provide, to permit the women of this Territory at that election to cast their votes on this issue. If it is done, I believe it will be done in defiance of all precedent upon this subject. I shall be instructed if gentlemen will point where in the history of England or in the history of the United States, in event of extending the franchise to any given class, this class are permitted to vote upon whether the extension shall be given or no. With some attention I have gone over that ground, and from the days when the barons met King John in the pleasant meadows of England and demanded enfranchisement, until now, the custom is that those already enfranchised shall say whether or no the franchise shall be extended. Now, sir, if there is any nook or corner of history upon this subject that has escaped my attention, I shall be glad as before remarked to see it. There is another factor to be considered, when our Constitution goes to Washington and that is, sir, that already the east is afraid of the silver question. It matters, not, I presume which political party in this Territory shall triumph, it is a foregone conclusion that we are so united upon the proposition that they will be in favor of free silver at a ratio of sixteen to one—no nonsense about it, and no waiting for the consent of England or any other foreign power. This is a question in which not only the executive will be interested, but it is also a question that the whole east will oppose.

Again, while our friends here, referring to the non-Mormon inhabitants of this Territory, know the people of the Territory, know the struggles of the past and the bitterness of its contentions, I believe that our local friends on that side of the house are prepared to deal more justly by the people of Utah than the same class of people abroad. It is not yet accepted abroad that the people of Utah are acting in good faith in this movement, and it will not be difficult to arouse a sentiment that shall demand the postponement of statehood for Utah. I ask you, gentlemen, to put aside your prejudices and look straight into the face of these propositions, for they are ominous of disaster to your work. And it will be easy under all the circumstances for the executive to find justification that will satisfy him and the country in refusing to issue his proclamation that shall grant to us our highest aspirations. I admire the heroic conduct, I rather like the doctrine that right is right despite the consequences. A proposition of that kind is very apt to appeal to a man of my temperament, and I think, without boasting, I may say that it has been the star that I have followed so far in my career. When I contemplate the work of this Convention, I look back over the past, call to mind the many efforts that have been made by the people of this Territory for the attainment of the object for which we are now working. They have struggled time and time for to get it, and for the first time in the history of our Territory a Constitutional Convention has assembled under the authority of an enactment of Congress. This, in my mind, is the golden opportunity for the Territory of Utah. If this good time shall pass, if our efforts shall now be

defeated, God knows only when the opportunity will come again.

Here, I shall digress far enough to address myself to the womanhood of this State or proposed State. I know my voice cannot reach all the women of this Territory, but they have at least representatives upon this floor in attendance upon this committee, and I shall take the liberty of saying that there is a supreme opportunity before them. I invite their attention to this array of difficulties which confronts the attainment of our statehood, and if I am not altogether mistaken in my conceptions of these difficulties, if the women of this Territory can see that the enfranchisement of them now, the persistence of doing it, will endanger the attainment of our hopes, it will be a movement worthy of the women of this State, if they were willing to petition this honorable body of men not to attempt the enfranchisement of women, if in their judgment it would endanger statehood itself. It is a sacrifice that I believe the women of this Territory are capable of making. Of course, I shall not urge it. I would not so much as ask it. It would be vain to do so. But, nevertheless, I believe it would be wise and patriotic to do it. Gentlemen are determined to run all the risks, however, of obtaining statehood for the reason that they consider themselves under pledges to grant it, and if I were to judge of the opinions of gentlemen by what they have said concerning this subject and the earnestness with which they have said it, I should be forced to the conclusion that the one virtue—the sum of all excellence, was the keeping of party pledges. I admire gentlemen who regard themselves bound by their pledges. It is an admirable trait of character worthy of emulation and of praise. But I wish to call the attention of gentlemen to the circumstances under which those pledges were made. Are you aware that woman's suffrage has never been discussed in this Territory upon its merits? Away back in the old days when woman's suffrage was first given to the women of this Territory, do you know how it came about? Why, gentlemen, it was granted in the main in answer to a challenge or banter that was thrown down, in regard to it. It was said by a portion of our citizens who were opposed to existing institutions in this Territory that if the franchise was only bestowed upon woman she would vote to destroy those institutions. In that spirit it was accepted by the dominant party in this Territory and woman was enfranchised. It did not turn out, however, in its results as was predicted by those who made the challenge, and instead of weakening the dominant party the discovery was made that its strength was just doubled or more than doubled.

Agitations were set on foot which resulted ultimately in the withdrawal of the privilege from the women by act of Congress. The matter laid in abeyance until a republican convention met under the new circumstances in which we have been placed. I refer to those changed conditions brought about by division on party lines, and each party became a rival for the favor of the people. Our republican friends, true to their interests, concluded to make an appeal to the people and seek to win their favor by favoring this proposition, but also following, not designedly, but acting as I believe purely from instinct, which comes from imbibing their doctrines, they managed to adopt a platform that could mean something or nothing according as their convenience or their interest might seem to dictate. Shortly after the action of that convention, a democratic convention assembled and they acted no better than the republicans did, for the reason, notwithstanding there had been no anterior discussion or agitation of the question, but believing that they could take the ground from under the feet of their political opponents, they go to work

and make an emphatic declaration binding the democratic party to sustain that doctrine; notwithstanding the fact that if there is an anti-suffrage party in the United States, it is the democratic party. This is what they gave them. And now they come into this Constitutional Convention, where men ought to raise mountain high above party politics, and above party expediency, and take into consideration the good of the entire people of our Territory. They undertake to say that those ill-considered party planks of platforms so binds them down to follow a course which puts in danger statehood itself. The cry is, "Be true to your party, be true to your party pledges." And men are acting upon this floor against their conscience, as to the merits of woman suffrage, in order to uphold party consistency, and shrinking like cowards from the responsbility of raising above party consideration and doing an act that shall insure the safety of the scheme of statehood. For one, I proclaim it to you that I read my duty as being something higher than persevering in the support of ill considered action for political effect. And as stated in a paper handed me just as I rose to my feet, party platforms, gentlemen, are like the shifting clouds of the summer day, and may be wafted where they may—shifting constantly, but your Constitution is more in the nature of everlasting hills; and while it is true, sir, that in the light of eternity even the mountains are but shifting clouds, it nevertheless remains true that they are more staple than are the clouds of a summer day.

Gentlemen, I appeal to you to stand by your party pledges. My appeal to you is to do your duty in first securing statehood for the people of Utah, and then let these questions take what course they may after that. Vote woman's suffrage up or down afterwards, I care not, although I have no sympathy with the arguments by which that doctrine is supported. Do not misunderstand me. I shall vote and work for the Constitution that this Convention shall frame. Even though it shall contain an article granting woman's suffrage, it will make no difference with my zeal, but if there is anybody that will listen to me after I get through this harangue, and with this Convention—if there is any party that will permit me to speak from its platform, you will find me speaking in favor of statehood for Utah, though it should include both woman's suffrage and prohibition. In fact, you can put almost anything in it that you please, but I shall advocate statehood for the people of this Territory, who are worthy of it and who are deserving.

I presume that my party friends especially will come to the conclusion that I have made a mess of it. I have certainly succeeded, I warrant it, in displeasing them, and I am equally conscious of the fact that I have not pleased the republicans. And perhaps, what is more serious, I have offended my constituency, for both by admonition and by letter, have they undertaken to change me on this issue. I shall not, however, fear to oppose my constituency. They are preparing to resolute against my conduct, but after the first flush of displeasure shall have passed away, the people among whom my boyhood and manhood were spent will not impute to me improper motives. They will know, if nobody else knows, that however faulty in my judgment I may be, there is a deep conviction in my heart that the line of duty demanded that I should take this ground, that that is my duty as I conceived it. Perhaps there is another thing that is distressing and that is, for a number of years I have been under the displeasure of many of our prominent ladies. This does not end it, and that is a circumstance not to be thought lightly of, although gentlemen smile. By the way, a few days ago, you remember the invasion we had in the hall on the part of the good

ladies interested in this question. One of them, divining that in all probability I would take a stand against their interest, said she did not think they had any occasion to fear me. I conceded it. I hope they never will have occasion to fear me. I should regret it if they did. Then, again, she went on to tell me that even if in this Convention suffrage should be defeated, it would come sometime, and they were telling gentlemen who were lending their influence to the cause, that they sometime would be able to reward them. [Laughter.]

Well, I did not have to read between the lines to catch the full meaning of that, because if they could reward their friends, they could equally punish their enemies. The remark had but little effect upon me. I have no political aspirations. I am a candidate for no party favor. In my little political sky there are no stars that can be blotted out. I am equally removed, therefore, from the hope and fear, and I am prepared to take and stand upon this question as I think I see it affects the interests of the people of this Territory.

And then again, the press admonishes me that if I make this speech, the effort of my life would also be the effort of my death. [Laughter.]

And even my kind party friends, gentlemen, for whom I entertain the very highest regard, were kind enough to intimate that they would like to save me from going into a hole. They are of the opinion that I should dig deep my political grave, and I presume that I have dug it deep enough to gratify even them. So you will observe that I stand in the midst of all this ruin single handed and alone. Alone I may be, but I would not exchange my free thought for a throne. [Applause.] And as for my grave, the grave has no terrors when the fear of death is gone. So that I am in the position of saying, "Oh, grave where is thy victory, oh, death where is thy sting?" But, now, gentlemen, in conclusion, let me say, speaking from the midst of all this debris, to which I have called your attention, there is one thing that you cannot do —that the good women of this Territory cannot do, that my offended constituents cannot do. They cannot say that I played the part of a demagogue or that, like a scurvy politician, I pretended that which I could not see. All considerations of interest drew me in the opposite direction to the course I have traveled. By even confessing conversions to the arguments and to the judgments of my fellow democrats, I could have avoided the friction between them and myself. I love the approbation of my friends. I shrink from conflicts only where I think duty calls me to meet them. If I had my political aspirations, every consideration of interest would have required me to accept and adopt this idea of suffrage. I could have escaped, by taking the opposite course, the offense of my constituents, and my past, like yours, would have laid in pleasant places. I observe some of the memorials offered here by the good ladies who would now aid in obtaining this privilege for them. So that I could have become a candidate for immortality and perhaps the laurel leaves would have encircled my immortal brow as they will yours, but my sense of duty, as I see it, called upon me to take an opposite course, and I have taken it and am prepared to meet all the consequences attendant thereupon. One word of caution to gentlemen of this Convention. While you are stretching out your hands for the emblem of immortality offered you, while you are seeking to build monuments for this Convention by taking this question up and acting favorably upon it, let me admonish you that you do not mistake your occupation and dig a grave for statehood instead of attaining the things you desire.

Mr. Chairman, I certainly am moved with a sense of gratitude to this Con-

vention and to the gentlemen who have kindly extended to me their time, and I also thank you with all my heart for the patience with which you have listened to me. [Applause.]

Mr. RICKS. Mr. Chairman, I move that the committee now arise and report progress.

The motion was agreed to.

The committee then rose and reported as follows:

Your committee of the whole, having had under consideration the article on elections and rights of suffrage, beg leave to report progress, and ask leave to sit again.

The report was adopted.

The Convention then took a recess until 2 o'clock p. m.

After recess.

Mr. SQUIRES. Mr. President, I move that we now resolve ourselves into committee of the whole to consider the article on elections and rights of suffrage.

The motion was agreed to and the Convention resolved itself into committee of the whole, with Mr. Hart in the chair.

COMMITTEE OF THE WHOLE.

Mr. CHIDESTER. Mr. Chairman and gentlemen of the committee, I do not deem it necessary to enter into a full discussion of this question now, for the reason that I believe that the question has been fully settled in the hearts and minds of the people. Notwithstanding the statements that have been made this morning, I believe that the question has been thoroughly ventilated, and that the people have virtually passed upon it. I believe when the platforms were adopted by the two political parties that the people knew upon what platform their candidates stood. I believe that they are an intelligent people, and as a matter of course, canvassed thoroughly the ground over which they were traveling. And there is this to consider, that since this Convention has been convened here, numerous memorials and petitions have been sent here by ladies from all over the country, asking this body to incorporate in the Constitution this article that would give them equal rights with men, not only to vote, but to hold office and enjoy all the rights that men enjoy. What has been the result? There has been no remonstrance sent in here from any source. I say no, that nothing has been done in the way of remonstrance, except the report of the minority of the committee on elections and rights of suffrage. That is the only thing that has come before this Convention in the way of a remonstrance, in the way of placing that in the Constitution. It has been stated here this morning that the committee who had that matter in charge had dealt unfairly with the minority of that committee. I wish, Mr. Chairman, to correct it, and I wish to say that it is absolutely untrue; that never was a minority in any committee more fairly dealt with than the minority of that committee, and I say it for this reason, that it was understood from the beginning that there would be some opponents to this measure, and for that reason we agreed to take up that subject on the second day that we met. According to this agreement on the second day that we met, this article was taken up. It was read over, it was talked about, and every member of that committee had perfect freedom to discuss it from that time until we made our report, and the minority determined in the beginning of our sitting that they would make a minority report. The matter, however, was left open for discussion that the minority might have a chance to discuss it whenever they pleased and to bring out any new points that they might run across. The matter was talked about considerably during our session and the vote remained the same, and towards the last it began to appear to the majority of the committee that it was time that final action should be made upon that,

so far as the committee was concerned. The minority had due notice of this, and upon Thursday, I think it was, prior to the handing in of this report, the committee instructed its chairman that he should prepare a report. It was understood that that report should be immediately filed for action by this Convention or the committee of the whole. In accordance with that, the chairman prepared the report and presented it to the committee for its actions. A majority of that committee approved that. The minority had given their views upon it and they asked for time. We wished to file that on Saturday. They asked for time until Monday that they might prepare a minority report, but the majority of the committee said by a vote that we should present that on Saturday at 2 o'clock, and that we would not urge any action on it until Monday or Tuesday, in order that they might have time to prepare their minority report. When that report was signed by the majority, the question was asked if any unfairness had been shown and the minority expressed themselves as being perfectly satisfied with the action of the majority and said that they had been well treated and had good feelings in regard to it.

Now, then, from that time to this it has been charged, and especially this unfairness, that the majority had acted very arrogantly and had not shown the minority the proper respect that they should. It is this that I wish to refute. I wish to say also, that I differ with the gentleman who so ably defended his cause here this morning. The best of men differ in opinions and I am willing to concede that he is as honest in his convictions as I am in mine, but I have this to say that when the charges are made, as made in that minority report, that the people are not sincere in what they are doing, I say that it is unfair, and I say that it is not true. The history of the people of Utah does not bear that out. And it is said that if we adopt this measure in this Constitution it will take from us many thousand votes. I say, gentlemen, that in my opinion it will not take one vote away from that Constitution that would not be taken if it was submitted as a separate article. And I have more to say in regard to that, and it is this: That that matter seemed to have been thoroughly canvassed before it was adopted in the platforms of these two parties, and then was the time for that able speech that was made here this morning. But I say that to bring it in now is entirely too late. Every man that was elected here, comes in here pledged, and I care not who says to the contrary. That platform was handed to me and upon that platform I stood. Upon that platform I went to the people. I went to them honestly with it. I had no voice in that Convention, but I said to the chairman that although our county would not be represented, as I was authorized to speak for them, that we would adopt the platform that they adopted and we would endeavor to stand by it. I considered it my duty and it was my duty to appear in that convention and make my fight there. There was the place for me to fight. There was the place for me to oppose this measure; not after I had accepted the nomination on this platform and went to the people and said to them that I had accepted this and if they would elect me that I would labor for those rights and then come here and oppose it. That is not as I understand the matter. I have no right to do it, and I contend that no other man has any right to do it. My friends could do it if they liked, but speaking from a reasonable standpoint, I say they have no right to do it. The reason we will not lose any votes is this, because it is a moral certainty that if this is submitted as a separate proposition, it will become a part of the Constitution. It is a certainty, and I do not believe that there is any man in this Convention

who will doubt it; then, where is the man that would vote for the Constitution if this was submitted in a separate article that would vote against it in the article itself? It seems unreasonable to me, because if they know that this is going to become a part of the Constitution, whether it is submitted separately or whether it is engrafted in, makes no difference. It is an assured fact that it will be a part of the Constitution, and if they will vote against it at one time, they will vote against it at another.

And it seems to me that in the position that we stand, we have only one duty to perform. If there is any mistake made, it is not made now by doing that which we have pledged ourselves to do. It is not by doing what the party expects us to do, but if there has been any mistake made, it was made at the time that these platforms were adopted. And who is to blame? Who made the platforms? There are gentlemen in this house who assisted in making these platforms. I did not help to do it. If I had been there, I might have acted the same as the rest. I am not here to discuss that proposition; I am here to defend the action of the committee over which I had the honor to preside. When we went into that committee room as a committee, what was expected of us? Being elected as we were upon the platform given us, we were expected to report a bill in conformity with those platforms. That was what was expected, and should we have failed to do it, indeed the people would have cried out against us. We would have been called traitors, as well we might have been.

Now, then, Mr. Chairman, I deem it as a settled question and when I arose I did not expect to occupy as much time as I have done, but this is the way I look at the matter and there are no grounds for the minority to make these charges against the majority of the committee, for the reason that we endeavored to act in all fairness toward them, and it was so expressed by them that they had been treated fairly, and we had no idea that they entertained any different opinion until we arrived in here. It is true we insisted that this matter should not be laid aside and any other matter take precedence; that it should be protected just the same as any other bill.

Thanking you for your attention, I will give way.

Mr. ANDERSON. Mr. President, and gentlemen of the Convention, I am in favor of the proposition granting equal suffrage to women, not because I am actuated by any feeling of sentiment or gallantry toward the fair sex, but because I think the principles of justice demand it. it embraces the principles of human rights and liberties and that great fundamental principle that there shall be no taxation without representation, the violation of which was one of the chief causes of the revolutionary war. Mankind have advanced in civilization in the same ratio that women have been accorded liberty and equal rights. Who is more vitally interested in the laws of our country than a mother, and who will endeavor more than she to establish a good government and to elect capable and worthy officers to administer the laws thereof? She is constantly working, planning and even praying for the welfare of her children and country, and should have the right of assisting to mould the policies of the government by casting her ballot as a protection to herself and children. Is not a sister or a wife as greatly interested in good government as a brother or a husband, and do they not suffer fully as much from the effects of bad laws and the acts of corrupt officials? If so, why should they not have a voice equally with the men in making the laws and electing the officials. I say, gentlemen, there can be no just reason for denying them that right or privilege. If you only con-

sider the subject, your own observation will tell you that women are freer from degrading habits and vices than men, and if you examine the statistics of crime, you will find the men greatly outnumber the women in that dark calendar, which is another proof that women are morally superior to men and should have an equal voice with them in making the laws and in electing the officers to administer the same. Some object to giving women the right of suffrage because they think it will degrade her to bring her in contact with the mire of politics, but I hold there should be no mire in politics. And if there is, by her moral superiority, she will assist in purifying and raising them out of the mire, and be the means of stimulating the men to take more interest in the purity of politics and the good order of elections; for if women attend the primaries and vote at elections, their fathers, sons, husbands, and brothers will take an active interest in seeing that the primaries and elections are held in suitable and respectable places, and that good order prevails, and would not permit any rowdyism, drunkenness, etc., which would be a further proof of the beneficial results of woman suffrage. I can remember the time when women had the right of franchise in this Territory, and elections were so conducted that women could attend them with the same degree of respect and order as if they were going to the postoffice or to church, and I also remember they voted as a rule for good government and good officers. In this age of advancement and dissemination of knowledge, women read the papers and are as well posted on current events and the needs of mankind as men. Woman should be man's co-laborer in governmental affairs as she is in the home—she is his superior in morality, his equal in mental abilities, and a competitor in the professions. If women aspire to positions they are not capable of filling it is very unlikely they would receive the nomination or be elected to the same, as such matters would be directed by reason and consistency.

As an example of the success of woman's suffrage I refer you to the state of Wyoming, where it has been tried for the last twenty-five years and has completely vindicated the fact that it is one step higher in the advancement and progress of mankind. It has been ridiculed, misrepresented and slandered in every possible way by its enemies, but it has risen triumphant and now numbers among its supporters many of those who formerly opposed it. When the question arose of submitting the question of woman's suffrage as a separate article in the Wyoming constitution, the delegates almost as a unit protested against such injustice and paid the very highest tribute to the women of Wyoming and to their conscientious and judicious use of the ballot for the twenty years they had the privilege of using it, and to the beneficial results of equal suffrage and its elevating influence at elections; Governor Warren, of Wyoming, and Governor Humphries, of Kansas, have also borne record of the beneficial results of woman's suffrage.

A delegate of the Wyoming constitutional convention, Mr. Campbell, said that when he came to Wyoming he was very much prejudiced against woman's suffrage, on account of having heard so many villifying statements concerning the bad effects of the same, but he said he had found by experience that those statements were false, and that equal suffrage had borne good results on every hand.

If woman's suffrage has produced such good results in Wyoming, it will accomplish the same thing in Utah, and would produce even greater results in New York, and the thickly populated eastern states where it is said politics are more corrupt. For if woman were given the right to cast her ballot there would be less fraud, drunkenness and

rowdyism at elections, for the very best interests and instincts of men would be appealed to for the accomplishment of such a result. Woman's conscience is more sensitive and her morality superior to that of man. There is no crime committed but what more men are guilty than women, and even in the case of downfallen women there are many more men guilty of the same vice, and if the women had the right of ballot they would use it in such a manner as to protect their unfortunate sisters, and elevate them to a higher morality and would be the means of the people rising to a higher standard.

It is held by some that to incorporate the resolution granting suffrage to women in the Constitution would endanger its ratification, but I claim that to be a mistake. Woman's suffrage will be one of the strongest features in the Constitution because it is right and embraces those life-endearing principles of liberty and justice, and I for one would rather see the Constitution defeated than to have it accepted and deny the right of franchise to one-half the citizens of the new State. We all come here pledged to that principle, as both political parties of which we are members have resolutions in their platforms declaring unequivocally in favor of granting suffrage to women; and if we do not do so, we will prove false to the trust and confidence reposed in us by the people and traitors to the cause of liberty, and our names will go down in future history covered with perfidy and dishonor and no reasoning of our own would avert it.

I trust we will not bring dishonor upon ourselves by betraying the sacred confidence reposed in us by the people. I hold that it is the duty of every member who is opposed to woman's suffrage to resign, for he cannot consistently pursue any other honorable course, as we are all pledged to support it by our party platforms.

Millions of ignorant slaves have been admitted to the right of suffrage, and thousands of ignorant foreigners are admitted yearly, and yet why hesitate to grant our mothers, our wives and our sisters the rights of suffrage, most of whom are native born, many are property owners and well educated, and all are most vitally interested in the welfare of the government, in the principles of liberty and the perpetuation of the same.

It would be just as consistent and just as fair to submit in a separate article to the people the right to hold property and the right of suffrage for male citizens.

I am opposed to submitting woman's suffrage in a separate article to the people, because I am unwilling to give the saloon men, liquor dealers, gamblers, and bad element of society, who think that a good vote will injure them, the opportunity of defeating it by corrupt influences and the fraudulent use of money, for if such influences were used many might be induced to vote against it, who would otherwise favor it. We are charged by the gentleman from Davis of cowardice because we are standing upon our convictions and the faithful promises we have made, which I denounce as ungentlemanly.

It should need no argument to convince us of the right and justice of granting the women the right of the elective franchise or of the beneficial results that will accrue therefrom.

In conclusion I will say let us be true to ourselves, and not be so intolerant and bigoted in our opinions as to deny the rights we now possess to others equally entitled to them according to every principle of justice, and I earnestly hope that this section granting women equal suffrage with men will be adopted and incorporated in our Constitution, and that we will sustain the same by a unanimous vote and thus show to the world that Utah is in the advance march of progress and civiliza-

tion, and in those life-endearing principles of liberty and justice.

Mr. THURMAN. Mr. Chairman, were it not, sir, for the fact that I have a pride in the position that I take upon this question, I would not ask the indulgence of this committee to hear what I have to say. I believe that absolute and unconditional suffrage for woman equal with man is a foregone conclusion in this Convention, unless it may be said that oratory and eloquence must take a stronger hold upon the minds and hearts of men than cold logic and keen sense of justice and right. When it comes to oratory and eloquence, I believe that this Convention concedes that my friend of Davis is entitled to the honors. We cannot hope to meet him upon that ground, but we are here founding a state. We are laying the foundations of a temple of liberty and we are at this very hour, Mr. Chairman, discussing the question to what extent we will be found seeking to widen the circle of human liberty, and abolishing those distinctions which have no foundation, except in mere sentimental ideas of men. It is a remarkable condition that confronts us today in this Convention, when the leader, if I may choose to call him, of the opposition—when the most eloquent man in this Convention, (and I say it with deference to all my colleagues and friends on this floor,) can stand up here and say that he will not indulge in a discussion of the merits but he proposes to confine himself to the question of expediencies only. We are here to discuss the merits of this question. We are here to discuss a question of right, the question of justice, and if we can, that our side will throw expediencies to the dogs. God forbid, Mr. Chairman, that I should ever be found in a constitutional convention discussing the most important question perhaps that will come before us, and place my entire argument upon the grounds of mere expediencies only, and leave the question of right and justice out of the discussion. [Applause.] But where are the grounds assigned as to why it is inexpedient to give women the suffrage?

I am willing to meet the question even upon the ground of expediencies. The honorable gentleman from Davis County, in the course of his remarks this morning, laid down several propositions on the question of expediency. First and possibly foremost, woman's suffrage is dangerous to statehood. There is an answer to that outside of anything that he touched upon in the discussion. When this Constitution shall have been submitted to the people next November, for their ratification or rejection, upon what grounds have we the right to believe that the people of the Territory of Utah will adopt a constitution when every man in the Convention has proved, derelict in his duty, and has treated as a thing not to be considered the very foundation upon which they were elected to the positions that they hold? The people might as well say to us next November, "We sent you to the Convention to frame a Constitution and to place in it, as a fundamental principle, that every American citizen without regard to sex should have a voice in administering the government that you are to form; you have treated with contempt—you have ignored this first fundamental request, and you have given us something else in the place of that that we asked you to give, and now you present it to us and ask us to adopt it." Do you think they would adopt it? And more than that, what sort of confidence would they have in the future in either the democratic or the republican party? Here we are trying to teach people something about politics. We are trying to cut loose from the old lines and engage upon the new and teach one another and ourselves that there is a beauty in what is called American politics. Upon this very threshold of our work, the first thing

we are found doing, is to forget the pit from whence we were dug and the stone from whence we were hewn, and send to the dogs the fundamental proposition upon which every man was elected to this Convention.

Now, Mr. Chairman, I will read the plank in the democratic platform. While I think it means the same thing as the plank in the republican platform, I read this, because it is a little more pronounced and more emphatic. I will read what the honorable gentleman from Davis County has seen fit to criticise as not having been in good faith. If I may be permitted, I will say that I take pride in the fact that this plank in the platform was drafted by myself, in the committee on resolutions, but I am entitled to no credit on that account, for every member in that committee was ready and willing and I do not know but what he had a draft in his pocket, and all the difference between them and me is that I happened to be lying in wait and I got the floor first.

(Reads:)

The Democrats of Utah are unequivocally in favor of woman's suffrage and the political rights and privileges of women equal with those of men, including eligibility to office.

Now, listen, here is where it strikes me and my most esteemed friend from Davis County very hard:

We demand that such guarantees shall be provided in the Constitution of the State of Utah as will secure to the women of Utah these inestimable rights.

The party which put myself and the honorable gentleman forward for election or defeat, as the case may be, demanded of us that we secure those guarantees in the Constitution, and while I may not have the courage that my friend has—I know I have not the eloquence that he has—while I may not have that Spartan integrity that he has, I confess that I have not that sort of courage to suffer myself to be elected upon a platform and deliberately in Convention come out and fight against what I was elected to do. [Applause.] That is the kind of courage, Mr. Chairman, that I do not possess, and I thank the all wise Creator, the author of my being, that I have never aspired to that sort of courage. I do not say if I were elected upon a platform that I would stand by it and fight for it under all circumstances, but I do say, if anything had occurred in the meantime to change my mind or my views upon the subject I would state frankly and openly in the face of the world that a change of heart had occurred with me and that I must now refuse to do what I had agreed to do. That would be my position. I have not the courage to take any other. But the gentleman says that he can stand alone among the ruins. You one hundred and seven sitting here are the ruins; like the Coliseum at Rome—while the Coliseum stands, Rome will stand; while the honorable gentleman from Davis County stands, opposition to woman suffrage will stand. [Laughter and applause.] And that without a discussion of the merits, that without deigning to reply to the fundamental principle that taxation without representation is unjust, and should find no place in American institutions, he does not take the trouble to answer the question as to why this distinction should be made that exists. But it is simply a question of expediency. Now, I am coming directly to the point of this question of expediency. The only matter that strikes me as one in which there should be any force if true is that the conferring of the rights of suffrage upon women will have a tendency to relegate us back to that condition from which we have come, and which none in this Convention desires shall recur again. Why will we be sent there? Why let this recur again? Because, he says there is an undercurrent, there is a rumbling, there is a mutter of discon-

tent among the people of Utah and in the states east. We have not heard much rumbling in this Convention on the subject, except the rumbling that has been caused by my friend from Ogden and my friend from Salt Lake and my friend from Davis County. That is all the muttering so far. It has been open here for protest against these petitions that have been flooding this Convention from the side that we are on. The news has gone forth in the public press that the women who desire suffrage are clamoring for it at the hands of the Convention, and as suggested by the honorable chairman of the committee on elections, no voice has been heard in opposition to it except the voice of this minority, and they put it upon the grounds that it will interfere with statehood. Now, I am coming squarely to the point. It is the first time that I have had occasion for years to recur to old conditions, but I think here is the place for it. I doubt if there is any serious and considerable number of what are called anti-Mormon element in Utah who believe that there is any danger in this proposition. I want to remind them of the fact, if there be, that should the time even come that there will be any attempt on the part of anyone to recur to these conditions, you will find the men here who are fighting for equal rights and political privileges will be the men who will stand up and say, "Hands off; you are treading on holy ground." I have this confidence in the Mormon Church, that if political parties will let them alone, they will let political parties alone. [Applause.]

Now, another answer to the proposition as to whether there are a few who feel a dread as to the possibilities of recurring to old conditions, let me say this, what would those few think—how would they feel if the Mormon side of this question should commence to oppose an influx of outside population? What would they say if there was an organized effort on the part of the church and its people to keep out a population anti-Mormon? But are they doing it? Is the church doing that, gentlemen? Let us be fair, let us be just, in our thoughts concerning conditions as they are and conditions as they have been. On the other hand, we find what is called here the Utah Company, organized for the purpose of obtaining all the capital possible, making all the developments possible, in order to introduce and bring in a population from the outside, which must of necessity be an anti-Mormon population. We find in that company, President Wilford Woodruff, and George Q. Cannon, and I do not know but Joseph F. Smith. At any rate it is a Mormon company, acting in good faith for the purpose of bringing in an anti-Mormon population. Then, I say, if there are those who believe that anything should not be done here which might possibly increase the Mormon vote, they are more intolerant than the church, for the church is thinking of nothing of that kind. So, gentlemen, I take it that there is nothing in that fear, in fact, my friend on my right here (Mr. Roberts), said this morning that the fear was utterly unfounded. What, then, must we think of a proposition like this. Here were are founding a state. Here we are determining at this very hour the question whether all the people who are American citizens and of requisite age should be entitled to participate in the affairs of government. We are determinging that very question. And men stand up here and say, not because it is right, but because a few men have a groundless fear, "we are opposed to it." I say that is not a proper ground for opposing the insertion into this Constitution of the fundamental principle such as is under discussion at the present time. And when you meet the question as to whether statehood will be affected or interfered with, you have met all that there was in the argument of my friend from Davis (Mr. Roberts),

that is all. Trace it as you will from beginning to end, you will find nothing that any attempt should be made to meet on this floor, except the possibility that it might interfere with statehood, and he says there is a fear of increased taxes, and there is a fear of an article on prohibition, and there is a fear that women will have the rights of suffrage, and these are the propositions. The question of right and justice is absolutely left out from the beginning to the end, and the only purpose is to satisfy and placate a few men, who it is imagined will have fears on the subject; there is no sort of proof or demonstration that there are any such men. Why have they not come in here and made themselves heard, by petitions and remonstrance. It has been open for every citizen and every body of citizens to say all that they might have to say upon this subject.

There is just one thing in conclusion, which I wish to say, Mr. Chairman. I am in favor of woman's suffrage for for the reasons assigned in the minority report against it. The only reason it assigns is that women are better than men. That is all. It says, "We do not seek to dispute in the least the argument that in all intellectual attributes and attainments, women are qualified to vote as intelligently as men, except that women are better than men." After having stated that, then the proposition to exclude the best element in the commonwealth—that which the minority says is the best, is to be excluded, because it is good. I believe they are. I believe it will increase the better vote. I will tell you why. The best vote in any commonwealth is the votes of heads of families—married men—the substantial citizens of the country—they are not a floating element, they are not a transient element; they are not the riff raff of society. They are the heads of families and understand its responsibilities, and the responsibilities of the commonwealth. It has been said that a woman will vote as her husband does; that is one of the things that I like in the proposition. If the heads of the families constitute the best vote in the commonwealth and that vote can be doubled by giving their wives the right to vote, we are only doubling the vote of the best element in the commonwealth, and is it not more calculated to insure good government? It seems to me, Mr. Chairman, it is a plain proposition. I have already occupied more time than I intended to, and I thank the committee for its indulgence.

MR. RICHARDS. Mr. Chairman, being a firm believer in that declaration of our bill of rights which says that "frequent recurrence to fundamental principles is essential to the security of individual right and the perpetuity of free government," I desire to call the attention of the committee to some of the fundamental principles which should govern us in determining the great question of suffrage for our new State. Preliminary to the argument that I shall offer, it is important to fully appreciate the extent of our powers in relation to the question. Hence we will first consider the powers of a constitutional convention in relation to the elective franchise.

A constitutional convention, such as we are now holding, has its sphere largely determined by the overshadowing Constitution of the United States, which we have already adopted as a condition precedent to framing a Constitution for the prospective State of Utah. If we were sitting as a revolutionary convention, such as that which framed the Declaration of Independence, we should construe our powers as absolute and independent of all other sovereignties; but as a convention to form a constitution for a state, our action is conditioned by the organic law of the Federal Union. We are also controlled by such general legislation as has served to determine our territorial

boundaries and to inaugurate us into existence as an inceptive commonwealth. All such permanent features of the Organic Act, and more particularly the Enabling Act, are inviolable limitations of the powers of this Convention in the framing of measures for the guidance of the future State.

But with respect to the question of suffrage, who shall be the electors, the voters of the forthcoming State, this Convention has plenary power, and the whole subject in its entirety comes practically before us for determination. Thomas M. Cooley in his great work on Constitutional Limitations, page 752, says:

> The whole subject of the regulation of elections, including the prescribing of qualifications for suffrage, is left by the national Constitution to the several states, except as it is provided by that instrument that the electors for representatives in Congress shall have the qualifications requisite for electors of the most numerous branch of the state legislature, and as the fifteenth amendment forbids denying to citizens the right to vote on account of race, color or previous condition of servitude. Participation in the elective franchise is a privilege rather than a right, and it is granted or denied on grounds of general policy, the prevailing view being that it should be as general as possible consistent with the public safety.

With this view writers on constitutional law generally agree, and it is confirmed by the trend of judicial decision. That provision of the national Constitution which requires that "The United States shall guarantee to every state a republican form of government" would apply as a preventative of too great a limitation of suffrage rather than its extension. Hence the powers of this Convention in relation to the elective franchise are practically unlimited, and there is no barrier to its enacting suffrage privileges which will be in full accord with the letter and spirit of the Declaration of Independence.

It is my purpose in this discussion to deal with the suffrage question in its broadest and most comprehensive form, and in order to do this I shall discharge from consideration all minor and subordinate phases of the subject. The first section of the article reported by the committee on elections and suffrage is elementary and primary. It is as broad as human nature and it responds to every possible demand of men and women in the complex relations of human society. It reads as follows:

> The rights of citizens of the State of Utah to vote and hold office shall not be denied or abridged on account of sex. Both male and female citizens of this State shall equally enjoy all civil, political and religious rights and privileges.

All the following sections of this article are definitive and qualitative. They relate to residence, property, and educational qualifications, registration and other minor matters governing the exercise of the franchise. They are the work of the lapidary, who cuts and polishes the precious stone in order that it may be adjusted to the social fabric as the foundation stone on which the whole shall rest. The substance of the first section is the substance of the whole article; and that is, that man, using the word in the broad sense without reference to sex, human beings as such, are, in virtue of their humanity, factors and units of society as a whole, whether civil, political or religious. It means that the true and essential condition to the exercise of civil and political privileges is human nature, human intelligence, the God-given endowment of humanity, fashioned in the image of the Divine Creator. It means that when God has created a member of the human species having the ordinary intelligence and moral rectitude that are requisite in normal human nature, the person residing in our midst and being a citizen of the United States, is entitled to all the civil and political privileges that are essential to the exercise of full citizenship, with all its rights and obligations. It means that all legal qualifications

and conditions limiting and defining civil and political rights and duties shall be subordinate to the inalienable rights which every citizen possesses in virtue of being created human. It means that the Divine image in man shall be set above the minor physical distinctions which appertain to human beings as individuals. It means that the Declaration of Independence, the magna charta of our nationalty, shall have full expression and full interpretation in the organic law which we are now delegated to frame for the coming commonwealth of Utah. It means that the narrowness, the selfishness, the passion and the prejudice of the long, dark past, shall no longer dominate our civilization. It means that men and women, equally members of society, equally answerable to law, equally responsible in taxes for the support of the State, equally creators and consumers of wealth, shall no longer find themselves subjected to discriminating legislation degrading to one-half the population and dishonoring to the other half, while the foundation of all legislation, the source and ground of all obligation and all right, is the same in both classes, all being created equal, all being endowed with the same inalienable rights of life, liberty and the pursuit of happiness. With this statement of the question I shall endeavor to present for your consideration a number of affirmative reasons why equal suffrage for men and women should be provided in the Constitution.

Principles come before precedents, although it is by means of precedents that we sift our principles. To act from principles is to make truth incarnate, to give it body and form in the world of fact and history. Life is a syllogism, with intelligence as the major premise and historic realties as the conclusion. Our free institutions are great facts; they are conclusions in the world of real life from the intellectual data eternally subsistent in the world of intelligence. We have our social frame work, our actual social life under the shadow of certain forms of law, our statutes and our constitutions. All these are conclusions wrought from larger principles of intelligence. In so far as we differ from the nations of the east that are warring to-day, that difference is largely due to certain broad principles of liberty that have entered into our national life and from which we are constantly making history as conclusions. The principles that I allude to are those that are formulated in the Declaration of Independence. They were the full and free expression of the spirit of liberty that moved the hearts of the American people. They were the utterance of Divine Life for that grand stage of human development. They were the major premise of the civil and political history of the American people. As the words of Christ cover all the ages of the church, and as those words are increasingly fulfilled as the ages progress in knowledge and righteousness; so the words of the Declaration are for all advances in government, and they will be fulfilled in proportion as government is perfected. I can here only occupy your time long enough to turn the light upon a few of the inscriptions upon the temple of liberty, that you may read them as they stand emblazoned there, and apply their meanings to the subject we are now considering.

When the fathers stood together in that revolutionary council, they stood free and independent of every nation on earth. The only sovereign to whom they sought to declare allegiance was the God of heaven, the Creator of all. When they said that "All men are created equal," they meant to recognize the handiwork and institution of the Almighty. When they spoke of "inalienable rights" they spoke of them as being made "inalienable" only by "their Creator." When they spoke of human governments, they spoke of them as being inferior to the constitution im-

planted in human nature by God Himself. They said that governments were made to "secure these rights," and that when they failed to do so, they should be "altered" and "abolished," and others framed that would more fully carry out the purpose of God. They said that the only condition on which governments should operate and control the lives of men was the "consent of the governed." These are some of the divinely illumined principles that bear upon the subject in hand. The fathers meant by saying that "all men are created equal," just what is expressed in the section we are now discussing; that men and women shall "equally enjoy all civil, political and religious rights and privileges." These principles are self-evident in their verity. I do not need to argue or explain them. We can read them as we run; "the wayfaring man though a fool" need not misunderstand them. Men and women, in the Declaration of Independence, stand on an equality, just as they did in the mind of the Creator when He said (Gen. i: 26, 27), "And God said, let us make man in our own image, after our likeness, and let them have dominion." Here we have the same Divine image for both; they have the same blood, the same nature, the same intelligence, the same moral law, the same responsibility, the same destiny. Our conscript fathers recognized this sameness of essential qualities and relationship, and on these grounds they said that "All men are created equal." Their declaration was expressive of the purpose and counsels of the Great Creator, and this first section expressly declares the purpose and intent of the declaration of the fathers.

Moreover, when government steps in to perform its office in the world, it must be in subordination to these principles; that is, to "secure these rights." And the condition precedent on which alone government can exert its authority over men is the "consent of the governed." On any other terms government is usurpation and tyranny. Whatever the right may be, whether of life, liberty or property, government must first obtain jurisdiction through the "consent of the governed," by means of normal and equal representation. There are thousands of women taxpayers in Utah; more in proportion to population than in any other State; so long as they acquiesce in being represented by the other half of society, we may conclude that no open violence is done them in respect to their civil and political rights. But whenever such women disclaim such representation, whenever they claim their right to be governed only as they yield their "consent," according to the declaration, we are guilty of usurpation and tyranny whenever we resolve to make them amenable to our government, without first providing for obtaining their consent through the ordinary channels of representation. We know that the entire American revolution originated in the refusal of Great Britain to accord representation as a condition of taxation; and it seems impossible that in this dawning of the twentieth century any member of this Convention would seek to perpetrate the same injustice in the institutions that we are now to frame for Utah.

Precedents arise when the world of intelligence and principle becomes embodied in the world of fact and history. Principles are eternal; so that with respect to them in an absolute sense, there is "nothing new under the sun." But, as successive ages present new phases of principle, we comprehend the saying, as applied to every epoch in history, "Behold I make all things new." We say of the past that it is a light and a guide to the present. Patrick Henry said, "There is but one lamp by which my feet are guided, and that is the lamp of experience." It is to experience that profoundest wisdom appeals. The system of law that conserves our rights and liberties, is a system of well ordered

and well preserved experiences. It is a system of facts and precedents, comprehensive, diversified, and rising into a body of harmonious, practical and authoritative knowledge.

But, mark you! the world would have perished long ago had it not been possible for it to grow out of, above and beyond the precedents and experiences of any preceding age. It is wisdom to respect precedents, but it is folly and destruction to be bound by them to the extent that we shall not modify them, reform them, cast some of them away, and interpret the deeper meaning of others. Suppose the feudal system which was so deeply rooted into Anglo-Saxon civilization during the middle ages had held full sway on the score of precedent and experience? To-day, if in existence at all, we should in a vast majority of cases be held in the most abject bondage. Suppose our forefathers had been governed entirely by precedent and usage. To-day we should be in a state of colonial serfdom to Great Britain. Suppose the train of legal precedents that culminated in the Dred Scott decision of Chief Justice Taney had been acquiesced in by the American people? To-day we should be dominated by the slave oligarchy, and the enfranchised millions would still be the chattels of their owners. Now the great thought underlying all this diversity and apparent contradiction of experience and precedent with principle is that while absolute truth and principle are eternal and immutable, yet it is only in proportion as humanity grows to its full stature that they can be incorporated into human life and institutions. Hence every age has a deep kernel of truth within its social life; but the purely practical and superficial beliefs, experiences and precedents must be sloughed off like the bark of the eucalyptus tree; for they are misleading for any subsequent age, valuable only as milestones that mark the progress of growth from crude beginnings to larger and truer civilization.

In relation to the subject in hand, the the first section of the article on suffrage, the proposition that I lay down as a conclusion from the foregoing remarks under this head, is that the distinctive principles of American political history were promulgated by the fathers in the revolutionary Congress of 1776; and that American precedents will grow in harmony therewith from age to age until the fullness of those principles shall have expression in American political and civil life. We have seen already, in the light of one of the most sanguinary and persistent struggles in the history of the world, that while Thomas Jefferson perceived the application of those principles to the condition of the slave, and said, "I tremble when I remember that God in just;" yet the body of the country did not feel the force of the divine truth that weighed upon his soul. So it was left to the people as a whole to grow into a knowledge of the truth until it should burn upon their hearts, and reveal to them that slavery was in direct violation of the principles of liberty laid down in the Declaration. When the time finally arrived and the genius of liberty struck the hour for old things to pass away and all things to be made new, the inhumane precedents of all past years were swept to the winds by the besom of destruction. Abraham Lincoln stood out as the servant of God to give effect to the words of Divine inspiration through Thomas Jefferson and the other seers of American freedom. With one desperate carnival of death, the dark cloud, like a funeral pall, rolled away! The sky became clear, and slavery was gone! The Constitution of the United States had sloughed off the dead bark of selfishness and inhumanity that had grown upon it from the precedents of Rome and Greece and all the barbarous past. That Constitution was renewed by in-

corporating within it the eternal principles of the Declaration of Independence.

So it must be with the suffrage question. Lincoln saw and declared that under the principles of American liberty, it was a violation of the trust reposed in us by the God of liberty to hold half our population in a state of disfranchisement. He declared that women as well as men were entitled to the franchise. He knew, too, that the time had not come for action in the matter; but we may rest assured that if our country is to have a future, it must be on condition that the truths which lie at the foundation of our nationality must have freer and fuller course in our civil and political life as the years roll on.

At the start of our country's history the women by custom and usage gave a tacit and implied "consent" that in public affairs they should be "represented" by the suffrage of the male half of the population. The precedents have largely run in this direction. But, as in the case of African slavery, the political equality of man and woman as a truth of the Declaration has stood out in manifestation of dissent through many years. At first this truth was but a speck on the horizon not larger than a man's hand, like the rising cloud before the eyes of the prophet of old. Soon equal suffrage, as an issue, began to fill the sky; and now we know that a great change in political life is upon us. Old things must pass away; all things must be renewed in the light of the undying principles of American liberty.

We have now a respectable number of precedents on the lines which I advocate. The section now under consideration is taken bodily from the organic law of an adjoining state. The case of Wyoming is peculiarly instructive. Her natural resources and topography are similar to our own; her wealth and population are inferior, and in respect to educational facilities and popular intelligence we may perhaps claim an equal precedence, according to the United States census. But the point of importance is that Wyoming legalized woman suffrage during twenty years of the territorial government preceding statehood. On the eve of statehood the governor gave public testimonials of the highest character in behalf of the efficiency and value of woman's enfranchisement. He predicted that it would be incorporated into the state government. And it was so incorporated, notwithstanding at one point of the proceedings in Congress relative to Wyoming statehood, there came an opportunity to carry the measure in case the woman suffrage feature of their constitution were eliminated. Senator Carey wired the Wyoming people, telling them the circumstances, and asking if they wished statehood on condition that equal suffrage be changed to male suffrage. His constituents replied that unless women were admitted to equal suffrage they preferred to remain a territory. In the end the objections to the equal suffrage feature were overcome, and hence we have the section before us as a part of the organic law of Wyoming.

Under date of March 23, 1895, United States Senator C. D. Clark of Wyoming writes concerning equal suffrage in that state as follows:

So far as the operation of the law in this state is concerned, we were so well satisfied with twenty years' experience under the territorial government that it went into our constitution with but one dissenting vote, although many thought that such a section in our constitution might result in its rejection by Congress. If it does nothing else it fulfills the theory of true representative government, and in this state, at least, has resulted in none of the evils prophesied. It has not lowered womanhood. It has not been the fruitful source of family disagreements feared. Women do generally take advantage of the right to vote, and vote intelligently. It has been years since we have had trouble at the polls, quiet and order, in my opinion, being due, however, to two causes, the presence of women as well as our very efficient election laws. One impor-

tant feature I might mention and that is that in view of the woman vote no party dare nominate notoriously immoral men, for fear of defeat by that vote. Regarding the adoption of the system in other states I perhaps am not qualified to judge, but I see no reason why its operation should not be generally the same elsewhere as it is with us. It is surely true that after many years' experience Wyoming would not be content to return to the old limits, as, in our opinion, the absence of ill results is conclusive proof of the wisdom of the proposition, because in theory at least the plan is right.

As to Colorado, her United States senators, Teller and Wolcott, say:

Women bring to the exercise of the right of equal suffrage an intelligence fully equal to that of the male voter. One of the apparent results of the presence of women as participators in political matters is that political parties must exercise greater care than before as to the character and standing of nominees for office. The presence of women at the polls is looked upon as an undisguised blessing, and if the question as to whether the right of suffrage should be bestowed on women should be again submitted to the voters of Colorado, it would be carried in the affirmative by a far greater majority than it received a year ago.

The same expedient has been resorted to in Utah to prevent equal suffrage that was tried in Wyoming. We are told in the minority report that "statehood will be imperilled by it," that "a widespread fear prevails that with the franchise restored the old overwhelming force would destroy the present equality of parties and awaken a terrible temptation on the part of those who ruled before to resume their sway by working upon the generous impulses and religious instincts of women, which would result in political, if not social and business, ostracism of the minority." I cannot believe that this fear is so widespread as the opponents of equal suffrage would have us believe. It seems to me impossible that it can be so; but even if there were such a fear, it is utterly groundless and without justification. If any people ever gave evidence of genuine sincerity in their political conduct, the majority of the people of Utah have unmistakably demonstrated the most unfeigned sincerity in their "division on national party lines." To say that women would be swayed by their "impulses and religious instincts," is to insinuate that they are either lacking in intelligence or wanting in integrity. Our opponents expressly disclaim the former, and we emphatically deny the latter. The inference that danger would ensue to the government if women were permitted to take part in its affairs, solely because they are likely to follow "generous impulses," is not creditable to the men who have hitherto controlled the government. Do the minority mean that generous impulses are now excluded from the administration of government and that it would be a dangerous departure to allow such impulses to be exercised? Surely the State can afford to run the risk of danger from such a source.

The same apprehensions that are said to exist concerning the women could just as well prevail with regard to the men, and general distrust would be the result. Indeed they were so entertained till events proved their utter falsity. If you believe that my wife cannot be safely trusted with the ballot, do you not also believe that it is unsafe in my hands? And if not, why not? She is just as solicitous for the public weal as I am and could not do a wrong to society more easily than her husband. Is it not a fact, gentlemen, that the objection is fanciful; or to say the most that could be said, is it not sentimental rather than real? This fear is idle and futile. The suspicion is unjust. The women of Utah exercised the privileges of electors for seventeen years, and I have yet to learn of a single instance in which that sacred privilege was abused. The franchise was not taken away from them because they were deemed unworthy or unfit for the trust, but for other reasons which have long

since ceased to exist. The least we can do is to restore it in the Constitution.

Experience has shown that new responsibilities carry with them the determination to fit one's self for the new duties imposed. As opportunities have been afforded to women to acquire the higher branches of education and become learned in the professions, they have embraced them. Their minds and characters have responded to their enlarged opportunities and they have shown themselves as capable of independent thought and action as men. So it will be in the new State. Women will qualify themselves for the duties of citizenship and they will think and act from their own trained intelligence. Their "generous impulses" will supply a new element in politics, which has long been needed to check the tendency towards degeneration. They will perform their mission as vital members of the State with as high a degree of wisdom and prudence and certainly with no less integrity, than men.

So I say that if the price of statehood is the disfranchisement of one-half of the people; if our wives and mothers, our sisters and daughters, are to be accounted either unworthy or incapacitated to exercise the rights and privileges of citizenship, then, however precious the boon may be, it is not worth the price demanded, and I am content to share with them the disabilities of territorial vassalage till the time shall come, as it will come in the providence of God, when all can stand side by side on the broad platform of human equality, of equal rights, and of equal capacity.

It is claimed by our opponents that equal suffrage is a menace to the home. If I believed that, rather should my tongue cleave to the roof of my mouth, and my hand forget its cunning, than that I should say or do aught to promote it. I yield to no man in love and veneration for the home. I believe with the supreme court of the United States that the sanctities of husband and wife constitute "the greatest solace of human existence." But I believe in the home where husband and wife are equal, where they are companions, partners if you please, in the labors and cares and joys of life. I know that such a home and family can exist without the impairment of a single womanly attribute, and that greater happiness is thus attained than by preserving the old time distinctions of the spheres of the sexes. Neither men nor women can know their true sphere till there is perfect freedom to both.

It is said by our opponents that women are better than men, and therefore they ought not to have the franchise. I have heard this argument used, if argument it may be called, a great many times, but I have never yet known a woman who felt complimented by the statement that she was too good to exercise the same rights and privileges as a man. My experience and observation lead me to believe that while men admit the superiority of women in many respects, the latter do not care so much for this admission as they do for an acknowledgment of their equality, and that equality we are bound in honor to concede. There is a world of meaning in the words of that bright woman who said, "Women need justice as well as love."

It has been said that women do not want to vote. This may be true of some women, but no one can truthfully deny that the majority of the women of Utah demand the suffrage. To say that some of them do not desire to vote is no argument, because there are some men who do not care to vote, yet no one would think of depriving one man of that privilege because some other man did not prize it. There are women who are dependent upon their own exertions for support, and they should have the aid and protection of the ballot to help them in the struggle for existence, even though some of

their more favored sisters do not desire it. Besides, no one will be compelled to vote if the privilege is granted. Women will be as free to stay away from the polls as men are now. There is no compulsion about the matter.

It is claimed that women are more likely to be governed by impulse than by reason. Meaning, I suppose, that they act on intuition, instead of taking time to reach conclusions by reasoning, as men do. What we call intuition in woman is oftentimes the very essence of reason. She arrives at conclusions quicker than man, but her conclusions are nevertheless correct. She reaches the truth at a single bound, while man is clumsily striving to reach the same result by a slower process of reasoning. Why is this? It is a scientific truth that her nervous structure is better fitted for receiving and transmitting vibrations with vividness and swiftness than that of man. Intuition has a mechanism in her physical organism of the nature of a delicate electric plant. By it she is brought into more intimate relation with the universal intelligence than her duller companion. She is rarely misled, because she is in closer connection with the subliminal consciousness and receives the inspiration of the Divine Spirit. Why, then, should not her endowments of mind and heart be utilized in the councils of the State and her womanly influence go forth for the welfare of society?

The minority say, "Surely no one desires a return to the conditions of the past." Certainly not, and least of all the women. But why should equal suffrage produce such dire results? If the division of men on national party lines has been its own vindication in the production of harmony and good will among the male element of society, why should it not produce similar results among women and cause them to know and appreciate each other better? They will undoubtedly align themselves with the great political parties. Even now they are democrats and republicans populists and prohibitionists. No reasonable man can believe that the women of Utah have listened to the political discussions of the past five years without forming convictions and taking sides in the great contest. No, my friends, the imagined danger is unreal, and if, instead of presaging disaster, we shall confidently turn our eyes to the light, renew our faith in human nature, and, with true purpose of heart, help to avert anticipated evils, I feel from the very depths of my soul that no evil will come. To do this is the duty, as I conceive, of every citizen of Utah. How much better such a course than to deny to women their rights because we choose to cherish a fear that evil might come from granting them. I do not believe in such Jesuitical doctrine. To do wrong that good may come is never right. The wrong always remains but the good never comes. It is only by fidelity to conscience and right that we can hope to maintain self-respect and promote the welfare of the State. I do not believe in an expediency that counsels a departure from the right in order to remedy a possible wrong. It is too closely allied to the argument of tyranny.

Expediency in the best sense and in the broadest form is the highest wisdom of the statesman, and that expediency asks equal suffrage at our hands. Expediency requires the use of the best means that circumstances will supply for the highest and truest ends that can be attained under the conditions that prevail. There are absolute principles at the foundation of things. These are as unchangeable as the axioms of mathematics. There are perfect ideals to be attained in the process of the world's evolution. We are, age after age, approximating those ideals. But the whole course of progress is beset with failures and imperfections. Progress implies defective conditions to start with. Knowledge and experience, cus-

toms and habits, laws and institutions, are all to be acquired by the race in its onward march. There has been no stopping place for society from the beginning. At every stage there is a better and truer beyond. If absolute principles have been enunciated in the past, it is the work of the ages to incorporate them into laws and to embody them in social life.

Hence, it is only as proposed measures are expedient under all the circumstances, broadly considered, that they should become laws. In a barbarous state of mankind, it would be in vain to commence with free institutions of any description; for such institutions are only adapted to a people of advanced intelligence and experience. All such savage tribes will provide for themselves various forms of absolutism and chieftainship until they are prepared for something better. But passing by the consideration of barbarous races and remote times, I call your attention to the present state of civilization, and to the people whom we represent. What is expedient for Utah? and especially, what is expedient with respect to the electoral system that we are about to pass upon? I claim that the section we have in hand will reflect in its adoption the highest expediency on the part of this Convention.

The primary thought to which I call your attention as the basis of expediency is the most comprehensive of all that enter into the complex notion of government—I mean that of sovereignty. One of the most acute foreign writers that ever philosophzied on American institutions, De Tocquerville, in volume 1, page 36, of his Democracy of America, says:

> Whenever the political laws of the United States are to be discussed, it is with the doctrine of the sovereignty of the people that we must begin.

Beginning with that doctrine, we inquire what sovereignty means. In an organized governmental form, whether that of monarchy, aristocracy or democracy, it means "the supreme power of the state." In our country, as the basis of our government, sovereignty lies in the whole population, the entire citizenship of the country. Says Jameson, in his excellent work on Constitutional Conventions, page 26, having previously discussed the question of sovereignty:

> In the general discussion of sovereignty, in the preceding sections, that power has been supposed to reside in the body politic, comprising the whole population of the commonwealth, without distinction of age or sex.

Pomeroy, in his Constitutional Law, page 5, says:

> The sovereign power consists in the collective will and in the faculty of wielding and disposing those forces which obey that will.

The Constitution of the United States begins its preamble with these words, "We, the people." All other constitutions of the American Union plant themselves upon the same conception, either in the same words, or in words expressing the same meaning. They all assume that the supreme power resides primarily in those human souls into which the Creator has breathed the breath of immortal life. But what is meant by "the people," to which all these definitions and constitutions point? Professor Franklin H. Giddings, one of the foremost writers in the United States on sociology, in his work on The Theory of Sociology, page 22, says:

> How is it with the theory of the state? Political science finds its premises in the fact of human nature. The motive forces of political life, and also of economic life, are the desires of men, but under another aspect. They are desires no longer individual merely; and no longer a craving for satisfactions that must come for the most part in material forms. No, there are desires massed and generalized; desires felt simultaneously and continuously by thousands, or even by millions of men, who are by them simultaneously moved to concerted action. They are desires of what we may call the social mind in

distinction from the individual mind; and they are chiefly for such things as national power and renown, or conditions of liberty and peace. Transmuted into will they become sovereignty, the obedience compelling power of the state.

Society in an organism: and recent writers coming in even later than Spencer, the most notable, perhaps, Professor Lester F. Ward, in Psychic Factors of Civilization, all teach that the central force of society is the social consciousness, will and intellect. There is a social mind independent of any individual mind; and it is this social mind that constitutes public opinion, popular sentiment and national sovereignty. This social mind writes its will in statutes, laws and constitutions; but when the social mind changes, as it does from age to age, the law grows obsolete, the constitutions are framed anew, or abandoned; and the forms of government thus superseded fade away into the shadows of the past. But the social consciousness, the fountain of sovereignty, is ever renewed with the vigor of eternal youth.

With this exposition of sovereignty as the social consciousness and will of the people, we are prepared to appreciate the solemn, and I may say lamentable significance of a doctrine laid down by Mr. Cooley in his Constitutional Limitations, page 40. He says: "When we say the sovereignty of the state is vested in the people, the question very naturally presents itself, what are we to understand by the people as used in this connection? What should be the correct rule upon this subject, it does not fall within our province to consider." Think of it! Here is the foremost constitutional authority in the world, perhaps, who declares that it does not fall within his province to say what the correct rule of exercising the sovereignty of a state should be. In what follows he gives the rule that most of the states have adopted; but he has already said that it is not his province to state the "correct" rule. Presumably what he does give as the general rule of the states is not the correct one. The rule that he gives is as follows, on the same page: "As a practical fact the sovereignty is vested in those persons who are permitted by the constitution of the state to exercise the elective franchise. Certain classes have been almost universally excluded—the woman from mixed motives but mainly, perhaps, because, in the natural relation of marriage, she was supposed to be under the influence of her husband, and, where the common law prevailed, actually was in a condition of dependence upon and subjection to him."

Here you have a statement of the rule actually obtaining in the framing of our state constitutions in general, with respect to the greatest of all facts entering into the structure of government—that of sovereignty—the social consciousness and will—the voice of God in the human soul. It is noble of this great author to say that he does not propose to state the "correct" rule, that it is no part of his work to say what "should be." The truth is, the rule that he gives is the rule that we have followed hitherto in most of the states, and that rule is a falsification of the Declaration of Independence and an abitrary denial of the natural equality of the sexes; it is usurpation and tyranny over one-half our population, many thousands of whom are independent wealth creators and taxpayers in Utah, and in other states of our Union. Shall we perpetuate this injustice? Shall we give further sanction to a perversion so vital to the fundamental principles of our free government? I have shown that on the score of principle, we have no warrant for such an unjust and inhumane discrimination. I have shown that our best and truest precedents are now pointing the other way. I now

wish to conclude this head by showing that the highest expediency confirms the logic of principles and precedents.

The sovereignty of human aggregates gathered together as they are into nationalities over the earth, is the region in which the Infinite Life manifests itself, and in which the purpose of the Creator and the destiny of nations are wrought out. Whatever happens to a nation is the result of the nature and conduct of its sovereignty, its mind and will as an organic whole. We know that the nations of the past have all faded into sepulchral gloom. They live only in the annals and ruins that mark their oblivion. We can now see how fragmentary and partial their national life was. And, if we are hastening on to a similar fate, the central cause of our danger is that our real, underlying, sovereign life is not truly represented in our government. Permit me to illustrate: The forces of the universe are all correlated. There is no element of force or atom of matter that is lost or wasted. All are renewed in some correlated form. It is in this view that universal nature becomes perpetual. Were forces or substances lost, the world would run down and become extinct. In a way somewhat similar the two halves of human nature are correlated; and to restrict the sovereign functions of a nation to the will of one-half its inhabitants, is to insure such a partial representation and correlation of the social consciousness, that imperfection and failure must result.

The testimony of scientific investigation is that with the establishment of the family, even in its rudest form, came the idea of property. There could otherwise be no conception of the deed for property and consequently the value of it. With the family property originated, and with the family government took its rise. All through the ages, women have been the conservative power that has prevented nations from being wrecked into fragments. The home and the family have always been the sheet anchor of prosperity rather than the cabinet and council. The destruction of nations has largely resulted because its councils were divorced from the home life, from the people at large, from social consciousness. There was no correlation and interaction within the central source—the power—the sovereignty—the popular will. I am bold to say that within the aggregate mind of the disfranchised half of our population in these United States, there are elements of reserved power that will prove invaluable to our national security and prosperity.

We have laid hands upon the sacred ark of God, and stricken down half its potency for our welfare; and in the end we could not do otherwise but reap disaster. Why should a nation fail, except that it falls into discord with itself; and how could it do otherwise so long as only one class of its population embodies its sovereignty? So long as women in the past have tacitly consented to be represented by the other sex, there has been an excuse for unequal representation. But now that millions of taxpaying women in the United States ask to form part of the actual and visible sovereignty, it is but just and right to enfranchise them; and by every principle of truth and liberty it is unjust and tyrannical to refuse them this endowment. In this view, and from the deepest sources of our national life, I claim that the highest expediency and the most profound statesmanship enjoin upon us the fullest measure of justice under our boasted free institutions. If we cannot see these things, there is no need of sunlight; if we cannot do them, there is no need of conscience and a sense of civil obligation.

The truths of religion, of life and destiny, were revealed to men through the Bible and other inspired writings; and the ideals of philosophy, those that appertain to thought and being, were

made apparent to such thinkers as Socrates and Plato and those of the far East who preceded them, as also those who have followed them as guides and luminaries of the human intellect. These have been stars in the firmament, shining in the midst of twilight intelligence, if not barbarous darkness and ignorance. Aside from these meteoric displays of religious and philosophical knowledge, the race has been for thousands of years emerging from conditions analogous to those of the lower order of animals. This is the testimony of secular history and the organic sciences.

A few thousand years ago, men and women lived in the most abject savagery. These conditions still prevail in some regions of the earth. In all such places brute force holds supremacy. Might is right, and moral perceptions are based on the sway of physical force and brute strength. The survival of the fittest is survival of the strongest. It is the reign of force, horn and tusk, knife and club—these are the symbols of power and sovereignty in the early stages of human development, whether those stages exist now or have been superseded by a higher order of life.

In the outset of human progress, woman is subordinated to the selfishness, passion, inhumanity and brutality of man. His life is mainly muscular, physical, sensual and brutal. His reason and affection are undeveloped. Woman, because of her motherhood, is incapacitated for the shock and struggle of physical supremacy; hence, in the early stages, she is in thralldom to her brutal lord. In the writings of travelers we learn that even recently in some barbarous regions, the suitor for a wife, thinking of no other charm than a club, would lie in ambush, and when the object of his regards came within range, he would spring from his lair, strike her a stunning blow, carry her off to his tepee, and ever after hold her in such subjection to himself as his nature and passions might dictate. Even in this rude barbarism, we have the beginning of the family, the dawn of the home, the inauguration of the idea of property, the inception of government; for government is but the growth of a rude and barbarous family into a cluster of families, with the adjustments and improvements that naturally arise with the increase of knowledge.

Therefore, while written history and formal goverment indicated considerable advances in human progress, they both point backward to a period of brute force, a supremacy of physical might, in which woman figures as a slave to the superior prowess of man. On the other hand, in the very nature and essence of progress, we find a remedy. It is this: in the process of evolution, the motive powers of life, the desires, rise from mere animal impulse and instinct to such as are more rational and intelligent. That is, as man's mind develops he is governed more by reason and less by force. His affections grow more enlightened and spiritual. He becomes more humane, benevolent and philanthropic. He grows naturally more and more into the perfect life. The Christain principle is native to the human soul, and to realize it, man must grow from the brutal into the spiritual. Hence, progress as a process rises more and more into the physical nature of man for its motive power. Progress brings the race under the control of the law of love and benevolence. Our laws and institutions grow more humane. We provide more amply for the poor. We provide educational facilities for all. Freedom enlarges her sway; liberty grows broader and more generous. Nations submit their grievances to arbitration. International law and comity prevail. In a thousand ways the world comes under the control of the higher and more spiritual affection and intelligence of the human mind. This is the process and tendency of progress.

Now from the standpoint of the most advanced science, we may affirm that the key and clue to all this progress, humanity and benevolence is found in the female instinct of motherhood affection. In the brute world we find the mother's love for offspring stronger than the instinct for self preservation. This is an unfailing passion throughout the whole course of organic life, whether brute or human. This is natural altruism or mother love, and in Christ it broadens out to include the whole human race. As nations progress they become humanized, Christianized; they are drawn more and more into the altruism of nature, the maternal instinct of the race. Men may feel reluctant to make the acknowledgment, but it is true that in proportion as our laws, institutions and social customs become humane and philanthropic, in the same proportion they conform to the instincts and affections that are naturally and historically characteristic of womanliness. It was through this channel that the creating love and charity first flowed into human nature, and thence into all human social relations. We may say, therefore, that humane and benevolent progress is essentially womanly and has its origin in the self-sacrifice of motherhood. This principle in its development will give us educational institutions, charitable foundations, a larger brotherhood in social relations, a more vital co-operation in government.

As I have already stated, a nation is an organism, and has a will and intelligence peculiar to itself; it is an enlarged family. Government is a species of housekeeping. It is equally true that all modern ideas of government, such as are given in the Declaration of Independence, locate the source, origin and foundation of government in the whole membership of the household, in the several individuals that constitute the family. Monarchial, aristocratic and class governments withdraw from the membership of the family. An elder son, or child of fortune usurps authority over his kinsmen. In this country the principle of family government has been adopted in theory to the fullest extent. "We, the people," is the formula for the beginning of all government. The only question is: Shall we adopt our own theory and put it into practice? That we should do so in Utah and all over the United States is the logic of the situation. It is the lesson of the past, the hope of the future.

Moreover, our civilization in its wealthier centers is now exhibiting a type which is really most alarming and which in my opinion, can only be remedied by enlarging the sphere and functions of woman so that she will be vitally connected with the real and substantial interests of society. I mean that among people in the great cities, who are in possession of all the accessories of wealth, where true civilization ought to be the highest and most refined, there it is already a comparative failure. Women are absorbed in fashion, frivolity, vanity, display and the thousand trivialities that render life frivolous and worthless. They have no part or lot in the real work of society; they are utterly ignored in the substantial realities of industrial, civil and political life; and being thus driven to the delusive shadows of opulent vanity, they become the moths and butterflies that float about in the halls and parlors of palatial mansions and air themselves at watering places, the creatures of caprice and weakness, the gaudy glare of ill-gotten wealth under our lopsided economic system. This is the wealthy excrescence of our civilization. As long as woman's sphere is divorced from the realities of civil, political and economic life, we dare not become greatly prosperous as a people. Because under such circumstances wealth leads to destruction. Such people do not perpetuate their own species; and if they did, and if such progeny should become numer-

ous, we would become a race of dudes and vanish from the earth in pure disgust. What is necessary in all such cases is that woman should become a real helpmate and companion for man. She should share his knowledge, his toils, his cares, his pleasures and his sorrows. God made her to be a companion in the fullest and truest sense of the word. He gave her intelligence, sympathy and intuition for such companionship; and man destroys his prospects for human progress by making her a creature for his vanity and an instrument for his selfishness. I repeat again that we dare not become prosperous until both men and women are put in a way to learn and be educated by the great realities of life, political and social; and so long as men pervert the plans of the Creator they will reap failure and dishonor.

Only recently women have been permitted to enter the universities, professions and business walks of life; and while this has been beneficial to the women, and has made them more independent and self-respecting, it has at the same time tended to purify business and add to public life an element of brightness and cheerfulness. We all know something of the influence of the woman nature in a mining camp. When composed of men exclusively it soon recedes backwards into rudeness, profanity and vulgarity. Let woman come upon the scene and a transformation soon takes place. Men become human, loving, self-respecting and courteous. The better and higher impulses of life are encouraged, and the mining camp puts on the air of respectable and orderly society. Is any man so dull as not to perceive that what is accomplished here in a little mining community would be of inestimable value when put into operation in the State and in the nation at large? Government is simply national housekeeping, and we all know that woman has peculiar gifts for housekeeping. She is the original housekeeper and home maker. Out of her very life, and in her deepest sympathies she made the home, she guarded the little inmates of the home; through her the little bunch of chattels was gathered about the home; and if she is given a chance she will do a noble and God-given part in purifying and perfecting the national household.

It will be seen, therefore, from the question as previously stated, that civil and political rights and privileges as set forth in this discussion, are incidents and phases of government; that all human government is founded upon the "consent" of the governed, which is the fundamental condition antecedent to all government; that human beings are "by their Creator" empowered to give or withhold this consent, just in proportion as government "secures" the rights of life, liberty and happiness, and that it can only be given through the customary channels of representation; that the section now under consideration provides for the full "consent" of our people according to the Declaration of Indepence and the laws written upon human hearts by the God of nature; that civil and political rights and privileges are wholly independent of sex distinctions; that all rights have their source and reason in human nature; which is constituted in the likeness of the Divine Sovereignty; that humanity and its endowments come first, and government with its privileges is subordinate; that it is tyranny to pervert this order which has been incorporated into our institutions and made a part of our temple of liberty. It is only, as I believe, by the adoption of this section that we can inaugurate the true theory of government, or show forth the full purpose of God in human affairs. It is only as we incorporate equal suffrage into our organic law that we can fully interpret the social consciousness and will; that we can carry the home life with its order, purity, economy and thrift into government; that we can inaugurate

the beneficent and humane progress which is now the pride and glory of our civilization. Hence I reaffirm that equal suffrage should be provided in the Constitution, because it is just and right, and because it is in the highest and best sense expedient. I know that a majority of the members of this Convention concur with me in this belief. I have no doubt that a majority of the people of Utah entertain the same view, and so I feel assured that it will be incorporated in the organic law. The Constitution will be adopted by the people; our State will be admitted into the Union; equal suffrage will prove the brightest and purest ray of Utah's glorious star; it will shine forever in the immortal galaxy, as a beacon light on the tops of the mountains beckoning our sister states and territories upward and onward to the higher plane of civilization, and the fuller measure of civil and religious liberty.

Mr. CANNON. Mr. Chairman and gentlemen of the committee, I do not desire to take up very much time of your committee, but there are several points in connection with this minority report which I do not feel that I can pass over in silence. In the first place, a direct charge is made that the people of Utah, directly or indirectly, would be in a position, were statehood granted, to bring about destruction to those who constitute a minority in this Territory so far as religious connections are concerned. I submit, gentlemen of the committee, that the charge which is made here is not warranted by the facts in the case. I was this morning pleased to hear the gentleman from Davis County (Mr. Roberts) announce that he had not known what would be contained in the minority report, which he struggled so viciously to have introduced. I do not think that the past history of the people of Utah warrants any man or any set of men in making the charges that are contained in that minority report. If you will permit me for a moment, I desire to call your attention to the fact that in 1892, at the time that the first election took place for a delegate after the division upon party lines, that in this Territory we had a republican executive, in Washington both houses of Congress were controlled by the republican party, a republican President sat in the presidential chair, and all of the interests of the people of Utah pointed to the advisability upon their part to curry favor with the national administration, and to elect at that time, a republican delegate to Congress. What was the result? We find that they elected, in spite of the efforts that were made, and in spite of the vicious campaign on the part of the republicans, a democratic delegate, and in doing so testified to the world that they were sincere and that they were not governed by party expediency. How was it in the next year? You will remember that in 1892 a tidal wave politically swept over our entire country and that in the next year, 1893, the democratic party was in possession fully of all branches of the government. We had a democratic governor, we had a democratic house, the senate was democratic, and the President was democratic. At that time upon the stump democrats made this kind of a charge and this kind of a logic: what good will it do you to elect a republican Legislature with a democratic governor, with a secretary of the state democratic, who would be governor in case of absence of the governor himself? What laws can you expect to engraft upon your statute books when that governor has the absolute veto power? At that time attempts were made to induce the people of Utah to vote on the ground of expediency, but they signally failed. Though the national party—though Utah, though her executive, in her different branches, was controlled by the democracy, the

Legislature which was elected at that time contained a majority of republicans in its feelings and tendencies.

The next year, the year which has just closed, 1894, after a democratic Congress had provided the Enabling Act by which it was expected that Utah would go into the Union at a time when the democracy claimed that it would again sweep the country and elect triumphantly a majority of the house, and in the senate, when everything pointed to the expediency of electing a democrat to represent the people of Utah in the halls of Congress as their delegate, when gratitude was urged as a cause why they should vote for the able man who represented the democratic party in that canvass, I say that when the people of Utah were deaf to the cry—to the plea for the expediency and said, "We will vote the sentiments that we have in our hearts, let it affect statehood however it may," that is the history of the people of Utah in connection with this division movement, and it is that with which they come before you at this time. Nobody has ever in the past been able to coerce them into doing that which the sentiment of the people did not approve. They have had a similar sentiment to that throughout the United States. You will find that when Utah went democratic the rest of the nation went democratic. You will find that when Utah went republican the rest of the nation, speaking of them generally, went republican. One spirit seems to permeate the country from one end to the other, and that spirit rests upon the people of Utah in common with the rest of the nation. When charged that in Utah people were governed by policy, they charge that which bears upon its face its own refutation, because they must be prophets indeed before elections take place to know what would be the sentiment throughout the country. In the next place, the charge was resented by our friend from Davis County (Mr. Roberts) a gentleman whom I highly esteem, that the minority who presented this report were prompted by improper motives in withholding that report. You, who were here, (and doubtless all of the delegates were here yesterday,) know with what vigor he repelled that charge, and yet forsooth, how coolly he rests under a charge that forty thousand women in Utah Territory would be governed by improper motives, and would not vote as they saw the right would dictate that they should vote. In the language of Edmund Burke, you cannot indict a whole people. You cannot place that charge upon a whole class. Those who make it most make it for reasons known to themselves. But I throw back the charge and say, that the women of my acquaintance, those with whom I have associated, will not be governed by improper motives, that I would sooner trust my life, my honor, all that I have, with them than with the majority of the voters throughout the Territory of Utah at the present time.

It is not a fitting thing that we should permit a charge of this character to be made. They tell us in this minority report that woman has the intellectual attainments, that at least she is entitled by her natural endowments to vote intelligently, and as stated by the gentleman from Utah County, a great objection to her voting is that she is better than man. Be that as it may, I claim, gentlemen, that three things should constitute qualifications for voting: First, intelligence, second, purity of life and thought, and third, patriotism. Women have all these in the highest degree. They have the intelligence, it is conceded by all who have spoken. They have the purity, for it is conceded by all, including this minority who make this report; they have the patriotism, as the history of all time will show. Go to a nation

whose women are not pure and you will find there a nation whose men are not worthy of the name. Give me a nation of patriots and you will find that a nation of Cleopatras will corrupt a nation of Cæsars, and will bring down all the highest attributes and all the higher impulses to the groveling instincts that follow such a connection. If we admit a claim that the women of Utah are not entitled to this respect, I claim that then the men of Utah are not entitled to it. Because Congress saw fit to take from the women the elective franchise, because through the charges that were made against the men of Utah and their practices, they took from women that right which they had possessed for 17 years, is that any reason why you should perpetuate the wrong which was committed, the injustice which was done? Why it is too much like the first man who shielded himself and his weakness behind the woman and said that she gave him and he did eat. I have had some of my friends tell me that every ballot ought to have a bullet behind it, that the men who vote ought to have also the strength to carry a gun and go to war. Upon that principle, I submit that our friend John L. Sullivan and our friend Corbett ought to have two votes apiece and Alexander Stevens, one of the brightest men that we ever had and who was weak in his form, should not have been allowed to vote at all, because he was physically incapacitated to perform the duties of a soldier. We cannot decide it in that way. But woman has the strength within herself to inspire in others a love of country as she herself has always proved that she has the love of country. They claim in this minority report that a woman is bound by impulses and that she does things upon impulses, not believing that there is a law. Why, go back and read your history and you will find instances in every page where woman has not been governed solely by impulse, but where she has been governed by the purest of all patriotism. Where will you find a man who has done more than did the Spartan mother, whose son had sold himself for precious gold, and who, coming back to his native land and finding that they knew of his perfidy, sought refuge in a place that was set apart where the hand of men could not molest him? What was done by that Spartan mother? Knowing that under their law she could not and they could not bring him from his place of refuge, hers was the first hand to place, without a word, a stone in front of that door and set the example for her fellow men until they piled a heap of stones to that extent that he perished like a miserable rat in the hole into which he had gone. And how was it with the Spartan mothers too who saw their sons as they gave them their shields to go forth with them and told them to bring them back or come back upon them?

It was only that spirit which led Leonidas to defend with three hundred men the pass of Thermopylæ against the thousands, yea, the millions that Persia had brought there. On that occasion it was not the question of the number of ballots or the number of spears behind the ballots but it was the question of the spirit which animated those interested in that. Now, I find upon examination, that it is not only with bullets that women can do damage. That was illustrated this morning during the beautiful address of my friend from Davis County, Mr. Roberts, where he was so sweetly willing to die. When he came to that portion of his address it reminded me of Doctor Holmes' description, where he says:

Oh, woman, thy falchion is a glittering eye;
If death lurk in it, oh, how sweet to die!
You take the hearts as Rudolph takes the head;
We die with love, and never dream we're dead.

Our friend here, after describing so beautifully how his grave had been dug, and telling how content he was to rest

in that grave, reminds me of a warrior upon a battlefield, who, after the swoon has passed from his eyes, after his terrific struggle, sees over him, not the foe he had expected, but some woman with her eyes beaming looks of pity, not of anger, and so when our friend gazed around upon the ladies who had assembled here this morning, like that man, awakened from his swoon, he was wont to say, "Oh, grave, where is thy victory; oh, death, where is thy sting?" [Laughter and applause.]

Mr. ROBINSON (Kane). Mr. Chairman, my speech will not be as long as that of the gentlemen who have preceded me, but being next to the younger members on this floor, I desire to place myself on record as not too cowardly to tell my convictions. I did come here, gentlemen, pledged to support the passage of a woman's suffrage act, not merely for my affiliations with the republican party, but by an inward consciousness that I was doing right. I want the gentleman that spoke of the star of duty this morning to understand it has gleamed as clearly upon my path according to the construction of my ideas, as it has upon his. There is another thing, gentlemen, that comforts me; it is not for me to reiterate all that has been said here to-day. My friend from Utah County has told us of the staple vote of a commonwealth. I contrast now our times with that of our forefathers, when Europe sent to us her best blood—when men and women sought this country that they might enjoy equal rights and privileges. Look at the difference now. They have made of us and of our country a dumping ground of iniquity. I speak in a general sense. There are men and women who seek our shores who cannot abide the laws of their fatherland. They are full of anarchistic feelings and they are stirring up strife. How are we to successfully combat with this flow? I answer this, by doubling up the staple vote of this country by giving woman their suffrage. Cleopatra has been mentioned. Gentlemen may admire such woman as Cleopatra, as Niobe, as Catherine, as Elizabeth, and it is said that if women go into politics that they will lose this femininity that is so attractive; that the place for them is by the fireside; that we love them on account of their coy, modest ways, and that we should not bring them out to be sullied by the mire of politics. I tell you, that it is because we love them that we want them by our firesides, and not because we only admire them; and I want to tell you, gentlemen, that I am here to vote for woman's rights and woman's suffrage, and if my wife cannot stand side by side with me in voting for those who shall govern us, as it is a fundamental principle of our government that those who govern should do so only by the consent of the governed, I am willing to stay without the galaxy of states. I give my other five minutes to Mr. Varian, who was so kind as give all his time to Mr. Roberts this morning.

Mr. SQUIRES. Mr. Chairman, I know that there are a number of gentlemen on this floor who desire to be heard upon this question, and I know also that those who have sat here so patiently and listened to what has already been said, are somewhat wearied with the effort; I therefore move that the committee now arise and report progress.

Mr. ROBERTS. Will the gentleman withhold that just one moment?

Mr. SQUIRES. Well, if one moment is to be measured by the ten moments some gentlemen have taken here, I should not like to withdraw it.

Mr. ROBERTS. Will you do it for one minute?

Mr. SQUIRES. For one minute by the clock.

Mr. ROBERTS. Mr. Chairman, before this committee shall rise, I merely want to make a personal explanation. And

that is, gentlemen have seen fit to make much out of my waiving a discussion of the merits of this question. I did it, sir, out of a desire to save time to the Convention. Understanding that gentlemen have made up their minds as to how they are going to vote and nothing could be done in the way of conviction, I of course thought that the matter would go immediately almost to a vote, but since there has been a challenge for the discussion of this matter upon its merits, I shall do what I can to give that matter due consideration. I am prepared and was prepared this morning, merely using but three sheets of notes out of a possible fifteen upon the subject. And I shall be perfectly willing to place what I may have to say side by side with what has been said upon the merits of the question by other gentlemen, and I shall not object at all to running a tilt with my friend even from Utah County on the subject of logic. [Applause.]

Mr. SQUIRES. I now move that we rise and report progress.

The motion was agreed to.

The committee rose and reported as follows:

Your committee has had under consideration the article on elections and rights of suffrage and reports progress and asks leave to sit again.

The Convention then at 4:30 o'clock p. m. adjourned.

TWENTY-SIXTH DAY.

FRIDAY, March 29, 1895.

The Convention was called to order at 10 o'clock a. m. by President Smith.

The roll was called by the secretary and members found in attendance as follows:

Adams	Larson, L.
Allen	Lemmon
Anderson	Lewis
Barnes	Lowe, William
Bowdle	Lowe, Peter
Boyer	Low, Cache
Brandley	Lund
Button	Maeser
Buys	Mackintosh
Call	Maloney
Cannon	Maughan
Chidester	Miller
Christianson	Morris
Clark	Moritz
Coray	Murdock, Beaver
Corfman	Murdock, Wasatch
Crane	Murdock, Summit
Creer	Nebeker
Cunningham	Page
Cushing	Partridge
Driver	Peters
Eichnor	Peterson, Grand
Eldredge	Peterson, Sanpete
Engberg	Pierce
Evans, Weber	Preston
Evans, Utah	Raleigh
Farr	Richards
Francis	Ricks
Gibbs	Roberts
Goodwin	Robertson
Green	Robinson, Kane
Hammond	Robison, Wayne
Hart	Ryan
Haynes	Shurtliff
Halliday	Snow
Heybourne	Spencer
Hill	Squires
Howard	Stover
Hughes	Streveil
Hyde	Symons
Ivins	Thompson
James	Thoreson
Johnson	Thorne
Jolley	Thurman
Kiesel	Van Horne
Keith	Varian
Kearns	Warrum
Kerr	Wells
Kimball, Salt Lake	Whitney
Kimball, Weber	Williams
Lambert	Mr. President.

Prayer was offered by Rev. Dana W. Bartlett, of the Congregational Church.

The privilege of the floor was granted to Messrs. Allen, Pence, Shurtliff, Chambers, and Fullmer.

The journal of the twenty-fifth day's session was read and approved.

Petitions and memorials.

Mr. Bowdle presented a memorial praying for the submission of a separate article on the question of prohibition to a vote of the people at the same election at which the Constitution is voted on, signed by members of the Woman's Christian Union, of Salt Lake City. Also a similar memorial signed by Mrs. Orr and 500 members. Also a similar memorial signed by Rev. E. M. Ross, and 12 others, all of which were referred to the committee on schedule, future amendments and miscellaneous.

Mr. Morris presented a similar petition signed by W. S. Hawkes and 177 others, legal voters of Salt Lake County, which was referred to the committee on schedule, future amendments and miscellaneous.

Reports of standing committees.

Committee on militia reported as follows:

MR. PRESIDENT:

Your committee having under consideration an article for insertion in the Constitution on militia, have the honor to report that they have had under consideration files Nos. 66 and 72, herewith returned, and submit the following as a substitute and recommend its adoption. GEORGE RYAN,
Chairman.

The PRESIDENT. It will go to the committee on printing and on the calendar of the committee of the whole.

The Convention then resolved itself into committee of the whole, with Mr. Kimball, of Weber, in the chair.

COMMITTEE OF THE WHOLE.

Mr. IVINS. Mr. Chairman, I ask the privilege of the floor for the purpose of making a motion which may by some of my colleagues be regarded as illtimed, but it is one it seems to me that is amply proper and in order at this stage of the proceedings. Therefore, if I shall receive a second to it, I desire the opportunity of making a few words of explanation in regard to it. I move you, Mr. Chairman, that it be the sense of this committee that section 1 of the article on elections and rights of suffrage be now passed to its third reading without debate.

Seconded.

Now, Mr. Chairman, in support of this motion, I wish to say that in making it I have two objects in view. First, I am prompted by a question of economy, and secondly, by sweet charity. The question was before the Convention yesterday and was debated during the entire day. My friend from Davis County (Mr. Roberts) tells us that from fifteen pages of manuscript, he yesterday used three in making his argument. Now, I find upon a computation that I have made here, that it took fifty pages of printed manuscript and twenty-five pages of verbal argument to answer these three pages of notes from which the gentleman made his argument. Based upon this calculation if there are still twelve pages to come, it will require 300 pages of printed manuscript and verbal arguments to answer them. If it took us one day to listen to yesterday's argument, upon this basis, it will take us three and three-quarter days to hear that which is yet to come. Now, I am fully aware that a great many of my colleagues are desirous of being heard upon this question. My friend from Weber (Mr. Evans) has a large collection of notes here, and he is just running over with eloquence and good feeling which he wants to express in behalf of the fair sex. I also have fifteen or twenty pages myself. They are not reduced to writing yet, but I have them in my mind all right; but I have concluded, Mr. Chairman, that I can just change the title of my argument and bring it in later in some other place, and it will answer my purpose just as well. And so I have concluded that all things considered it will cost us

from two thousand to three thousand dollars to sit here and listen to these arguments, and to print and publish them. I ask myself will the end justify the means? It seems to me that sufficient has already been said upon this question. I was very anxious myself to introduce Moll Pitcher, Joan d'Arc, and Isabella of Spain, in this race as examples of virtue and patriotism, of what woman ought to be as against Cleopatra and Catherine of Russia, and Elizabeth of England, but I am willing to forego that from an economical standpoint.

Mr. EVANS (Weber). You have already got them in now.

Mr. IVINS. Now, Mr. Chairman, there is another question which enters into this discussion. It is not at all probable that the great majority of the members on the floor will participate in it at all, and viewed from the standpoint of charity, I want to call your attention to the affliction that will be placed upon the great majority if they have to sit here for three and three-quarter days more and listen to those arguments, to say nothing about what will be suffered by future generations when they come to read these debates, and so it does seem to me in all seriousness that this continued debate is useless. The members of this committee are commited to this question; we have crossed the Rubicon; there can be no doubt about this. It is an entirely one-sided affair, and I can compare it to nothing, Mr. Chairman and gentlemen of this committee, when I get right down to serious thought, but the assault of Don Quixote and his devout esquire Sancho Panza, upon the windmills of Spain. With all good feeling to those gentlemen who would like to be heard further on this subject, I really think it ought to be passed to its third reading, and let us go on to other fields of legitimate argument, where we will be more evenly matched, and where some good results are likely to come from the discussions that will be had and the expenditure of the people's money.

Mr. VARIAN. Mr. Chairman, is there a motion in the committee of the whole to close debate on the first section and pass it to a third reading?

The CHAIRMAN. That is the nature of the motion, and I take it to be in the nature of a motion to cut off debate, which would be out of order, except with the unanimous consent of the committee.

Mr. IVINS. Will the gentleman allow me just a question?

Mr. VARIAN. I make the point of order.

Mr. IVINS. The motion is that it be the sense of this committee that the section be passed to its third reading. It is simply to get the sense of the committee, and I understand that it would be proper at any time to——

The CHAIRMAN. I suppose that your motion is in effect that the matter now pending before the committee be passed upon without further debate?

Mr. IVINS. My motion was made with a view of getting the sense of the committee on that point. I fully realize the fact that we cannot shut out debate.

The CHAIRMAN. The point of order being raised, I sustain the point of order.

Mr. VARIAN. Then there is no motion before the house?

The CHAIRMAN. Gentlemen of the committee, the question now pending before the committee is the substitute of the gentleman from Weber (Mr. Kiesel) offered for section one.

Mr. LUND. Mr. Chairman, I do not believe that argument on this subject should be shut off. Gentlemen of the Convention, it has not been opposed upon its merits to this time, and if I may have as much time as Mr. Ivins took in advocating economy, I desire to oppose——

The CHAIRMAN. Mr. Roberts has

the floor and yielded it until the question was stated.

Mr. LUND. Mr. Roberts has spoken once to this subject. I am opposed to any more time being taken, as president of the expense committee.

The CHAIRMAN. Mr. Roberts has the floor.

Mr. ROBERTS. Mr. Chairman, in order that the nerves of my friend may be somewhat settled, who attempted to speak, I wish to inform him that through the kindness of members on the floor, I have a list of names of gentlemen who have yielded me their time, that amounts to about two hours and thirty minutes.

[Laughter and applause.]

Mr. LUND. Mr. Chairman, I want a list of those names so that I can keep the expenditures in conformity with law.

Mr. ROBERTS. If it is necessary I will read the names.

The CHAIRMAN. No, sir; it is not necessary.

Mr. ROBERTS. Or submit them to the gentleman's private inspection. It is not at all likely, sir, that I shall occupy that length of time, but I thought it necessary to state that I had that wide margin to move in, so that I should not be interrupted upon the ground that I had exhausted the time.

Now, sir, having had full confidence in the fairness of my friend from Washington County (Mr. Ivins), I consented not to make an attempt to get the floor first this morning in the committee of the whole, but extended to him at his request the courtesy of first making a motion and a few remarks before I should proceed. Little did I think that lurking under that request and the smile with which it was made, there was a determination to cut off the debate, and prohibit my speaking altogether. [Applause.]

If this debate on the question of woman's suffrage is prolonged, I think this Convention ought not to hold me responsible for it. Yesterday morning when I rose in my place to speak upon this question, a curious condition of affairs confronted me. The day before, I was surrounded by quite a number of enthusiastic friends, but a caucus was held that evening and gentlemen came to me the next morning and concluded that it was useless to make any fight whatever; that the overwhelming majority of the republican party or republican members on this floor, had gone into caucus and agreed that they would vote solidly for the proposition. I knew that that was the condition of my democratic friends, and therefore, I was confronted with the uselessness of argument, when men had closed their ears to reason, and were determined, no matter what their convictions upon the subject, to vote in favor of this measure, considering themselves bound by ill considered party platforms. But, sir, I still was of the opinion that if woman's suffrage should form a part of this Constitution, it would be a menace to its adoption, and I conceded it to be my duty, however useless an argument might be upon the merits of the case, to sound a note of warning and point out the danger. Therefore I waived the question upon its merits or the consideration of it. You may judge, sir, of my astonishment in the afternoon, therefore, when gentlemen arose upon this floor and upbraided me for dodging the main issue, and charged me with attempting to settle the solemn question touching the rights and privileges of perhaps forty thousand people in this Territory, upon the question of expediency alone. I do not charge the gentlemen with intended unfairness by taking that ground. The gentleman who made the charge in chief I believe to be incapable of an intentional injustice to a fellow member. For a man who proposes that his work shall be followed upon the lines of clear good sense and cold logic, who proposes to eliminate all feeling and sentiment and turn phil-

osopher and judge the question clearly in that light, he must hold, sir, that he ought to have a better regard for his primary propositions and get his premises right, or he may get entangled in his arguments and conclusions.

There are one or two other little matters that I want to set right before proceeding to the main issue before us, especially as it will enable us to judge of the logic of the gentleman.

In the course of my remarks yesterday morning, I ventured to point out to the Convention the condition in which I was placed, as some members had gently hinted, if I took the position I have taken upon this question, I would find my hopes blasted and supposed political aspirations killed. Disclaiming having political aspirations, I nevertheless referred to myself as standing in the midst of the ruins of these blasted hopes and political aspirations. Whereupon this logical gentleman suddenly flies to the conclusion that I had reference to each of you as a particular ruin, and that I stood in the midst of one hundred and seven such ruins. I know not what had passed in the gentleman's mind to lead him to the conclusion that he was one of the ruins referred to. And then, sir, following that keen incisiveness that is so characteristic of his logic, he forgets that one hundred and seven ruins that his own imagination had conjured up, and raised me into a magnificent ruin, the comparison of which could only be expressed by referring to that splendid ruin, the Coliseum of Rome. I think my friend rather stretched his logic in referring to the Coliseum and that he himself attempted a flight of oratory in order that he might get in this time worn expression:

While stands the Coliseum, Rome stands;
When falls the Coliseum, Rome falls;
And when Rome falls—the world.

I confess, sir, that if that is the character of the logic with which I am to be followed, when I come to arguing the merits of this question, I say concerning it in the language of old Falstaff: "And thou lovest me Hal, no more, then?"

Again, by the gentleman's remarks, I was placed, I presume, in the opinion of some of the members here, in a very unenviable position, because it is thought that my course is inconsistent with political party platforms, and the gentleman read to us, as I understood, the plank in the platform of the democratic party on that subject, and announced with what pride he had himself drawn that plank in the platform. Now, I have been accusing another gentleman all along of doing that, and I am pleased to be corrected. A few days ago in conversation with this same gentleman, he told me of another plank in that platform, that he himself had drawn, and of which he was equally proud, and that was the plank which demanded a non-partisan convention to form this Constitution. Another instance, I take it, of the gentleman's logic. On one plank that he draws he undertakes to make a party issue of woman's suffrage and put a plank in it binding the party to it, and he writes another plank freeing them from the obligation.

Mr. MURDOCK (Beaver). Will I be permitted to ask a question?

Mr. ROBERTS. Yes, sir.

Mr. MURDOCK (Beaver). I am greatly to a disadvantage here this morning, for I am without a voice; still I will have to put up with what I have got and you will excuse me. Do we understand that we now enter into a two hours—that is, with the privilege of two hours and a half's speech from those that you got the time from?

Mr. ROBERTS. So much of the time as I may see proper to use.

Mr. MURDOCK (Beaver). I want to be informed. I will ask this committee if that is the way to proceed in business——

Mr. VAN HORNE. I arise to a point of order.

The CHAIRMAN. The gentleman has the time; it is unnecessary to interrupt him.

Mr. MURDOCK (Beaver). I would like the sense of the Convention upon this point.

The CHAIRMAN. The matter has already been before the house and passed upon.

Mr. MURDOCK (Beaver). He claims that he has so much time. With all due respect to him, is that the way for a man to get time? to go around among those that don't feel to say anything, and——

The CHAIRMAN. That is in accordance with the rules of the Convention.

Mr. KEARNS. Mr. Chairman, I wish this man would not be interrupted. He did not go around for time. He can have mine if he needs more.

Mr. THURMAN. Will the gentleman yield to me for a question—I am very sorry for this interruption, but I want to ask if the plank put in the democratic platform raised any issue between the parties? I am sorry to interrupt you, because I know that it puts the speaker to a disadvantage. But you had made the remark that the planks were inconsistent, the one which declares for a non-partisan constitutional convention, and the other which declared in favor of woman's suffrage. Now, I ask you if that which declared in favor of woman's suffrage put that question in issue at all? the republicans having already declared in favor of it.

Mr. ROBERTS. As between the parties?

Mr. THURMAN. As between the parties.

Mr. ROBERTS. There was an attempt to raise an issue between the republican party and the democratic party by the adoption of that plank, in consequence of the equivocal language in which the republican plank on that subject was drafted, and our democratic friends undertook to cut the ground from under their feet by coming out in still bolder terms and it was hoped that the issue of woman's suffrage would be raised by that plank.

I was going to remark, Mr. Chairman, however, that the position of the gentleman from Utah County and that which I occupy are different in some of their essential features, but in order to place myself in a proper light and to escape the odium that is sought to be attached to me by the remarks of the gentleman, I find it necessary to tell the circumstances in brief, under which I was nominated and elected to this Convention. I never expressed so much as the most distant wish to any man on earth to be a member of this Convention. The one person with whom I ever passed one word upon the subject before I was nominated was one of my colleagues now in this Convention, and he asked me my opinion in relation to who I thought ought to be nominated from our locality, for we both live neighbors. He expressed a wish I might be nominated or that he had said to some one that he wished that I would be nominated, to which I neither assented nor demurred, but after a few remarks I left him and the same evening took my departure from the Territory. When I returned it was October and the political fight in the campaign was on. The first gentleman that I met and conversed with upon the subject was another colleague of mine from the same county on this floor, and he informed me of my nomination before the convention and selection by the convention. He told me about the county convention and what was done there. He told me that there was a drawn plank or statement binding the delegates from that county to work for woman's suffrage, and he himself objected to be bound to work for it and vote for it. That expressed my sentiment. I too, sir, would have objected to be bound to

do so. There was nothing in the county platform of the county from which I came that bound me, as the gentleman says he is bound. As soon as I arrived in Salt Lake City, there was a wish expressed on the part of democratic leaders that I should accompany the honorable delegate in his tour through this Territory, and I immediately or almost immediately started on that tour. I held but two meetings in the county from which I came. Woman's suffrage was never mooted in either of them, so that I felt entirely free upon this subject. I was not mingling with my constituency, but was doing work for my party at large, and from the southern line of this Territory to the north of it, there was nothing said in all the meetings that I attended upon the subject of suffrage. So, indeed, it seemed not to be an issue anywhere. And I came to this Convention, unbound to work or vote for woman's suffrage, and no taint of dishonor can attach to my conduct here in speaking of this subject, but I do not plead special circumstances.

I met the proposition of the gentleman fairly in the face and I say to him and to a number of gentlemen (in which number, however, this gentleman shall not be included for what I am going to say) but I say to a number of gentlemen who do not believe in woman's suffrage and yet are going to vote for it, and against their convictions on the subject, thinking that they were bound by party pledges—I address myself to them, and for that matter to all of you whether you believe in woman's suffrage or not, if, to use an expression, from gentlemen from Salt Lake, here upon this floor, if the sober second thought is better than the first and that to pursue this issue and adopt woman's suffrage in the Constitution will endanger its life, what dishonor could attach to a man if he went back to his constituency and told them upon serious second thought he concluded it would be safer for the main object that we all have in view to waive the granting of woman's suffrage? For the life of me I cannot see where dishonor attaches when men walk according to the best light of the judgment they possess. Men ought not to be too much afraid of inconsistency. Human judgment is so short-sighted that he is a peculiar man indeed who throughout his life shall commit no inconsistencies. I fear that such a man as that would be so afraid that he would do wrong that he would never do right. Now, sir, with these few explanations I am ready to proceed to the main argument of this question on its merits.

I lay down as a great principle underlying this whole subject this proposition: The elective franchise ought to be granted only to those individuals in a position to act independently, free from dictation. That is the great principle underlying the granting of the privilege of the elective franchise, and upon that idea rests the franchise in the United States. It is proposed to enfranchise women of twenty-one years of age and upwards. I submit that the overwhelming majority of that class of women in this Territory, and in the United States for that matter, are married women, and such, sir, is the structure of the family that women are not in a position to act independently without dictation. I wish to glance for a few moments at the structure of the family. When the great Creator said to woman, "Thy desire shall be unto thy husband and he shall rule over thee," and when the great apostle of the gentiles repeated the same great law by saying, "As Christ is the head of the church, so is the man the head of the woman," they were merely repeating a great law that existed as much in the nature of man and woman as it does in the revelation itself. That decree of the Almighty, sir, was not a part of the curse pronounced upon woman, but it was the expression of a great truth as

much in harmony with the nature of man and woman as it was with the decree of God. I know, sir, for announcing this doctrine in such cool terms that I shall be anathematized perchance as a tyrant to women, a man unfeeling and tyrannical in his disposition towards the fair sex, but I shall trust to those who know me and my life not to take any serious consideration of that accusation, and I shall try to convince this Convention by an expression of my views on that subject, that I do not believe that leadership, headship, responsibility of precedency, is necessarily accompanied by tyranny and by oppression.

I rather like that answer which old rough Martin Luther made when he was asked the question, "How is it that the Almighty did not create woman out of some other bone than a rib?" Said he, "He did not make her out of a bone of his head, lest she should rule over him; he did not make her out of a bone of his foot, lest he should trample upon her; but he made her out of a rib from his side from under his arm that man might protect her." [Laughter.] I grant you, gentlemen, that I am not a polished man, I grew up untutored among these mountains of ours and doubtless in my nature and disposition partake somewhat of the roughness and ruggedness, and perchance my severe statement of the doctrine relating to the position of woman might be considered as the views of a semi-savage upon that subject, but I find that away across the Atlantic a man reared in the midst of all the refining influences of our civilization bears me out in this doctrine. Gentle Tennyson says on the subject:

But this is fixed as are the root of earth and base of all,
Man for the field and woman for hearth,
Man for the sword and distaff she,
Man with the head and woman with the heart,
Man to command and woman to obey,
All else confusion.

That, I take it, expresses, sir, the great doctrine entertained by the Anglo-Saxon people in relation to this subject. Now, I put this proposition to my friend, who will answer me in this debate, let him take his choice of these two propositions, either to deny that the elective franchise can only be held by those capable of acting independently, or else let him deny the position of woman in the family. If he undertakes to deny the first, let him remember that the wisdom of civilization has fixed it so, and if he takes exceptions to the position of woman in the family organization, let him remember that a wisdom greater than the wisdom even of enlightened nations fixed the status of woman in the family. [Applause.]

That the great majority of the women whom it is proposed to enfranchise, belong to the married class, cannot be denied.

Having laid down that doctrine, I submit it for the operation of the logic of the gentleman who is to follow. I shall indulge myself for a few moments in a consideration of the arguments that are supposed to sustain the necessity and the justice of granting suffrage to woman. In the Declaration of Independence, there is a phrase that has become historical, and which I may say is the hope of the nation, and that is this: Governments derive their just powers from the consent of the governed. And gentlemen might leap to the conclusion after reading that phrase that it is but a simple act of justice they should grant women the franchise that they might give expression to their consent in the government. Gentlemen make too wide an application of this doctrine. If they will pause a moment and consider it somewhat in detail they will find that direct consent which supports government in these United States is composed of the minority, and I might almost say a small minority. There are excepted out of those who give their consent to be governed, of course, all

minors. The wisdom of our statesmen up to the present day has excluded all women. In several of the states the wisdom of our statesmen have excluded those who hold no property. In other states that same wisdom has excluded all those who can not read or write, and take these together, they constitute the majority, and direct consent for the support of the government is only given by the minority of the people governed.

The argument of the gentleman upon this, built upon this phrase found in the Declaration of Independence, would convert the elective franchise into a right, not a privilege. I take it, sir, that neither democrats nor republicans are prepared to contend for that. It is conceded by all men informed upon the subject that the elective franchise is a privilege granted by government and not an inherent right. In order to distinguish the difference between it as a right and a privilege, let me invite your attention to a contrast of a privilege and right. Our committee on declaration of rights told us that all men had the right to live, the right of life, and the right to liberty, and these were inalienable inherent rights. Our committee, reporting on elections and suffrage, provided in their article that no property qualification shall be required for any person to vote, but that is made a provision in some of the states, and in section 10 they say, "no person shall have the right to vote who shall not be able to read the Constitution of the United States." Now, let us try it. Suppose you were to say in your declaration of rights, "No person shall have the right to life, but those who can read the Constitution of the United States. No person shall have the right to hold property but that can read the Constitution of the United States." This is elementary, and I beg pardon of the committee for introducing it, and yet Mr. Chairman, after all I don't know but a little elementary doctrine, even if I am to judge from the discussion or argument of the gentlemen on the other side, would be a good thing to indulge in. It clearly exhibits the difference between a right and a privilege, and governments have always held the power to enfranchise those whom they would, and it is not the inherent right and cannot be claimed upon that ground. On this subject I presume, I will have to turn lawyer and refer you to Cooley.

(Reads):

But in every state, although persons are under the protection of the government and obliged to conform their actions to its laws, there are some who are altogether excluded from participation in the government and are compelled to submit to be ruled by an authority in the creation of which they had no choice. This patent fact suggests the inquiry, who are the people in whom is vested the sovereignty of the state? Since it is evident that they cannot include the whole population and that the maxim that the government rests upon the consent of the governed is in practice subject to exceptions (and I have noted some of these exceptions) as a practical fact, the sovereignty is vested in those persons who by the constitution of the state are allowed to exercise the elective franchise.

I might refer also to another consent negatively expressed and only tacit in its expression, but nevertheless real on that account, and that is the tacit consent which comes from refraining from revolution that overturns governments, and that consent thus expressed upholds governments no less than that direct expression that comes from the exercise of franchise.

I next come to the proposition upon which gentlemen built up, as I think and as they suppose, their strongest argument: "No taxation without representation."

The committee refers to this in their report, that they have kept in mind and therefore it is presumed, since there are some women who hold property and have property in their own right, that when you deny representation to them you are violating the great principle

upon which our own freedom was won. But let us subject it to an analysis and see how much of it is good and how much of it is worthless. I think the gentlemen will agree with me that the great bulk of our women population are only property owners in connection with their husbands. They have no property of their own separate and apart from their joint ownership in property with him. And you shall single out those who are unmarried and are property owners, while the number might be considerable, in comparison with the great mass of women that it is proposed to enfranchise, that number is insignificant. I hold to the doctrine that each man who is married, in the exercise of his privilege of suffrage, is the representative in that act, not only of himself, but of the little group with which he is connected. He acts for his family, and gentlemen must not be carried away with the idea that they act independently of the influence of the wife in that case either. It may suit the fancy of man, it may be accorded by the shrewdness of woman to let him think that that is the case, but as a matter of fact, it is not the case. I think before I get through I shall be able to show you that women already have an influence in politics, and though indirect, it is none the less real, and that when a man who is married casts his vote, it is the expression of the mentality of the group with whom he is connected. The hobo and the bachelor may each for himself cast his ballot with no other consideration than how it affects him; but, gentlemen, the man who is a head of the family does not do it and he cannot do it, because there stands by his side a counsellor and he cannot escape hearing her. [Laughter.]

I want to prove that I do not stand alone in this proposition. In England, Scotland and Wales, they have in some more or less modified form, suffrage—municipal or school election suffrage, but in those countries it is confined to a single woman of voting age, and to widows. Why do they leave out all the married women? Because the statesmen of Great Britain well know that the married women of England are not unrepresented either in taxation or anything else, but they grant it to a single woman and to widows. In Sweden, the modified form of woman's suffrage is held exactly on the same principle, only they extend it a little further in Sweden than they do in Great Britain. They permit them to vote for the lords or members of the house of lords indirectly. In Russia to the extent that franchise is granted to women in the elections that take place about local matters, it is confined to women who are the heads of households, and why? Why, for the same reason for those who are wives have already representation; and sir, that practice follows the Russian—the self governing town, wherever it is planted, even in Asiatic Russia. Again, in Italy, widows vote even for members of parliament. Why don't they extend it also to married women? For the reason that these countries recognize the doctrine that I have laid down upon this floor, that the married women need no other representation than that which comes indirectly through the head of the family.

Now, let us consider those who have no husbands, in comparison with the female population on whom it is proposed to confer the franchise. The unmarried, especially those among them that are property owners, form, as I have already stated, an insignificant minority, yet considerable in number, I grant you, and their right to be represented ought to be considered. The question so far as the principle of taxation without representation is concerned, is narrowed down in my opinion to this: That if all gentlemen want to do is to recognize the great principle of no taxation without representation, all that they have to do is to give the

franchise to those who are not already represented in this matter, but even this should be well considered before it is conceded. I want to ask you what discrimination is made against woman in this matter of taxation? Do men fix one schedule of taxation for women, and another schedule of taxation for men property owners? Don't the burdens of taxation rest upon the man and woman alike? Is there any conflict in the interest of property owners, whether man or woman? Do not men who pay taxes contend that they shall be reduced already to a minimum? Could it be hoped that if the women regulated the taxes they would be somewhat less than they are now? I grant you if there was any hope for that, the temptation to grant them the privilege would be considerable. But, sir, there is no hope that such a result can be obtained.

Now, I want to consider the question as to what motives prompt the extension of franchise to those who are unfranchised. What principle has guided statesmen in the past on that proposition? Has it been mental equality? Has it been based upon sentiment or necessity, through all the reforms on this question in the history of the race of which we form a part? When the barons met King John and demanded franchisement at his hands, was it based upon the plea that they were mentally equal with him? God save the mark! Let us not think the barons of England were not superior mentally to that half dried mummy, King John. Gentlemen, it was not a question of mental equality, but it was in the instance I have referred to and remains to-day one of necessity and one of protection. When in the 17th century the commons of England made their famous petition of right and demanded franchisement, was it on the ground that they were mentally equal with those already in possession of the franchise? Why, no, but it was to protect themselves against enforced loans and benevolence to the king that they wanted enfranchisement, that it could not without their consent, compel them to loan money to the crown. Now, sir, I will not take up the time of this committee to review the franchise reform in England in 1830 and in 1832, nor the later agitation on the same subject in 1867, nor the same agitation in 1872; but if gentlemen will take trouble to look into those cases they will find in every instance that it was placed upon the ground of necessity, that one class might protect itself from the oppression and unfairness of another class. We have an instance of it right here in our own country, when the shackles were struck from the limbs of three million slaves and they were given equal political franchise with their former masters. Was that upon the ground of mental equality—a sentiment that these black people should have equal franchisement with their former masters? No, it was not; the franchise was given to them as a means of protection that they might protect themselves against their former masters. So, throughout the history of this question. And now, since it has been upon this principle that franchise has ever been extended, I want to ask my logical friends what reason is there here for extending it to woman? Have we in our conduct been so bad to women that mothers, that daughters, that wives, and sisters, have need to protect themselves against us? Will you answer me upon the question of necessity?

Gentlemen argue this question upon the ground that a man must be the inherent foe of woman, and we hear declamations against clanking chains, oppressing tyranny, until really if this goes on every woman that one meets he will look for the gyves upon her wrists and the chains attached to her foot. Gentlemen, it is all solemn mockery. There is no such a thing as a

conflict of interest between man and woman that demands any such action as is here proposed? Upon this point I read to you the words of a thoughtful woman, published in the Atlanta Constitution, February 16th. The quotation is from Mrs. Atkinson, wife of the governor of Georgia:

I have been impressed with the fact that many of those who sympathize with the suffrage movement discuss it in a spirit which is neither becoming to them nor helpful to their cause. It is folly to try to make sensible people believe that women are white slaves, and men are their masters. It is untrue and unfair to allude to men as though they were the oppressors of women and are wilfully and maliciously depriving them of their rights.

My belief is, and my experience confirms this belief, that men and women are not natural enemies, but are natural friends, and in fact are the best of friends.

This question by those advocating woman's suffrage is misstated when they ask for equal rights, for women exercise a great number of rights, a few of which are unequal in responsibility by any that men hold. Men and women may have equal rights and not yet possess the same rights.

Woman are exempt from poll tax, from liabilities to work upon the public roads, from jury duty, and from military service, while the law guarantees them equal rights to own and hold property—in many respects their property rights are superior to those of men.

There may be some duties for which both sexes are equally well fitted; if the right to vote and to become participants in political affairs be one of these, then I would suggest to those who advocate this that they talk less to the man and give the women some good reason why they should vote, for we cannot believe that man is woman's oppressor or that there is any spirit of envious rivalry between the sexes.

While I am upon this subject, I want to refer to something that is quite unusual in those who pursue the argument in favor of woman's suffrage. It is a wonder that this has not been introduced on this floor, and it is quite possible, Mr. Chairman, that it will be before we get through. I cannot define what will be the course of argument of gentlemen who are to follow me, but it is not unusual to say that men have relegated women to the political association of idiots, insane, and convicts.

At the recent woman's suffrage meeting, held in the south, a Miss Colby, of Nebraska and Washington, arose before the convention. I quote from the despatch describing the matter:

She held up a photograph and said that it represented woman and her political peers. In the center was the picture of Miss Francis Willard, in the upper left hand corner was an idiot, in the upper right hand corner a convict, in the lower left hand corner a painted Indian, in the lower right hand corner a lunatic.

I ask gentlemen and woman suffragists is that the price, the value that American manhood has fixed upon woman? It is an insult to the generous generation of American men who now sleep in their graves to say that they have relegated woman to any such condition as that, or make it possible for odious comparisons of the kind to be truthfully and rightfully made. Nowhere on this earth, where God's sun shines, has woman been so enshrined and sainted as she has been in the hearts of American manhood. [Applause]. It is an outrage to make such arguments as that. This demand for woman's suffrage is not new. Why it is old. Away back two thousand years ago when Plato said, "In the administration of a state neither woman, as a woman, nor man, as a man, has any political functions but the gifts are equally diffused in both sexes." From the time that remark was made until now, I repeat this demand for suffrage for woman has been made. Why has it not been granted? Surely there must have been some reason why it has not been granted. Manhood is just. In the main they seek to do the right thing. They have stricken down slavery in every Christian land almost. Why is it that they have not granted this continuous demand? Certainly

there must have been good reasons and I briefly state a few of them, because it has been generally accepted that women had been actually represented in governments by their husbands, fathers or sons, since there is no conflict of interests, the representation, though indirect, has been sufficient. Second, because of the position of women in the family fixed by wisdom, greater even than that of the wisdom of our ancestors. She is not in a position to act independently as all ought to do who have the elective franchise. The main reason why they have been denied it, however, is be found in the universal belief that there is a difference in the sphere of man and woman, as there is in their nature. The time honored theory was expressed by one of our poets who said:

For contemplation he and valor formed,
For softness she and sweet attractive grace,
He for God alone and she for God in him.

That has been the theory of the relationship of man and woman. Man's nature and disposition fit him to be the protector of woman, and it has been so from the earliest periods of recorded time until now. In barbarous times and ages, it was the strong right hand of man that protected woman; through wisdom's ways they learned to contrive a new form of protection as it is to be seen in government; the right still went with that new device, that its management, its control, the exercise of its powers, should still be with man.

Notwithstanding the fear of bayonets and bullets expressed and anticipated by my friend from Salt Lake, who by the way was kind enough to sing such a beautiful euphonism last evening, laying me quietly away in the fond embrace of death amid the sunbeams of the setting sun and mingling beams from woman's eyes—and I confess that the gentleman was a success at that— I was walking around in a sort of a dazed condition until the rude thump of the chairman's gavel aroused me from the sweet reverie and I came to with an exclamation, and I still alive. Notwithstanding his attempted anticipation of this part of the argument, it is true that at the last governments find their basis upon force, and whenever the shock of conflict comes the women are relegated to the rear and men step to the front, still the protectors of home and woman. Though woman is in the rear the consciousness in the heart of man that he is contending for that woman and that home lends potency to his forces that he could not be deprived from her were she an Amazon and armed cap-a-pie and marching by his side. [Applause.]

And there is some truth in the doctrine that ballots do not amount to much unless bayonets are behind them, and good manly hearts to bear the bayonets. I now come to the question of equality. I wish to say in the presence of these ladies that this Convention about extending suffrage to them is not properly based upon equality. It is not a question of superiority or equality. Whenever that question is raised I yield the palm to woman. I join the sentiment of my friend from Salt Lake on my right, that in the moral virtues, in everything that goes to soften the hard conditions of humanity, in everything that teaches that which is beautiful and best in nature or in man, woman is the superior of man. Just as I think our sister will yield the palm to physical strength in man, there is no disparagement meant to woman when I say that man is better fitted to govern men than she, no more than there is disparagement against man when we say that in the softer and more refining graces woman is his superior. I can conceive of two things being different and yet in some things and in general we may say equal. For illustration, I may say of the two greatest men of England to-day or this generation of Englishmen, that Glad-

stone and Tennyson are equals. That does not mean that because one of them is at home with Arthur's round table and tells us a beautiful tale of the Idyls of the King, and because Gladstone cannot do that, that Gladstone is therefore not the equal of Tennyson. I imagine, sir, that the poet would find himself much confused if he undertook to deal with an English budget. He could not control the house of commons and sway the reasons of men to support that which is best and just for the government. They are different in their spheres, but equal as to being men.

And so it is with man and woman, different in their dispositions, different in their tastes, different in their constitutions, but equal doubtless as to their abilities, equal as to their mentality. So I mean no disparagement to the women of this Territory, when I express the opinion that they ought not to be enfranchised. I favor equal educational advantages for men and women, though I would have the women apply the knowledge that is acquired to building up a higher excellence in the proper development of their lives. Then, again, I am not unmindful of the power and influence of women. Why, sir, I am well aware that if we men were left alone, we would soon sink into a state of barbarism. Some portion of my life has been spent in mining camps in this Territory, and I know how debased men can become when deprived of the society of women. I place the value of woman upon a higher pinnacle, and there is not a suffragist among you all that has a higher opinion of her and of her influence than I myself entertain. But let me say that the influence of woman as it operates upon me never came from the rostrum, it never came from the pulpit, with woman in it, it never came from the lecturer's platform, with woman speaking; it comes from the fireside, it comes from the blessed association with mothers, of sisters, of wives, of daughters, not as democrats or republicans. [Applause.]

I am happy to find that I have some one to help me out in those views. I quote the words of a man than whom there is not another in the United States who gives more consideration to public questions or whose intelligence and wide education qualify him to better express an opinion, and I refer to his excellency Cardinal Gibbons:

> Christian wives and mothers, I have said you are the queens of the domestic kingdom. If you would retain that empire, shun the political arena, avoid the rostrum, beware of unsexing yourselves. If you become embroiled in political agitation the queenly aureola that encircles your brow will fade away and the reverence that is paid you will disappear. If you have the vain ambition of reigning in public life, your domestic empire will be at an end.

It is that which I fear, if we drag women into the political arena in this Territory. I know, sir, that the effect of that is denied. And whenever gentlemen undertake to deny that that will be the effect they point us to Wyoming. I paid my passing respects to the state of Wyoming yesterday. I am not, however, altogether through with the reference to that matter. I asked yesterday why such states as Virginia and New York and those older states, empires within themselves, were not cited. Why not cite even Kentucky? Pardon me, I did not mean "even," because Kentucky, sir, shall not by any manner of means lose its comparison with any of the states that compose this American Union. It was a slip of the tongue to put it in that form. [Laughter.]

Aye, sir, I will quote you even the very Ashland district where woman exercised an influence, although she did not possess the ballot, and the result demonstrated the truth that she had no need of it when there is a question of hurling down the steeps of his own

ambition a man who has outraged every public sentiment of morality.

I trust, sir, that in the future of Utah, whenever an issue of that kind shall arise, that the women of Utah, acting like the women of Ashland district, shall come to the rescue and acquit themselves as well, and they will not need the ballot to do it either, even as these women did not need the ballot to do it. So, I suggest to my friends Kentucky versus Wyoming, as a model for Utah. I reaffirm the effect of public life and especially of political public life upon woman, and propose to prove it. I read from a dispatch in Salt Lake Sunday's Herald of August 6th. The scene that it describes occurred on August 5th, 1893:

The board of lady managers indulged in another decidedly unpleasant wrangle to-day. It lasted nearly two hours, and during that time many unpleasant things were said, and many ladies gave vent to their feelings. Mrs. Ball, of Delaware, secretary of the committee on awards, made a long complaint against Mrs. Mederith, chairman of the committee; among other things she charged that when Mrs. Mederith was unable to attend a session of the committee she sent her sister to act as overseer, when her sister had not a right to a seat in the committee. At frequent intervals during Mrs. Ball's remarks there were loud exclamations of surprise from the audience, but the sensation came when in closing she characterized Mrs. Mederith as an arrogant, malicious, ungenerous, and vindictive woman.

Before she had finished half the women in the house were on their feet, many shrieking wildly, others hissed, and others stamped their feet. Mrs. Palmer used her gavel viciously and called in vain for order, but the excited women paid no attention. "Take that back," yelled a large woman. "Put her out," screamed another, and so on, and pandemonium reigned supreme. During all the uproar Mrs. Ball stood perfectly calm, smiling serenely. When at length order was restored, she repeated the sentence. Then the uproar was renewed and continued for sometime.

Mrs. Ball finally took her seat; in an instant Mrs. Mederith was on her feet. "So far as any difference that exists between Mrs. Ball and myself is concerned," she said, "we can settle it ourselves, but when she says I sent my sister to preside over that committee, she tells that which is absolutely false." Here Mrs. Mederith broke down and began to sob hysterically.

Then came another scene of wild confusion and everybody wanted to talk at once. Motions were made by the dozen, but nothing was done until Mrs. Palmer, who was pale with excitement, succeeded in restoring order. Then Mrs. Ball got the floor again and said she would retract the word "malicious."

A Chicago paper in an editorial comment on the above said:

Upon the board of lady managers at the fair are a number of women of well known ability, culture, and refinement. Why they should stay there is fast becoming a mystery.

Yesterday's disgraceful proceedings of the board are enough to disgust the most gallant defender of the gentler sex. If the board has nothing better to do than to fight and wrangle and indulge in language which is never tolerated in parliamentary proceedings under any circumstances, in heaven's name, let it adjourn and drop out of public sight.

It is a humiliating statement to make, but it is a fact, that the recent proceedings of the board of lady managers have been a burning disgrace to the fair, to Chicago and to American womanhood in general.

If the members of that nondescript body hope to save the slightest vestige of public respect and esteem, they must about face and start in the opposite direction in double quick time.

My point is this in referring to this matter: These ladies were ladies of the highest talent, of great refinement, and I put this question to you, if women of that character can indulge in scenes of this kind how long can they retain the respect that is properly due to woman?

Mr. THURMAN. Don't men ordinarily have rows?

Mr. ROBERTS. No.

Mr. THURMAN. What about the Indiana legislature the other day?

Mr. ROBERTS. Excuse me, I did not quite answer your question, or did not catch the meaning of it for the moment. Men do have rows, they act unseemly, but do we want to put women in a position where they will do likewise? [Applause.]

I read now a dispatch from the Chicago Herald, dated July 24th:

A rival of Colorado's governor has been found. Mrs. Eli Potter, who ran for mayor of Kansas City, Kansas, at last spring's election, is on the streets to-night boasting that she will capture the Kansas republican state convention in September, if she has to wade in blood up to her ears. Mrs. Potter's ire was aroused at a meeting of the equal suffrage association this afternoon. One faction wanted to send a republican delegation to work for suffrage planks at the republican convention, a democratic delegation to the democratic convention, and so on through as many conventions as Kansas sees fit to have. The other faction favored a non-partisan delegation, and it triumphed.

After the meeting Mrs. McKee, the president, was accused by Mrs. Potter of working suffrage associations in the interests of the republican party. Mrs. McKee said that Mrs. Potter was a liar, for several minutes there was the biggest kind of a row of words, and what looked like a free fight was only averted by some of the cooler heads. To-night Mrs. Potter is laying wires to capture the convention.

Now, I shall only trouble the committee with another instance of how woman's suffrage works and the agitation that attends it. This is a dispatch from Denver, January 17th:

The desks of Mrs. Clara Cressingham, Mrs. Carrie Clyde Holly, Mrs. Frances Klock, members of the assembly, were ornamented to-day with magnificent bouquets of roses bearing the card of United States Senator Wolcott. The three ladies had yesterday voted for the senator's re-election. In seconding Wolcott's nomination, Mrs. Holly had said, Senator Wolcott is in full sympathy with the cause of equal suffrage. This statement was hissed by several women in the ladies' gallery, who also uttered derisive cries and groans. The men in the crowded galleries applauded and laughed. The sergeant-at-arms shook his hand at the ladies in the gallery and shouted, "stop that." Mrs. Holly continued, and the other two assembly women also gave their reasons for voting for Wolcott.

A delegation of three ladies representing the W. C. T. U. waited on the senate Tuesday, and secured the introduction of a resolution demanding that no one should be elected to the United States senate whose private life was subject to criticism. Senator Felker took umbrage at this and spoke his mind freely. Yesterday, while seconding the nomination of Wolcott he referred to these ladies as hatchet-faced individuals, adding a remark that is unfit for publication. The remark was taken as a personal insult by the W. C. T. U. women. To-day Felker said he should not have called them hatchet-faced as battle-ax would have been a better term. He added the still more vituperative attack upon the W. C. T. U. which was resented by other senators. For more than two hours there was a wordy war. Senator Fulton declared that Felker ought to be kicked out of the state capitol and the matter was only ended when a disgusted senator demanded an adjournment.

Now, I join in the sentiment that expresses the idea that Senator Felker ought to have been kicked out of the capitol and the conduct of the gentlemen in the galleries was also unbecoming, I grant you. But why submit women to come into a position where they challenge such insults as these? [Applause.]

I told the ladies of this Territory that their best friends are not those who would bring them into a condition where insults of this character are liable to be heaped upon them, and it is impossible to choke down these senseless, thoughtless men who thus insult women; but if women insist on going into a bear pit of political strife, may it not be expected that these scenes of which I have been speaking are liable to occur? Therefore, in the name of woman, and in the name of the great silent mass of women, retired in their own homes, and in their private lives, who do not seek for representation upon this floor, I say that suffrage ought not to be granted. [Applause.]

Gentlemen who are suffragists suppose they absorb all the gallantry towards the opposite sex. Why, ladies in this house, let me tell you what has happened, sotto voce. You remember the day when we had an invasion of ladies interested in the question of suffrage, and one suffragist, a member of this Convention and an ardent suffragist at that, said, "If this goes on, from the

appearance of these women, if we have a few more invasions I will be with Roberts." He remarked to another man, "have you noticed these women?" and then he remarks, "They are neither man nor woman, they are neither brute nor human, they are ghouls." I am not a suffragist, but no man can say that I ever made a remark like that about women. I repeat it to the women of this Territory that if they could but listen to the jests and jibes of those who even pretend for suffrage, whether their cheeks are bloomed with youth or sunken and pallid with age, they will blush for very shame. [Applause.]

The time for this committee to rise is drawing to a close. I think I can finish my remarks by the time it should close. I shall not exceed the hour of twelve, at least by more than three or four minutes, and that will finish my speech. I pray the committee to give me that indulgence.

What is to be gained by admitting women to be franchised? "Oh, they will improve our laws. They will elect men to make laws that will make better laws." We have good laws. The laws are all right. Every vice that can be cured by legislative enactment is already provided for. The mischief is you cannot make men moral any more than you can make them brave, any more than you can make them generous, any more than you can make them noble, by legislative enactment. If we could, I would have all the men brave as I would have all women fair. But it cannot be done. "Well, then, if we cannot fix the laws to make better laws we at least could provide for a better administration of laws by electing better men." Could you do it? Isn't our country really governed by party? And if you admit the women, there will be affiliating with the republicans and with the democrats, and about all it would amount to as affecting the kind of men that are chosen is, the number of votes cast for them might be just a little larger and that is all there is of it. These good women like the good men in these parties would have to support the party nominee, or else throw away their ballot, and that is all there is of it. They can no more effect a moral reform through the ballot and the exercise of suffrage than they can empty the Atlantic ocean with a pint cup. And had they thought of this, that you not only enfranchised the the good women, but you enfranchise the bad? "Oh, yes, but the good women preponderate." I grant you that, they do; but would it not operate much as it operated in Chicago recently? I read the statement of it, or for brevity, will merely state it. In Chicago women have the municipal franchise. Last November 35,000 Chicago women were registered and out of the number only 8,000 voted. Of these 8,000 not less than 5,000 were disgusted with their experience and they will never vote again. What might be termed the "silk stocking" element registered with a mighty flourish of trumpets, but it quailed when the hour for voting arrived. The polls were uninviting and the judges and clerks were inclined to grow hilarious at the appearance of the women. Then the ballots puzzled them wonderfully; they voted every way but the right way. And so many were the blunders that a big percentage of their vote was thrown out. The voting of the women was confined to university trustees. The women who did vote went to the polls in pairs, braved the tobacco smoke and the ward politicians, and left their ballots. Very few were accompanied by men and it was quite evident that the husbands who encouraged their wives to dabble in politics were mighty scarce.

Now, the point of argument in referring to this item is this: Grant you that the great majority of women are good women, but their sensibility of delicacy will keep them away in the main from the polls, while the brazen,

the element that is under control of the managers and runners of saloons, will be the ones to brave the ward politicians, wade through the smoke and cast their ballot. The refined wife and mother will not so much as put her foot in the filthy stream. "Oh, but woman will purify politics." Many a time I have stood on the banks of the Mississippi River above St. Louis, where the turbulent muddy Missouri comes tumbling into the placid clear waters of the Mississippi. What is the effect? Is the muddy stream made clear and beautiful and sparkling? Now, that is not the effect; they roll and tumble side by side for a few miles and then the distinction is lost in one muddy stream. "Oh, but the stream was not quite so muddy as it was before the clear stream entered it?" Grant you that. Neither was the clear stream ever sparkling and clear again. [Applause.]

One quotation more and that from a woman, Mrs. Robinson Watson, in the Arena, for Feburary, 1895:

> The glory of womanhood has been her purity, her superiority to man, in the possession of a higher moral sense and standard. Why risk this precious certainty for a doubtful good, when the superiority claimed and admitted by all is a result of protection from the temptations which this doubtful good would entail? Unmolested, her instincts and feelings would undeniably lead in the right direction. As a class her predilections would be upward tending, but vest her with a power of marketable value, power of immediate importance and offering a motive to man, and how many weak women would be dominated by a stronger nature? There has been as yet no reason for nor desire to corrupt her, but while many would forever and all time remain staunch defenders of rights and principle, how many more would remain neutral, or indifferent, and how many more still in the lower illiterate classes would simply esteem the ballot for its pecuniary possibilities.

Just one more brief extract from her remarks:

> Suppose suffrage to be secure, what would follow in its trail? Giving the matter casual consideration only, one thinks that the great centers of wrongdoing would be purified, that woman's presence in great political gatherings, her influence in legislative halls, her ballots against the crying evils of the day, and her united and legalized effort for the salvation of the young would work such reform as to thrill and regenerate the world from center to circumference. But look deeper. In the home, the source of all good to the state, would surely come sooner or later discussions, diversions and dissension. There would inevitably be two sides and these in many instances hotly contested. It is an old saying that a man and his wife ought not to play chess. Surely it is a graver question when they would play at the dangerous game of politics.

Now, gentlemen, in conclusion look at the effects of this in the family. Shall we not leave some refuge for man in this world, where he can come out of the strife and bitterness that is oft engendered in business, professional and political life. I call on you as men forming a new State Constitution, beware how you deal with this question and lay not the foundation for wrecking domestic peace. Leave man, I say, some asylum, some refuge, from the storms and cares of life. Do this, and then, through plot and counterplot, through gain and loss, through glory and disgrace, along the planes where discord rears eternal babel, the gentle stream of human happiness may glide on. And I pray you go back to caucus, think this question over, do the right as it is in your hearts and as God gives you the right to see it. I thank you for your indulgence. [Applause.]

Mr. IVINS. Mr. Chairman, I wish before the committee shall arise to speak just one moment on a question of personal privilege. When I came into the assembly this morning, it was my intention to propose the motion which I have offered. I was not at that time aware that my colleague from Davis intended to speak. Just before we went into committee of the whole I incidentally heard him whisper to my friend on my left that he expected to open the debate. I immediately leaned over and said to

him that I wished to make a motion before the debate was opened. And I resent the imputation that I came to him with a deceptive smile, asking him to waive a portion of his time to me. I only claimed what was my right upon the floor of this house, and I submit that I have not wearied its members. I have no desire to cut off debate, to stop this discussion. I am a lover of oratory, argument pleases me, but I do submit that when this question has been discussed in the caucuses of both parties and has been determined almost unanimously that the section will be passed, it is not dignified for this body of men to continue day after day and day after day to sit here and discuss it.

Mr. VARIAN. Mr. Chairman, I had not intended to speak upon this question, but the debate has taken a wide and very extended form, and inasmuch as it is now probable that a vote upon the question will not be reached this afternoon, and as I shall be compelled to be absent from the Convention tomorrow, at least half of the day, I desire with the permission of the committee to take the floor now in the hope that I may be permitted to resume it at two o'clock when the committee shall resume its session.

The CHAIRMAN. Unless some member of the committee objects the chairman will recognize you at two o'clock.

Mr. VARIAN. I put it in solely upon the ground that I will not be able to be here tomorrow, certainly not in the forenoon, when I anticipate a vote will be reached and under the circumstances, particularly as certain things have been said, for my own satisfaction I desire to announce my position on this question.

The committee then took recess until two o'clock.

After recess.

The committee of the whole reassembled and the following proceedings were had:

Mr. ROBERTS. Mr. Chairman, I arise to a question of personal privilege. Some remarks which I made in the heat of discussion this morning were perhaps stronger than I would wish in referring to one of my colleagues, Mr. Ivins. I would not wish to lose a friend nor do him any injustice, and I therefore personally apologize to Mr. Ivins for anything offensive in my remarks.

Mr. VARIAN. Mr. Chairman and gentlemen of the committee, rarely have I had an opportunity of listening to such an oratorical effort or efforts as has been my pleasure to hear during yesterday and to-day. None of us on the floor of this Convention or elsewhere in the Territory, I apprehend, can hope to compete with my distinguished friend from Davis County, on his chosen field. With oratory and rhetoric and all the attendant graces of elocution, he has charmed this audience during two long sustained efforts. Oratory, however, is not always argument. Rhetoric not always logic. Both may be and are used to embellish argument, whether for the good or for the evil. In what I have to say, I do not propose discussing the merits of this proposition before the committee. I propose directing my attention to what I conceive to be faulty logic, wrong and unpermissible argument, to move the minds and influence the votes of the delegates of the people in this Convention assembled. With the unfortunate conditions which we observe are agitating and disturbing our friends on the minority side of the house, we need not concern ourselves. If it be true that my distinguished friend stands now under the shadow of political death, if the grave which he has suggested may possibly be dug for him is now being projected in the minds of his colleagues, perhaps we, as republicans, may be permitted to express the hope that it will be deep and wide and broad enough to include all of the democratic party for all time. [Laughter.]

And in saying that, I mean it in an

entirely impersonal sense, of course. How they may escape from the dilemna in which they find themselves precipitated in this Convention by the act of their most distinguished leader and champion, the one of all the hosts of democratic orators and leaders who was selected to help carry the standard of democracy from Logan to St. George, side by side with their delegate in Congress, breaking down and through one of the most important and one of the strongest planks upon which he and the other candidates of that party stood at the last election, need not concern us. Nor, sir, would I attempt to take the time of this Convention or to offer any suggestion upon the matter under consideration had it not been for the fact that in the first argument made by the gentleman, waiving as he did the question of the merits, by imputation and inference at least, and carried to this committee and to the people that there were men here who were base and cowardly enough to vote against the honest convictions of their judgments, and were not manly and brave enough to rise above a mere partisan or political plane and, like him, follow the guiding star of duty. I am free to say—and I say it not because it is of any importance to this Convention or to the people of Utah, but because it is important to me to say it in the line of argument that I shall pursue—that I have not yet reached in my own mind a conclusion satisfactory to myself upon this question of woman's suffrage. I have no convictions strong enough to move me were I free to act to change the policy of government and vote to extend the franchise. If I considered the question an open one here upon which the people had not spoken, I should probably vote, as I think every man in public life as a rule does vote, against a proposition as to which he is not thoroughly convinced of the propriety and benefit. But, sir, as I understand it, we are not confronted with that question; if there is anything in popular government, if there is anything in the thought that the people are the source of all political government and power, it seems to me that the question now before this committee and this Convention has become adjudicated. It has passed from the realm of argument into the domain of final judgment, and the delegates to this Constitutional Convention elected are but the executors to carry out and record the will of the people.

Let us see how this stands upon principle. Let us see where and to whither we will be drifted, if we follow my distinguished friend from Davis County along the line of thought indicated by him on yesterday. He will concede to me that the people of the commonwealth have in themselves as a whole the power and the right to shape and control all legislation of every kind. He will concede to me that the manifestation of the will of the people is made in certain ways, and that it is determined by the consensus of opinion of the majority of the people. It is the only way in which it can maintain and perpetuate free institutions. When you depart from it, aye, in the slightest degree, you are on the road to tyranny of some kind. It has been developed by the experience of the American people during a century of their natural life that this government a majority government, a people's government, can be best administered through the medium of political parties. These parties do not represent all of the individual views of the members thereof, but they come as nearly representing the general view of the great mass of the people forming the party as it is possible for them to do. The expressions of the people belonging to political parties are given through the medium of conventions. They are written in what are called platforms and the candidates, so far as principles are concerned, have no more to do with the modifying, the

altering or the revoking of such principles than the members of the opposite political party. This much, generally, Mr. Chairman.

Let us for a moment, look at the situation now, not as it appears to my friend, the gentleman from Davis County, but as it appears to me. Commencing with the times when the conditions were not changed, up to 1892, there was a strong minority element in this Territory formed into a quasi political party of which I was a member, one of the fundamental principles of the creed of which was opposition to statehood. It was not until 1892, when the American people, speaking through both of the great political parties, announced their approval of division upon party lines, that the strength of this argument was weakened in the least. But at Chicago, and at Minneapolis, such action was taken as clearly indicated to him who cared to ascertain the fact that in the very near future the way was to be paved for the admission of this Territory into the Union, and from that time on, by ones and twos and dozens, and fifties, and hundreds, men fell away from that organization and aligned themselves on either side with the great political organizations of this country. In the fall of that year I resumed my place in the ranks of the republican party. I was not deceived, gentlemen. I do not believe that any man was deceived. I knew that it meant statehood, it could have no other meaning; there could be no other purpose or object in view. Under our form of government of necessity statehood must come when the proper conditions should exist. Neither was I deceived for a moment by any special thought that any other control would be exercised in the formulating of the organic law or the enactment of statutes than that exercised everywhere in this Union by a majority of the people.

In 1893, in convention assembled in the theater in this city, the liberal party dissolved. Before it dissolved, it enacted a resolution that it was the sense of the party in convention assembled that Utah should be admitted into the Union of states. I assume that no member on the floor of that convention, that no adherent to that party, for a moment supposed that Utah was to be admitted with a constitution in any degree different from that desired by a majority of the people. We were told on yesterday that there were thousands of voters, who, if the article on suffrage was incorporated in the Constitution, would vote against it. From the standpoint that I take in the matter it is quite important to ascertain whether that be so or not, but it occurred to me then as it occurs to me now, that if that were so, certainly these thousands of men so unalterably opposed to statehood, if it should include a provision for woman's suffrage, would have rallied around the standard, that they would have erected a new standard at least, that they would have written upon the history of the times their protest and emphasized it by their votes in the election when they had an opportunity to do so. They went off into two great political parties. From that day until this, no public expression has been given from the stump or through the medium of the press upon this question in the slightest degree indicating that the sentiment and temper of that portion of our people were as indicated. They knew, sir, as I knew, that it would be impossible for a minority to write their views in the Constitution of the State of Utah. They knew and they demanded that statehood should come, and so it was in September of last year, the republican party met in convention at Provo and wrote a plank in its platform "we favor equal suffrage," and the delegates came back from that convention—a convention comprising a very large minority of members of the old liberal party, or perhaps I should say, a very respectable minority in numbers. They

went to work for the ticket. No expression of the kind we have heard here on this floor came from a single one of them so far as I know. The county conventions followed in different parts of the Territory. The constitutional nominating conventions followed. So far as I know there was not a word of dissent, not a word of protest in public or in private. We took our nominations. I certainly understood when I took mine, although as I remember nothing was said about it, that it was the mandate of the people of the republican party, if it should prevail in this election through its agents and representatives in convention assembled, to write in the organic law of the State for submission to the people just what has been submitted here from this committee. I know, Mr. Chairman, that our friends on the other side went through the Territory and attempted to discriminate in favor of the plank in their platform.

The criticism made upon the one was that it did not mean anything, that it was put there for evasion. That it did not bind or pledge anybody to anything. So eager and solicitous were the party men on both sides to emphasize with the people the absoluteness of their convictions on this question, that they even went into hypercriticism as to the meaning of the language used. I thought then, as I think now, that it was put in there in order that Mr. Frank Cannon could run for Congress. It did not occur to me that that mandate was directed to Mr. Cannon, it did not make any difference to the people of Utah whether Mr. Cannon favored woman's suffrage or not, or whether Mr. Rawlins favored woman's suffrage or not. The object to which they both aspired had no connections under the circumstances and conditions surrounding this people with that question. No county office had any connection with it. It must have been put there for some purpose. It was an invitation to the people to read and vote the ticket. What purpose, Mr. Chairman, could it subserve? To a candidate on this republican ticket—and I purposely leave the settlement of that question as to the democratic ticket with my democratic friends, what purpose could it subserve, except in its relation to the candidates for delegates to this Convention? What other purpose? How can they quibble and quibble and debate and evade answering a plain, open, candid proposition like that? Are we to suppose that the people understood that we were simply seizing the opportunity to declare through the medium of party platform, that we favored equal suffrage? As a matter of fact it was put in that platform and put in the democratic platform I believe, because the party managers knew or thought they knew that the majority of this people were in favor of woman's suffrage. My learned and eloquent friend said himself that he conceded that a majority of this people are in favor of this. What, then, remains to build an argument upon? You start with the proposition that the majority of the people favor equal suffrage, favor it so strongly and earnestly that they want to see it put in the organic law now by this Convention, and you find that both political parties put that pledge in their respective platforms. What are platforms for anyhow? A friend of mine suggested to me the other day that they were simply a sort of crystallization of ideas in general, which did not mean very much, and were brought about by the yielding of the different views of the members of the convention. I grant you that in all public bodies of necessity there must be some yielding or there would be no work done. No single man can get his private views in all their completeness embodied either in legislative acts or in party declarations, but when the labors of a political convention are concluded and the result is promulgated, as I understand political

law, as I understand common honesty and decency, they are supposed to represent what the policy and belief of the party for the time being is upon the subject matter of the questions presented, when the people ratify the sentiments of any political party at the polls, by a majority of votes, electing its nominees. I understand that the ordinary law governing private and social intercourse between men applies. I do not believe that platforms are but molasses to catch flies with, nor do I believe that individuals, agents or servants, elected by the people to carry out a definite and specific line of policy, have any discretion, have any right of judgment left as to the particular question upon which the people have spoken, and as to which they have directed.

Stop for a moment, my friend from Davis, and reflect where we would be left if we admitted for a minute that a departure from such a principle could be recognized. What would be thought of a man who was elected to Congress by the people of his district upon a platform to the people, that he would strike out or strike down or modify or remodel the protective tariff; if, upon reaching his seat in that house of representatives, he should undertake to say, "Conditions have changed; I am not quite so pronounced a democrat upon that principle as I was before the votes were cast, I believe there is some good in a protective tariff, and although my people sent me here with the distinct understanding, under the distinct command, if you please, that when my party in accordance with its principles formulated a proposition, directed towards the correction of the supposed evil, I will vote against it." Suppose next year we elect a representative to Congress, and suppose that the people of Utah have become tired of the income tax, and should incorporate in a platform, upon which a gentleman accepts the nomination, a plank against that tax, and suppose that a man being triumphantly elected, should take his seat in the following March, and after discussion with other people reached the conclusion that after all an income tax was not so bad, that it could be defended upon principles of sound economy, that it could be justified for many reasons, in fact, that he thought the better interests of the community demanded its ratification there, and should proceed to cast his vote the other way. I don't know how it strikes other people; but it seems to me that if that kind of political conduct can be permitted there is no safety anywhere in popular institutions. It is not so, gentlemen. If you think a mistake has been made you must go back to the forum of the people and move to vacate their judgment. As long as it stands there, right or wrong from an independent standpoint, they are entitled to have it executed, and any other line of reasoning, any other kind of conduct, if permitted, would lead to utter political anarchy. What do you suppose would have been thought of the men who in the dark and trying hours of the great civil war, when a large and strong minority of the people were opposing the further prosecution of the war, and the people of the north were rallying around their President, and in mass political conventions were enunciating their intention to vote the last dollar of the public money and take the last man from their firesides and their homes—if upon such a platform as that a representative elected to Congress should determine for himself when he reached Congress that after all, peace, balmy peace, was a good thing, and that the people did not quite understand what they wanted; that the price to be paid was too much, that the prize to be gained was not worth the price?

What would have become of free government? What would have become of the man who would have presumed to have set up his individual opinion

and judgment against the expressed command of his constituency?

This brings us, Mr. Chairman, to the question of duty. I am glad to know and I firmly believe that the guiding star of the political and private life of my distinguished friend is duty, but I am constrained to say also, that I believe he has made a misapplication of his life purpose in the present instance. I say to myself, under the circumstances, that the duty of the hour is to carry out and obey the will of the people as expressed at the ballot box. If there is a discretion, if there is anything left to the judgment of men, another question is presented. In many cases, perhaps in all the other cases that may arise in this Convention, questions coming before this body of delegates are ones to be solved by them and them alone in the exercise of their best judgments in the light of that star. But this one question has been reserved to the people by themselves. Nothing has been left for the exercise of judgment. It is an absolute limitation as I read it upon the power and authority of the delegate. Nothing is left to pass upon. The question has been decided; it has been voted upon. What then are we to say to those who sent us here? I was told the other day that very many of the men and women of my constituency were not in favor of equal suffrage. I may concede that without having any precise or actual knowledge upon the subject, and yet my answer is, "You are bound by the vote. You are bound by the platform; the time when your voice might have been raised in expression of dissent has passed away." I am not, Mr. Chairman, and I want it distinctly understood, one to assume a place upon a party ticket and promise to keep the party pledge, to violate that pledge knowingly, nor do I see any way to evade or escape carrying out literally the demand of the people upon this question.

Why, what would you gentlemen have? If they are to erect here this tribunal of private judgment, what becomes of the whole system of party platforms and appealing to the people? What is the use of putting them in? What is the use of going about and getting votes upon them? Oh, I submit to my friend to look back, look within, and answer if he believes in this doctrine in his dealing with the people in relation to party protestations and promises, that you may change with the times, that you may evade or equivocate or avoid or refuse. Do we put them in there for the purpose of deception? Are we to trifle with them in a double sense and keep the word of promise to the ear and break it to the hope, or are we simply like men do what everyone of us said we would do when we entered upon the campaign, record the edict of the people?

And if it is not right and the people do not want it, they will find a way to correct the wrong. But, we are also told, as I infer, that we have a higher duty here than simply to make a good Constitution. We must so regulate the matter to be put into this Constitution, we must so shape and trim it, fit it in and dovetail it here and there, as to insure its acceptance by the executive, and in the same breath we were told by the gentleman from Davis County that he did not care what was in this Constitution, he should vote and labor for its adoption. I do not go that far, gentlemen. I say now, that it is possible—not probable—that such matter might be engrafted in this Constitution that I would neither sign it in this Convention nor vote for it. [Applause.] There, sir, I have the right of private judgment, but I do not believe that we have a right to ignore the plain command of the people simply because it may be deemed inexpedient, simply because we may infer that there is a possibility of its being defeated. I think, sir, that there is a higher duty here than that, that is, to make this Constitution as broad

and great and strong and enduring, in accordance with the principles of our common government, as we can. Whether it shall be adopted or not, whether it shall be accepted by the President of the United States or not, are questions with which we need not concern ourselves. I think the logic of the argument is faulty. To say in one breath that notwithstanding the fact we are told that we should put into this Constitution a certain provision, that because it was assumed it was ill-considered by the people, and because, perchance, it may bring about an adoption and acceptance of the Constitution, that therefore, we should violate all party principles and precedent, and, in my judgment—without, of course, desiring or intending any offense—violating the principles of common honor and honesty and refuse to make the Constitution in this particular as we know and believe the people desire. I think the argument is faulty to say that we should do this thing, because we fear that it will not be accepted. In support of that a number of supposed conditions were cited, which it was said would result in the combining of all the several supposed oppositions to the instrument, which it was thought would result disastrously. First, in the vote by the people, and if that were not so, in the submission of it to the executive. I do not believe, Mr. Chairman, that the insertion in this Constitution of a provision which the people prefer we should put in there, will cause the people, who ordered us to do this, to vote against it. Yet, I care not; that is not the duty of the hour. I do not believe that the President of the United States will undertake to say in violation of an expressed law of Congress, which he himself assented to, that he will not issue his proclamation, if certain things are in this Constitution. I was surprised to hear the imputation made from that side of the house that a democratic President might refuse to obey the law, because, perchance, he has views antagonistic on the silver question to those entertained by the constituency seeking admission into the Union. It seems to me that we are getting further and further away from the question and that a proposition that needs such far-fetched argument as that must seem consciously weak to those who have put it forth. I hold, sir, that the discussion of the merits of this question, while it is entertaining and instructive and productive perhaps of much profit to those interested in the question, has no place in this argument. It presupposes that we have a right to exercise our individual judgments untrammeled and unbiased, that we are under no obligation of political and public fealty and honor to obey the mandates of the people. That being so, I am going to vote to put this article in the Constitution, and if it is wrong, I can only say that I am simply doing what I was instructed to do. I say this much, because I was afraid that I might not be here when this matter reached a vote, and somewhere and by somebody, the suggestion has been made, and it has reached my ears that I was begging this question, or was on the fence. This is my only apology for inflicting upon this committee a speech of this kind. I am used to that sort of treatment here in this city, but it is not justified and I want it distinctly understood that there is not any proposition, which I, as a public servant, ever have been in all my life called upon to pass, or ever shall be that I will not take one side or the other. I will do it in the open. I did not urge this woman's suffrage plank, I was not the one who urged it quietly for the purpose of getng votes, and then sought to do away with the effect of it. It was against my judgment; it is now; but I recognize, sir, that I owe a duty as a public servant to carry out and to register the will of the people. [Applause.]

Mr. MURDOCK (Beaver). Mr. Chair-

man, and gentlemen of the committee, it may be regarded as presumptuous on my part in the way that I am treating myself, and the way that I am regarded in occupying your precious time. I am here to obey and conform to order. If I get out of order, I am always ready to make reparation. As was remarked by one of my friends, by what I have heard yesterday and to-day I am somewhat full of ideas and some of them have not been given, although the best of them have. The best words perhaps, have been selected, but I thoroughly want it understood, I don't wish to interfere, but it did occur to me that a speaker on this floor, when one rule calls for a certain order to be conformed with, and that is that we are limited to an amount of time, when the gentleman from Davis County, a man whom I esteem highly, said that he had some two hours, I thought there was something there that was a little irregular, that is to my understanding; as I broke in upon him, I wish to apologize and do not desire to do anything to disturb any speaker, for if a speaker is successful, he must have the attention of the audience. I hope in my few remarks, while I am on the floor, Mr. Speaker, I believe there is a certain amount of time allotted to me individually, I wish to give vent to some of my ideas. Liberally one of my neighbors has kindly offered me his time, and I shall accept it, consequently I have twenty minutes and I will remark there is one virtue in what I have to say and that is it will be brief. There seems to be an idea in the minds of some that we are killing a great deal of unnecessary time. I believe in economy as much as any man can, but I think the time that is spent upon this question is well spent, I don't care who speaks, it is well spent. I am not afraid of opposition, gentlemen and ladies, I rather crave it, I rather court it. Why? Because it brings out what would lay dormant; such has been our experience here upon this floor. I have the best of feelings for every gentleman on this floor, and whatever the results may be in our labors here as a conclusion I have this to say, that there is not a gentleman here that has lost a friend in me, either democrat or republican; I believe that we have come here for one pure motive; as I declared when I left my home in Beaver County, "I am going there in the interests of the whole people; I am not going there with party feelings desiring that my particular party views may be established, and supplant perhaps, others that have better ideas, but I am going there in the interests of the entire people of Utah." That was my declaration before I left home. It is now repeated, that I am here for that purpose. Now, gentlemen, we are dealing with one of the most important questions, perhaps, before this body of men. We have left our homes. For what reason? We have been chosen from the several communities that we represent, and they relying upon us, upon our judgment, upon our wisdom, and upon every quality that we possess, to come here in a body quietly and lay what? Lay the foundation of a new State. I had rather suffer wrong in my feelings than that we should make one single mistake.

I have not very many ideas, but such as they are they are free and you may imagine when I have told them that I have occupied your time to no purpose, but let this be emphatically understood, that the time we are now spending is a very profitable time, and I am liberal enough to say now, if we should not have sufficient remuneration to remunerate us for our time while we shall remain here together, I am one of those individuals that are willing to give my time gratis for any time that may have been thrown away. I say this question of suffrage is a very important question, and I am pleased—I am more pleased than otherwise that there was a minority report brought in. While I accord with the majority re-

port, yet I am pleased that the other was also brought in, that that side of the question might be looked at and examined. An edifice may be looked at upon one side and it may appear very beautiful but you walk around the corner and look at the other side and the appearance is materially changed. Now, we want to consider this question. The question is here whether the whole people shall have the franchise or whether a part of them shall. That is the question. I will ask the question of gentlemen, what is the power, what is the strength of the nation? What is the element that makes the great power of a nation? I say it is intelligence, that is what comprises the great factor in a great nation—the intelligence of that nation. Now, what is it proposed to do? It is proposed that we shall not have the use of a portion of the intelligence that we are surrounded with and that we esteem so highly as companions, but I am in favor that we shall have the advantage of all the intelligence that we may be surrounded with. I welcome all the intelligence that comes from the world, from the east, from the west, from the north and the south. I welcome it here in Utah, for I realize as I know that I stand upon this floor that Utah is destined to be one of the greatest states in this great Union, of which you and I form a part. There is nothing that will excel Utah, if we will lay our foundation properly and make no mistake. I hope there is not a man that represents any portion of this community but that has come here with an idea to get in something that will be especially beneficial to his community. We want what is broad; we want that which is generous; we want what is suitable for all that are here and will come here. I am speaking for myself; I am speaking for those I am representing, and I am speaking for the people of Utah. I am not only speaking for the people that have lived here their life-time and that have been the dominant people here, but I am speaking also for those that have come in since, and that are coming in. I say they are all welcome here and the more that come of intelligent men and women the better Utah will always be for it—and her condition will be better. I hope intelligent men and women will come into our midst, and I will say right here, that if I have got a theory of any kind that will not bear the light of day,—will not bear investigation, I say let it go. I do not care whether it is politics or religion or anything else, if it will not bear the light of day, I say let it go. That is where I stand. Now, to the suffrage. Why do I want woman suffrage? It is for more reasons than that I am pledged. I am pledged to my constituents. I am pledged by the platform that I stand upon, and I don't propose to move from it. If there is any fault, it is in the people, just as the man that has just taken his seat says; I am on that platform, and I propose to stay there and vindicate that to the best of my ability. I also represent a community that are suffragists. In every community there is a suffragist association, and I want to say that they are to-day able to teach their husbands civil government and national government. They are to-day able to teach many of their neighbors. Why? Because they have put their minds to it. They have investigated the principle and are able to teach it, and that is the reason why I say that they are able to teach their husbands and their brothers. Their attention has been drawn elsewhere and men only do what they are forced to do from time to time, and I want to tell you, gentlemen, that there is not any of us that know anything only what we have learned; that is all we know. What is it that encourages any man? What encourages an orator? I don't care how eloquent he is, it is the admiration of himself, and the admiration of those with whom he is surrounded

that makes him a great orator. If he was in anyway confused by being turned upon with a cold shoulder, what will it do with him? What will it do with your son? What will it do with your wife? What will it do with anyone? If you turn from them scornfully and say, "We don't want any of your assistance, and we don't admire your talent, and we don't admire anything that is about you?" What will that do for your son? What will it do for your neighbor? What will it do for any member upon this floor, as intelligent as they are? Let it be intimated that we do not want any of your views, what will it do? It will humiliate the man; it will humiliate the individual.

Coming to the female, let us look at it. I say that the strong nation is the intelligent nation, and I say that the ladies are a great factor in that intelligence. Where is our intelligence coming from? It is moving, conditions are moving continually, and because there is an innovation, they raise up in holy horror against an innovation. Suppose there never had been any innovation? Here to-day, we would have been a nation of colonies, that is what we would have been. What were the feelings of our fathers in whom we show so much pride, in the great instrument they brought forth? Did they think when they started out of becoming a great nation, a free government? No, not by any means. They only wanted their wrongs redressed, but circumstances moved along so that they actually had to declare themselves an independent nation. Referring to some ideas of gentlemen, who have referred to what older states have been doing, that should not be—they have been pursuing a policy that has stood the test of time, and many oppositions have been brought before them, and it has stood well. I don't wish to refer to what older states have done; they have done as they pleased, and I hope the people of Utah will do as their best judgment will dictate to them, and I am not afraid of innovation. We are living in a day of innovation; they are coming upon us continually, and if we get an idea in our mind that we cannot receive new ideas, why we are then beginning to stand statuo quo. But there will be innovations and I want the privilege given to every individual irrespective of sex or belief, to have a free view. I want their intelligence. Then they can turn their attention to something perhaps that is more in the true interests of the whole people, than perhaps some of them are inclined to. I consider it a very frivolous thing that the ladies of the intelligence that are living in this age, living in this part of this great country that we live in, that they cannot take hold of these matters and participate in them in a reasonable and straightforward way. It is no objection to me to say that there is a portion that have got the franchise and they don't go and participate in that right. That is no argument to me whatever. I do not care if there is not a single lady, if there is not a single woman that goes and votes after they get the privilege; they are asking for it; they are asking for it all over this land. They are asking for it all over adjoining states and territories throughout the country. And even in the old states they are asking for it, and I say let them have it, and let us try the experiment. The experiment has been tried in this land, it has been tried in other states, and we hear of no great evil results from that great liberality that has been extended to them, and most emphatically I want their intelligence, and when you give them their franchise they will then regard themselves as being equal to man in that one position, and it is conceded that the intelligence is not inferior to man. Well, then, if it is not, why not use it? I say use it and those that wish to participate in the ballot, why let them have the privilege,

and I think no evil results will come from it. I want it because my wife wants it, I want it because my mother wants it, I want it because my daughter wants it, I want it because my sister wants the ballot, and I am willing she should have it, and I will risk the consequences. Mr. Chairman and gentlemen of this committee, I will risk anything that has been portrayed before us, as being calculated to endanger and to deter and to stop the adoption of the labors that may be put in by this body, I will risk the consequences. I am willing to try it. I not only support woman's suffrage from the principle that I have placed myself upon that plank, but I also think it is right. I think it is encouragement; I think it will exercise an encouragement to the female portion of our community, that they have never realized since they have been deprived of that. Put it there and then if the people do not want it, they have the right to say they do not want it, but I say give them the privilege of the ballot, and then let them make such use of it—let me repeat, because others in different parts of the country are not desirous of participating in the ballot, that is no argument that others may not. We see a sample of it here in a piece that was written in Chicago in some of the precincts; there was only a very small per cent. of them that went to the polls and cast their ballot, while others most unanimously did so. It might be so in Utah, there might be some of them go and vote and others might not, but in regard to voting there are many men very careless and indifferent in regard to that, and a great many are paying a great deal of disrespect because the word politics comes up; they want nothing to do with it. While I say it is not a good citizen that does not want to inform his mind, in regard to politics, and while I am here, if I can exchange a bad idea, I do not care where it comes from, for a good one, I am ready to receive it. [Applause.]

Mr. LUND. Mr. Chairman, and gentlemen of the committee, I have been expecting that I could negotiate a loan of time and have a few minutes more than belonged to me this afternoon, but the arguments so far have been one-sided we may say, except for the masterly showing this morning as to why woman suffrage should not be adopted. It is not expected that an argument against woman suffrage will meet with a kindly reception by the majority of this Convention. Such an argument will be interpreted as a breach of party faith. I wish to submit briefly a few statements which exempt me in part from being under any pledge to that provision in the platform of the republican party that was adopted at Provo. In our county there is no suffrage association. In the town of Mr. Larson there is no suffrage association; there is no suffrage association in the town of Mr. Jolley; there is no suffrage association in the town of Mr. Peterson; there is none in the town of Mr. Page; there is no suffrage association in the town from which I come. There is a suffrage association with a meagre membership at Manti, and I firmly believe that a majority of the good women of the constituency from where we were elected do not desire suffrage. I have never spoken of suffrage in public or in private, without opposing it, and consequently, I feel myself free to speak as I wish on this matter and according to my conscience upon this floor. I did not approve of its being placed in the platform in Provo last fall. I was there and I objected to it. Of course it was there as it is in this Convention, members who are not known cannot be heard upon a subject. The floor is generally given to some one that is known when they rise, of course we must submit to custom. [Laughter.]

Now, I suppose when the ladies consequently surround those who enfranchise them here, with that halo of immortality, that there will still be a few of us to whom will cling fragments of that which is earthly, and I suppose I will have to be one of those. I firmly believe that both parties intended these particular enfranchisement clauses to be drawn and to be placed in their platform to draw numbers, which is acknowledgment in itself that the influence of a few female agitators, even though they vote not, is already a power represented somehow in the ballots cast by the fathers, brothers, and sons. That this power is great, is extremely apparent, and yet men will say that they have nothing to say about ruling the country in which they live. I say they style themselves to be slaves, and it is strange that a slave has such a firm hold upon the reins of our government that we all feel to cater to that slave. Now, in the city where I live, some years ago, there was an agitator of this question. It was her all absorbing field. I assure you that she was a truly public spirited woman. The petty affairs of domestic life were not to occupy her great intellect. She had a big, beneficent and I can add brotherly feeling for all the women of our nation. [Laughter.] She became for a little time the idol of our female brethren. [Laughter.] The enthusiastics, however, were not numerous and now in our county are like white sparrows, between nests. And why were her noble efforts to be so unappreciated and so unsuccessful? The good women of our city saw a mother's duties utterly neglected. I would say if it were not for being too personal that since that time there has been so much domestic discord that she has been divorced by her husband. [Laughter.] Woman suffrage needed no further denunciation before the good women of our city. A prominent suffragist said to me recently, "We have four classes of men to deal with; the first and worst like yourself, desire women to be a mere slave—give her no rights whatever and tax her without representation; the second class say they could allow her the ballot, but that only; the third class say, we would like women to vote, but she could only officiate in clerical and educational positions. The last and best class (by this she evidently meant the gentlemen who will immortalize themselves here), desire to place woman in her proper sphere, equal in every way politically, socially, and religiously with her brother." A smile of triumph crossed her beautiful face as she finished, "You cannot stem the tide of civilization, you cannot bring opposition that is consistent. It is all inconsistent, it is all vain." I am sorry to say that it seems it is going to be vain here, and at the same time, there is a consistent opposition. Voting alone will not satisfy woman suffragists. They say, "To bring about our intended reforms we must have the right to legislate, to interpret the laws, and to execute them;" that men have not the integrity. If this is the only conclusion that is to be reached, I oppose woman suffrage, not that it is expedient, not that our women of Utah are less capable of a change of heart than the men, but because suffrage with eligibility to office as are recommended in this clause will thrust the wife and mother from the home to officiate in public places. This means only a breaking of the home. Who will not admit this? Who will say that a mother's place can be filled by another? The great and good civilization always comes through great and good mothers. [Applause.]

Woman's sphere is lofty, woman's sphere is noble; the true woman is devoted to her household, home, sacred home, her rightful empire. How wonderful nature has created her loving heart for this sovereignty! True manhood proclaims woman's prerogative,

training her offspring to the love of God, to the love of man, to be the highest and holiest of all. Can she afford to slight these? A mother's teaching to her child will be law to him through life, and the laws which he shall afterwards enact will be righteous laws. His conduct will need little of reformation in his after years and mature judgment. In what degree will we prefer woman's divine sphere and nature and mission? My friend yesterday referred to things biblical, to Christ and his all-reaching love. What does the most accepted part of the holy book say? Only that it is a shame for woman to officiate in public. But, says one, "she is taxed without representation;" woman's relation to property differs in part from the relation of man, that bears that suffrage. She, thank heaven, is very useful in her place, but her physical endowments will not permit her the same degree to brave the elements like men. Who can gainsay that? Man is not dependent upon woman by our civilization for his support. He goes forth with powerful muscular equipment and great endurance, denied by nature to the weaker fair sex, to unlock by hard strokes and inventive genius the storehouse of life's sustenance for those dependent upon him. Woman may sustain herself in many instances. That is the exception, I submit, which exception will become more and more rare forever if woman keeps within her sphere. She may be a widow holding property. This is true, she still may be assured that her son, her father, her true neighbor will protect her, and represent her interests. Proper taxes will be imposed by property owners and will not often be exorbitant and never unnecessary. The old and tried constitutions of the eastern states have not acknowledged this a sufficient reason that woman should sacrifice her station of social preferment in life, to share equally with man the burdens of state. The home is the metric community of our national greatness. Its sanctuary should not be invaded by political strife. A committee of two disagreeing can never settle a difficulty. Who would give in the majority report? [Laughter.]

Impracticable it is, of course. Political feelings are of all the most ungenerous and flagrantly irreconcilable that are known. Woman was declared yesterday capable of independent thought, provided suffrage exists. Would it not frequently occur that husband and wife held with right, different party affiliations? If we may judge by election fights on our great election day, we have the right, with good reason, to presume that equal suffrage would disturb domestic tranquility. What a beautiful condition of affairs we are on the verge of introducing into our new State. What peace and solace into its families. I ask, Mr. Chairman and gentlemen, has equal suffrage been sufficiently discussed in Utah? Do a majority of our good women desire it? I have never been able to think of this question in any light, but that there is more novelty about it than there is necessity for it. Mr. Chairman and gentlemen, let me say my say of ending, that like you, with the exception of the gentleman from Davis, I have had political aspirations, but I surrender them here with due consideration for the purpose of being honest to the convictions of my conscience and the teachings of my mother and believe in woman's suffrage, after the arguments here advanced, less than ever before. [Applause.]

Mr. BOYER. I just would like the privilege of asking the last speaker one question. I would like to ask the gentleman from Sanpete whether or not he is a married man?

Mr. LUND. Mr. Chairman, I am not a married man, and what is more I shall not make the——

Mr. GOODWIN. The gentleman is protected by the laws from criminating himself.

Mr. LUND. I desire to be frank and

answer a civil question. I do not know whether the gentleman has any daughters or not [laughter], if I should find anyone who was so unfortunate as to be willing to help me change my situation in life, I should certainly find from her first that she declined ever to entertain ideas of woman's suffrage. [Laughter and applause.]

Mr. BOYER. Mr. Chairman, I arise to a question of personal privilege. The question asked by myself was rather impelled by the remark from the esteemed gentleman from Beaver, that no gentleman upon this floor knew anything, only that that he had learned, and being desirous of a little further acquisition to a meagre learning, I desired to obtain from this gentleman his true status in life, with respect to the matter. I admit that I am mistaken. I had thought from the able reasoning and the manly form of the manly man that he was a married gentleman, and consequently this question. However, I desire to state, that in the county from which I hail (Utah County) a fairly densely populated county, and largely sprinkled with fair and beautiful ladies, the gentleman will be thoroughly safe traveling to and fro. There will none approach him with his present political aspirations. [Laughter and applause.]

Mr. GOODWIN. Mr. Chairman, I think I will finish before the limit of my time is up. If I do not you can come to the protection of the Convention by using your gavel. I want to make a statement or two, not a speech, or if it is called a speech, I want to read it by the title and have it referred. I want to say first, that the delegates from Salt Lake County, under instructions of the county committee, as I think I can establish by the gentlemen who had the matter in charge, instructed all their speakers not to press the question of suffrage. I wish to say that I am under no obligations to any platform in the world, because, first I did not attend any convention or any primary. I did not ask any one to support me. I was never questioned, and beyond that, because of the occupation which I have indulged in for a good while, and probably will again if we ever get through, my views are pretty well known by those who read my newspaper, which, I take, will include all the intelligent people in this part of the country. [Laughter.]

I am not predisposed to believe in woman's suffrage, not on the ground of my friend from Davis County, that the man should rule and the woman should obey; I never believed that even before I was married. All married gentlemen will agree that they have no occasion to believe it since. I never construed that passage as my friend from Davis County does. I always thought that the passage, that the desire of woman should cleave to the man, had reference to another matter altogether, but from boyhood, in reading that, and construing it literally, while I did not question in the least the wisdom of it, I did not think that in this Convention they had hired a stenographer by issuing bids and took the lowest bidder, and that the minutes had not been corrected. I do not believe that the intention was for man and woman, husband and wife, to drive tandem, but rather that they were to work side by side, in double harness, and I am perfectly willing to admit that in ninety-nine cases out of a hundred the grey mare is the better horse.

But there are other reasons why I naturally, with what study I have given the matter, do not take friendly to woman's suffrage. We are all creatures of education and association. You take a swarm of industrious bees from a cool country to one of the islands of the Southern Pacific, they work along until the time when winter ought to come, and the moment they discover there is to be no winter, that the flowers bloom perpetually, to the last bee they

become dirty loafers and take to the woods. You take a boy from the granite hills of New Hampshire, full of vim and energy, transport him to Los Angeles, and go there twenty-five years after and find him, and you will see him with a pair of overalls, held up by one suspender, riding with rawhide stirrups, and smoking cigarettes, and saturated absolutely through with dry rot, and not worth the powder and shot to kill him. In China, through their fight for hundreds of years with famine, the very dress is trimmed down to meet the conditions around them. The beards have been trained from the faces of the men, the breasts from the women, because of the fearful necessities that surrounded them. Now, then, do you believe that these conditions can be changed by climate, or by the necessity of life, and that still you can put human souls in association altogether foreign to what they are intended, and not make an impression upon them? You say women are our equals. I do not stop with that; they are our superiors. You say they are entitled to the same rights politically. Very well. If that comes, it means not only that they are to vote, but they are to go into the primaries, they are going to rustle with the boys and girls, they are going to your office; and that makes me thankful to the gentleman from Salt Lake, who yesterday brought up the example of the Spartan mother. I am much obliged to him, but I am a little rusty in my classics. He thought he saw a noble character in that Spartan mother; I have never been able to see it; but it illustrates this matter exactly. Man gets his character from his mother. If the mob that followed that woman's example, supposing it be true, and piling stones over that unfortunate wretch of a son, because he had accepted bribes, had been gifted in the knowledge of what governs the human systems and the minds and souls of men, in my judgment, the moment that mother placed the first stone, some wise woman would have called the mob aside and said, "See here, the boy is not to be blamed; before that child was born that mother had an insane longing for a house as good as some woman across the street or a dress or a parasol as fine as some other neighbor wore." That infirmity in that boy's mind and heart came direct from that cold-hearted mother, because if she had been a true mother she would have gone to that son and said, "You have done very wrong, but perhaps after all it was my mistake. Perhaps I am to blame. You are my child, and while the world turns against you, I am not so sure of being perfect myself that I can give up my human affections. I will stay by you and if they cover you with stones, I will be covered too." The fact that she, in her pride, was willing to cast off that son was the excuse for the crime of the boy, because it showed that woman had not the principle in her of bringing forth an honest son.

Now, if this goes on, how do you, Mr. Chairman, or how does any gentleman here, know what is to come of it? I do not mean this year or next or the year after next, but I mean in the future. If women take part in the elections they will want to hold offices. Now, and I beg pardon for having to talk on such a subject; it is necessary or I would not; suppose some woman wants to be governor, or wants to be chief justice, and says very frankly that the man who is now governor or who is now chief justice is inferior to her in mental acquirements, and just before the convention meets she discovers that circumstances over which she has no control will make it necessary for her to postpone her nomination until next year. What kind of children will you have in this world after a while? I say be careful. I say the world should be careful, not to bring immortal souls into this world surcharged in advance with all the stormy passions which fill a disappointed or an irritable woman so placed. Those are my grounds for

believing that suffrage for woman is not just the thing. At the same time I always hold, in public and in private, that my judgment ought not to control even myself, for a great many wiser men take an entirely opposite view, but I do believe in this effect upon woman. When she changes her sphere, not lowering it as has been said, but changing it, you know very well, Mr. Chairman, that this particular influence does have effect upon women. For instance, can you imagine any conditions that now or at any time have existed where Susan B. Anthony could have been a a wife and a mother? And do you think that Mary Washington or Martha Washington lost any of their grace or their modesty because neither of them in their day had the right of suffrage? And do you believe that old George would have led the armies of the United States any better had his mother, instead of teaching him the truth which made up that great characteristic of his, she had been off at a primary or in a convention; when you read of George Washington, what do you really do? You take off the hat of your soul in reverence to Mary Washington, and you admit in one moment that he was great simply because he had a good mother, and carried out in his life with his strength the glory that was in her soul.

We have a great many reasons given why we should not have woman's suffrage. And that makes me think that among the rest one reason given is that there is unrest in this community, a feeling of uncertainty and of how the future is to be. To prove that the fact is not true, the gentleman from Salt Lake yesterday energetically called in criticism the report of the minority committee here, and declared that in that report the committee had charged the ladies of this State or Territory with improper motives. I would pay no attention to it, except that the same gentleman did the same thing in the caucus the other night, which we have heard of here before; and I speak of it simply because that was not a binding caucus at all but simply a meeting for exchange of opinions, not intended to bind any gentleman present.

Mr. JAMES. I would like to ask you a question. Did it bind anybody or was anybody bound in the caucus?

Mr. GOODWIN. Not the slightest. If there had been I should not have mentioned the caucus here. It was simply an exchange of opinion. At that time the gentleman who filed this report explained to the gentleman from Salt Lake that all his reference was simply political; that he had not the first personal idea of offending any lady or saying anything disrespectful to the ladies. Still the matter seemed to be in his soul yesterday, when he charged that this report of the minority charged the ladies with improper motives. It is worth a moment's attention. What does it say? It says, "a wide spirit of fear prevails that with this privilege restored the old overwhelming force will destroy the present equality of parties and awaken a terrible temptation on the part of those who ruled before to resume their sway by working upon the generous impulses and religious instinct of woman." Now, I appeal to every gentleman, and to every lady for that matter, whether it is ascribing an improper motive to a lady, to say that her generous and religous instincts may be appealed to? That is all it says, and I speak of it because the very impetuosity and vehemence of the gentleman's remarks that there was nothing of that kind to be dreaded here, carried the impression to me that the ashes of the old contention were still warm in his heart, and that he ought to turn the hose upon them, lest there might be a spark there carrying with it so much hell-fire that any political excitement or any whirlwind of religious fanaticism might set the State afire by it.

Now, coming down to our duty; as I said in the beginning there was no pledge of any convention upon me at all, but in that caucus I had a new experience. I have always read that plank in the platform as a party catch word; and while upon it I might say, perhaps, that we all know how solemn a thing a democratic or a republican territorial convention is. That it is the representatives of the people that want to get the best statement of principles they can and get into that statement as many catch words to catch votes as possible. Still it has a valuable effect with limitations. All the people are represented in those conventions. So all the people are represented in this hall. We will suppose a case. We know what the pledges of the platform are, we will suppose that there had been a revulsion in feeling and that the people from all the counties in the State were sending in protests and petitions here that we should ignore woman's suffrage, would the plank in the platform bind us? I think not; but there is another side to it. In that caucus, to my astonishment, I found young man after young man get up and say, we took that platform in the very best of faith, we made our campaign upon it, and because we pledged this we got all the prettiest girls in our towns to come to our meetings, and all the good singers sang in our meetings. It is a fad with them. Now, that makes a different state of affairs. Mr. Chairman, if the people of this Territory that have not been as long drilled in politics as some of us, expressed their sovereign will by what the speakers of a republican and a democratic party said last summer, and believed that this great principle was intended to be carried out, and if to deny them that will make them lose their faith in the integrity of parties, that puts a new phase on it altogether, and it is for that reason, Mr. Chairman, that I say while I think it is a mistake, at the same time my judgment is not as great as other people's, and as Mr. Lincoln said, "everybody knows more than anybody," I shall vote against this amendment, and if I am in the Convention, I shall vote for the article as it comes down from the committee; and now just one more word.

I wish to say to my friend from Davis County that in the anticipation of his loneliness when his party shall have dropped him, it is not going to be so bad as he thinks, because several years ago, fearing that some political bee would get in my bonnet, I pasted the story of the little girl in my hat. She had been very sick, the doctor had given her some very bitter medicine; she got well, but she always hated that doctor, and when they told her that he helped to cure her, she said she knew better, that God cured her in spite of the doctor; she knew it, because her mother told her so. Now, I know what the mothers have told their children in Utah, hence I wish to beg my friend from Davis County that he will permit me in the solitude of that night that has no star to come over and sit with him, and if, as a last missionary work, I can convert him from the heresies of that democracy which seemed to possess his soul, I will think more of that lamb than all the rest of the flock that is out on the range. [Laughter and applause.]

Mr. CANNON. Mr. Chairman, I arise to a question of personal privilege. Gentlemen of the committee, an allusion has been made to my remarks yesterday in a way in which I think demands a personal explanation. That which took place in the caucus which was supposed to be secret has been alluded to by the last speaker, and it causes me to make the explanation which I desire to make. The gentleman who heads the list who signed the minority report did make the explanation that has been made by Judge Goodwin. At the close of our caucus he announced that he had the utmost respect for the ladies of Utah; that he believed that

they were honest; that he did not desire to cast any aspersions upon their character. My remarks in the caucus and his remarks in reply were not before this committee or this Convention, but on the other hand, there was before this committee, and upon the records which are being made here, a charge to this effect, that the widespread fear prevailed, that with the privilege restored the old overwhelming force would destroy the present equality of parties, which always leads to confusion, if not to tyranny, and awaken a terrible temptation on the part of those who ruled before to resume their sway by working upon the generous impulses and religious instincts of women, which would result in political, if not social and business, ostracism of the minority. When the gentleman states that it is not an aspersion upon the character of the women of Utah, I must beg to differ with him. When he says that any class of men or that any man can attack my mother, my wife, or my sister, to the extent that she would go back upon her pledges, which were made when we divided on national party lines, he makes a charge which I think should be refuted, and be met. Now, on this other point, where he says that I spoke with more zeal and more impetuosity than was proper, I simply would state this, when I speak I desire to be heard by those who are present. I do not desire to have my attitude misunderstood, and I speak honestly the sentiments of my heart, but I will say further that there is in my heart no spark of bitterness, no feeling of bitterness toward any man who ever had opposed me religiously, socially, or politically. I have met those who were my former political opponents, and those who have come in close contact with me know that I have treated them honorably and fairly, that I have not betrayed them, and that in that which I have done, I have met them with that fairness and that honor which I expect them to accord to me.

Mr. EVANS (Weber). Mr. Chairman, I do not know whether it is desirable for the committee to rise at this time; it seems to me that we have had a long session, and it would be somewhat cruel to inflict upon the committee any further remarks to-day. I would therefore move that the committee now rise and report progress.

The question being taken, the committee divided, and by a vote of 49 ayes to 35 noes, the motion was agreed to.

The committee then rose and reported as follows:

Your committee of the whole have had under consideration the article entitled elections and rights of suffrage, and now report progress.

Mr. CANNON. Mr. President, I desire to move that we now go into committee of the whole for further consideration of this question.

Seconded.

Mr. CANNON. My reason is this, I think that we are spending a good deal of time on the matter. I am perfectly willing that we should spend as much time as necessary, but I think that we should not adjourn at 4 o'clock, when we have so much work before us. I think that if we do this every day, the first thing we know we will be in the middle of the summer without accomplishing the purpose for which we convened. I am in favor of sitting until we complete it.

Mr. ROBERTS. Mr. President, I would move an amendment to the gentleman's motion, that we have an evening session.

No second.

Mr. EVANS (Weber). Mr. President, if any gentleman here would like to speak to-night I would vote to go back into committee of the whole. So far as the few remarks I wish to make to the committee are concerned, I do not desire to do it to-night. I know that they are tired. I feel weary myself. I

think I would not do justice to myself or the committee.

Mr. CANNON. Mr. Evans, I would like to ask what length of time you desire.

Mr. EVANS (Weber). I expect to occupy about twenty minutes or perhaps thirty.

Mr. CANNON. Mr. President, I would suggest that if that is all the time the gentleman desires to speak it could be done to-night. I would not like to press it.

The question being taken on the motion of Mr. Cannon, the Convention divided, and by a vote of 38 ayes to 47 noes, the motion was rejected.

Mr. HART. Mr. President, I call for the regular order.

THE PRESIDENT. The third reading of ordinances and propositions for insertion in the Constitution is the regular order.

Mr. KIESEL. Mr. President, I move to adjourn.

The question being taken on the motion to adjourn, the Convention divided, and by a vote of 40 ayes to 43 noes, the motion was rejected.

The Convention then proceeded to the third reading of the article entitled preamble and declaration of rights.

Mr. EVANS (Weber.) Mr. President, I move that we read the declaration of rights by sections and pass upon it in that way.

The PRESIDENT. Leaving the preamble until the last?

Mr. EVANS (Weber). Leaving the preamble until the last.

The secretary then read sections 1, 2, 3, 4, 5, 6, 7, 8, 9.

Mr. HART. Mr. President, I move an amendment in line 5 of section 10, by changing the word "such" to the word "civil" so that a two-thirds verdict of the jury only in civil cases and not in criminal cases less than felony. I think it is inconsistent to make a difference between a felony and a misdemeanor, so far as unanimity of the jury is concerned.

The motion was agreed to.

Mr. HART. Mr. President, I would suggest, to make the balance of the section conform to that, the word "civil" in the seventh line should be changed to "such," in order to avoid a repetition of the word "civil." I move that as an amendment.

The amendment was agreed to.

Mr. WELLS. Mr. President, I desire to offer a verbal amendment. I move that the word "not" be stricken out between "shall" and "consist" in the ninth line, and to insert between the words, "of" and "less" in the same line, so that it will read, "provided, that a jury in the district court shall consist of not less than nine."

The amendment was agreed to.

Mr. EVANS (Weber). Mr. President, I desire to offer a substitute for section 10, which I will pass to the secretary's desk.

The same was read as follows:

Section 10. A lawful jury, both in civil and criminal cases, in all courts of general jurisdiction, shall consist of nine jurors, except that in capital cases the jury shall consist of twelve, but in civil cases the concurrence of two-thirds only shall be necessary for a verdict, but in criminal cases all shall concur; in courts of inferior jurisdiction a lawful jury, both in civil and criminal cases, shall consist of three jurors, but in such courts, in civil cases, the concurrence of two jurors only shall be necessary for a verdict, but in criminal cases all shall concur. A jury shall be waived in civil cases unless demanded.

Mr. EVANS (Weber). Mr. President, as this is a very important section, one as important as any in the bill of rights, I think it ought to be printed, and pass that section and go on. I would not like gentlemen to act upon it without a knowledge of what they were doing. At the time that we drew and adopted section 10, it was in view of the fact that the judiciary committee at that time had practically agreed upon four classes of courts; first, senate, sitting

as a court of impeachment; second, supreme court; third, district courts; fourth, probate courts, and fifth, I might add, justices of the peace. The committee at this time have agreed that we can get along by abolishing one of those courts altogether. I do not know whether the Convention will accept the report of the judiciary committee or not, but we have agreed practically unanimously to do our judicial work in Utah without any probate courts. Let the district courts have that jurisdiction. It will save a very large expense, and if that be the sense of the Convention, section 10, as it now stands, would not be appropriate, because it provides for a certain number of jurors in the probate court. And another thing, that section as drawn and adopted, and which was argued here at some length you will remember, is in technical legal language, that is the right of trial by jury shall remain inviolate. Those words mean certain things which the courts have given them. The language which is now proposed for section 10 is in plain English, and I see no reason why it should not be adopted. It provides that a jury of nine shall be a lawful jury in criminal cases and all of the jurors must concur in the verdict. In civil cases, there must also be a jury of nine men, two-thirds of whom must concur in the verdict, and this applies in courts of general jurisdiction, not naming the courts at all. Then, there is another class of jurors in courts of inferior jurisdiction. A jury shall consist of three men in both civil and criminal cases.

Mr. ELDREDGE. What courts are those?

Mr. EVANS (Weber). Justices of the peace. All three of these men must concur and give a unanimous verdict, in criminal cases, but in civil cases two of them can render a verdict. Now, that is all there is of it.

Mr. SQUIRES. There is another provision there about capital punishment is not there?

Mr. EVANS (Weber). Yes; and I thank the gentleman for calling my attention to it. In capital offenses, where a man is upon trial for his life, we preserve the old common law jury of twelve men, who must render a unanimous verdict. The provision is carefully drawn, and I think expresses the view of the committee of the whole the other day, when we were discussing that question.

Mr. CRANE. Might I ask the gentleman a question?

It says that the jury shall consist of twelve men; if the right of suffrage is given to women, how will that word fit in there?

Mr. EVANS (Weber). Now, let us see about that. The gentleman from Millard has not understood the reading of it; I carefully guarded that in drawing it.

(Reads proposed substitute).

Mr. SQUIRES. May I ask the gentleman a question? I would just like to know if the entire judiciary committee has passed upon this proposition as you present it now?

Mr. EVANS (Weber). The judiciary committee have practically agreed upon this, but I will not speak for them now, because some of them perhaps may not. We have agreed upon the principle of it.

Mr. SQUIRES. Ought we not to delay action for a little on that proposition?

Mr. EVANS (Weber). I would like it very much if this matter could be left to the committee on judiciary for further report, and I move, Mr. President, that this section be referred to the judiciary committee for report.

Mr. WELLS. I second the motion.

Mr. CREER. Mr. President, I arise to a point of order. I think it is not tenable to take this out of the control of the Convention now on its third reading and refer it to a new committee. I

think, in the first place, it properly belongs in this article—preamble and declaration of rights, and I think it should remain here.

Mr. EVANS (Weber). I think so, too, and that is where it shall go, but simply refer it to the judiciary committee with a view to putting it back in the bill of rights.

Mr. CREER. Why, Mr. Evans, do you suggest striking out the first part, "the right of trial by jury shall remain inviolate?"

Mr. EVANS (Weber). The only reason for that is this, that when we say the right of trial by jury shall remain inviolate, that means a jury of twelve men with a unanimous verdict. That has a well understood, definite, common-law meaning.

Mr. CREER. I would not have that, it seems to me——

Mr. EVANS (Weber). Except where the exceptions are expressed.

Mr. CREER. They are expressed here. That is why I prefer having this in, to secure that right. It shall remain inviolate.

Mr. EVANS (Weber). As long as this method or this form of jury is in the bill of rights, it does remain inviolate; it is in the Constitution and cannot be changed without changing the Constitution.

Mr. ROBERTS. Mr. President, the only objection I could have to this matter being referred to the committee on judiciary to be reported back to be put into this bill of rights, is that it seems hardly in order, because it is hardly courteous to the committee on the bill of rights to take a matter entirely out of their hands to be considered by another committee and then reported back and put into the part of the Constitution immediately under their charge. I should object to it on the ground of rather carrying with it the idea of a want of confidence in the committee on the bill of rights.

Mr. EVANS (Weber). I had an understanding with the chairman of that committee, that it was satisfactory. I would not offer any affront to any gentleman on any committee.

Mr. ROBERTS. Then, Mr. President, with that understanding I will support the motion.

Mr. CHIDESTER. Mr. President, I should object to that for this reason: That this section was discussed at some length the other day and passed upon and it was decided that a jury in a justice's court should consist of not less than three members. Now, the substitute seems to change that and make it a jury of three members in the justice's court, and I think the Convention was satisfied with that as it was before, and I should object to its going back and being changed in that respect; to make it a jury of three members in a justice's court.

Mr. WELLS. Mr. President, I will say in regard to this section that when the matter was under consideration in committee of the whole I moved—but was out of order as usual—to refer this section to the committee on judiciary. While it is usual to have such a section in the bill of rights, it is a matter that pertains peculiarly to the judiciary. It belongs to them. It was discussed by them in the committee, more largely than by any of the rest of the committee, and I see no objection whatever to having it referred to them to report back in the Convention. It does not say that they are going to decide it. We will have the last voice in this matter and whenever they are satisfied with it, I think the Convention will be.

Mr. SQUIRES. Mr. President, the objection raised by the gentleman from Garfield I do not think should have any weight; that we have changed the number of jurors in courts of justices of the peace, because that matter will come up for consideration when we get this report back again. I am in favor of the reference of this article to the judici-

ary committee, because I should think there should be conformity and uniformity between the two courts. There must be if we have provided in this article for more courts than the wisdom of our judiciary committee seems to think is necessary. I think we ought to conform to that, especially we who are not lawyers, and for that reason, I would be perfectly satisfied to have the matter go back to the judiciary committee.

Mr. WELLS. Mr. President, I move to amend the motion to refer to the committee on judiciary, with instructions to report back this section to the Convention.

Mr. EVANS (Weber). Can not we make it even more binding than that? Can not we make it binding upon them to report this back to-morrow? After all the consideration they have already given it, certainly they ought to be able to pass upon it to-night.

The PRESIDENT. Will you accept that amendment?

Mr. EVANS (Weber). Yes, sir.

The motion as amended was agreed to.

Mr. EVANS (Weber). Mr. Eichnor has a substitute for section 10, which I ask that he may introduce by unanimous consent and go to the committee on judiciary.

Mr. SQUIRES. Present it to the judiciary committee.

Mr. EICHNOR. All right.

The Convention then, at 4:40 p. m., adjourned.

TWENTY-SEVENTH DAY.

SATURDAY, March 30, 1895.

Convention called to order at 10 a. m.

President Smith in the chair.

Roll called, showing a quorum present.

Prayer was offered by Rev. A. Kinney Hall, of St. Mark's Cathedral.

The minutes of the twenty-sixth day's session were read and approved.

Petitions and memorials.

A petition was presented, signed by 1811 citizens of Logan, asking that the question of prohibition be submitted to the people.

Referred to the committee on schedule, future amendments and miscellaneous.

Mr. Lewis presented a memorial signed by 3700 residents of Weber County, requesting that the question of prohibition be submitted to the vote of the people.

Referred to the committee on schedule, future amendments and miscellaneous.

Mr. Miller presented a petition asking for the submitting of the question of prohibition to the legal voters, signed by residents of Sevier County.

Referred to committee on schedule, future amendments and miscellaneous.

Mr. Peters presented a petition, signed by Rev. E. H. Snow and others, of Corinne, asking that the question of prohibition be submitted to the people as a separate proposition.

Referred to the committee on schedule, future amendments and miscellaneous.

Unfinished business.

The PRESIDENT. I would state to the Convention that when we adjourned last night, we had under consideration the preamble and bill of rights and had reached the tenth section, which was referred to the committee on judiciary, with instructions to report this morning.

Mr. EVANS (Weber). Mr. President, I see the chairman is not here, and I should assume to say, that we have had under consideration section 10 of the bill of rights, and a draft has been agreed upon and has just been placed in the hands of committee clerks to be written out. I have a draft here, which, if it is desired, can be presented now. I will offer it as the report of the committee on judiciary, and ask that it be filed and taken up in its regular order.

Under the rules the report was ordered printed, and placed on the committee of the whole calendar.

Mr. HART. Mr. President, I move we now resolve ourselves into committee of the whole.

The motion was agreed to.

The Convention then went into committee of the whole, with Mr. Buys in the chair.

The CHAIRMAN. Gentlemen of the committee, when we adjourned yesterday, I believe we had under consideration, the article on elections and right of suffrage.

Mr. ELDREDGE. Mr. Chairman, at first I did not intend to speak to the question which is before us for consideration, but as it has taken such a wide range, and has circumscribed a vast field for reflection, I feel that I cannot pass the opportunity of speaking and expressing a few words on this subject. I have no set speech prepared and whatever I might say, will be drawn from the resources of my soul at the moments the expressions receive utterance.

I realize fully that the condition confronting us is peculiar in itself, and opens a wide and broad field for reflection. I realize, Mr. Chairman, and gentlemen of this Convention, that man and woman's destiny is inseparably connected, and whatever pertains to the interest of one circumscribes and involves the interests of the other. Whatever is of a nature detrimental to one of a matter of necessity it is injurious to the other. We have heard doctrine enunciated here that in many instances is somewhat different from my views of the subject. We have been told that woman does not possess an inherent right to the suffrage, that suffrage does not lie upon that basis, that it is the privilege granted by the government. If this be a fact, where does man possess the inherent right of the exercise of that privilege?

If I mistake not, governments are framed by the consent of the governed, and whatever power or authority there exists in governments, they acquire it from those who are governed.

This being the case, then is it reasonable that governments possess the right to give the privilege of franchise without having first secured that right from the governed?

They only exercise such powers as the people see fit to confer upon the government, and, therefore, if it is a power invested in the government, that government has derived it from the people. Who are the people? It would be utterly impossible for a government to exist, with only those who claim the right of suffrage in its narrow sense. Governments without a people would be what we behold in many parts of this great country—extinct when the people become extinct.

Our forefathers must have had this under consideration—forefathers who were not mere ciphers; forefathers who were not indifferent to the interest of the children of men; forefathers who had no disregard for liberty and human rights, but forefathers who had interest in establishing a government; forefathers who had an interest in securing to themselves, to hand down to their posterity, liberty and the right to pursuit of happiness; forefathers who were unable to grant entire conceptions of the human race; forefathers who were willing to bare their breasts to any steel and any lead, that we might inherit the liberties that we now possess; that brought from the mother country their freedom and their liberty, and they have thus provided that class of men in England that has been handed down in the fundamental law that governs this grand nation. We have this declaration in the Constitution of our country:

> The United States shall guarantee to every state in the Union a republican form of government.

What is a republic? That which is common and general. That which per-

tains to the general commonwealth. It makes no distinction so far as sex is concerned. It appiles equally to the male as it does to the female, and vice versa, that they should have a republican form of government. Therefore, this very sentence expresses the view that it was not with a view of curtailing the franchise, but it was with a view of protecting the franchise, that they should guarantee this right.

If any state should assume to curtail the privilege, it would be the duty of the general government to step in under this provision, and which we have accepted and adopted, and say that there cannot be any invasion upon the rights of that sacred privilege of right.

Man has a voice in saying who shall make the laws that govern him. Man has a voice in saying who shall execute those laws. Man has a voice in saying who shall place the valuation on his property. Man has a voice in saying who shall expend the revenue that is collected by reason of the assessed valuation of his property in conformity with law. Is there any more reason, in the light of justice and equality, that man should exercise these rights than there is that that person, who, as the eminent gentleman from Davis County said, was created for the express purpose of walking side by side with man? Their feelings and their sentiments in a large degree are simply in conformity with ours; if not, I had viewed the human family from a wrong standpoint.

We are confronted here with the idea that platforms are only made for expediency sake, such logic has been advanced, and there is nothing sacred in such documents.

I cannot view it exactly in this light. I wish to briefly review the history which led up into the election of perhaps every gentleman in this Convention. When the republicans met in territorial convention in Utah County, and the question there was presented of woman suffrage, was it presented from one side of the people of this Territory? Let me say that in that convention was alike Mormon and non-Mormon. In that convention representatives from the ex-people's as well as from the ex-liberal party. I presume that there was no thought or distinction made when they were electing those delegates to that convention as to what their former political standing was, or as to whether they were Mormons or not Mormons. They had, as I supposed, buried the differences and the bitterness of the past. They had come out upon party lines; upon any grounds, they were children of the same Great Creator, their interests were identical with each other, the prosperity of one meant the prosperity of the other, and it was supposed they had agreed to lay old issues past, come forth unto the broad standard that had been laid down by the great parties of this nation, and walk hand in hand for a common purpose. And, perhaps, it will only be just for me to say, Mr. Chairman, that the gentleman who was the chairman of that committee upon platform was a non-Mormon, was a person that had come from the ranks of the ex-liberal party, and upon that committee it was evenly divided, so far as I recollect, betwixt Mormon and non-Mormon, and when that measure was proposed, I remember well the expression that I gave upon that occasion. I was a member of that committee. I said, "so far as the matter of right is concerned, there is no question in my mind whatever, now; I believe that it is as much an inalienable right upon the woman as it is upon the man," but I said, "as for the wisdom of the measure, I somewhat question it." And let me here state, Mr. Chairman, that I have had no occasion to change my opinion, as for the matter of right there is not a doubt in my mind; as for the wisdom it is a question. You may call it wisdom or you may call it expediency. Man has a right to thrust his hand into the fire if he chooses,

but, in the language perhaps of one that has preceded me on this floor, it will make an "all-fired sore." But there is no question about that right; man has his agency, to exercise it as he sees fit, subject to an accounting for that agency. If this were not an immutable law, then the Author of our existence is a respecter, of persons. and that which is immutable and eternal in its nature, man cannot change.

The complexion under which our souls are clothed, the difference of conditions under which we came into this world, demonstrate that there must be merit —reward and punishment. If not, then there must be in that all-giving Life a proper respecter of persons.

And in that platform the plank of woman suffrage was placed. It was presented to the convention and the convention received it with open arms, and with the greatest enthusiasm. Not a word was expressed against it, and not a voice in it denouncing the doctrine. It passed. It went abroad. It was telegraphed to every town and every city and every village, where telegraph communication is in this Territory, that the republican party had placed within their platform a woman suffrage plank. There was no mass meeting held in protest against such a measure. There were no speakers who went upon the stump and denounced the principle. And in conformity with the doctrines laid forth in that platform, primaries were held, delegates were elected to county conventions, and county conventions were held, and men received nomination for delegates to this Convention, upon that platform, and that platform was the plank for woman suffrage. As with the republican party, so it was with the democratic party, they enunciated the same principles concerning this particular item in their declaration of principles. We accepted the nomination under those provisions, the election was had, we entered no protest against it, and we were elected. I hold that at that point then we passed a transition of right that to exercise our own judgment as the accepting a delegated authority, it was no longer your opinion or my opinion, it was the opinion of the people universally upon that question. It came to us as a trust, that we should see that, so far as that provision was concerned, it should be carried out.

I then had accepted it with full knowledge of the situation; I had accepted it also with the belief that it was a right that woman was entitled to; it was as much an inherent right in her as it was in man. But as I said, I had questioned the wisdom. When we come here then, do we come here to set aside the judgment that has been given before? Do we come here to ignore the trust that has been reposed in us? Do we come here with a view of overlooking all that has been said and done in this matter, and fall back upon our individual judgment? I hold, Mr. Chairman and gentlemen of this Convention, that there was a sacred trust entrusted to us, that we had a certain delegated authority which we were supposed to magnify, and though it put statehood in jeopardy, would that justify us in deviating from the course which we have marked out? I would say let statehood—like the able gentleman from Utah County remarked, in regard to expediency—"go to the dogs" rather than betray the trust that has been reposed in us.

Mr. MACKINTOSH. May I ask the gentleman a question?

Mr. ELDREDGE. Yes, sir.

Mr. MACKINTOSH. Is there any thing in the republican platform that says, "put it in the Constitution"—in the republican platform?

Mr. ELDREDGE. I believe the platform answers the gentleman's question.

Mr. MACKINTOSH. I say, is there anything in the republican platform

which says that it shall be engrafted in the Constitution?

Mr. ELDREDGE. Yes, that we favored the question of equal suffrage.

Mr. MACKINTOSH. We can do that through the people in the Legislature or in any other way. The question is, is a man betraying any trust by not voting for it here, and adopting it in the Constitution?

Mr. ELDREDGE. But, says one, statehood—don't you want statehood? Yes, I want statehood. I appreciate the sparkling gem. I appreciate the privileges and blessings that are to be enjoyed under statehood. I see it dazzling before my vision constantly. But do I want statehood at the sacrifice of honor?

This brings me back to the sentiments expressed in the minority report, and I trust gentlemen will excuse me for referring to them, because I think that if there is any question lurking under a cover, that here, and here alone, it should be brought to the front, and that if we had not had a common understanding in the past, it is high time that we understood one another now.

(Reads minority report as follows:)

A widespread fear prevails, that, with the privileges restored (that is the privilege of woman suffrage) the old overwhelming forces would destroy the present equality of purpose; it always leads to confusion, if not tyranny, and awakens a terrible temptation on the part of those that ruled before to assume their sway of working upon the generous impulses and religious instincts of woman, which would result in political if not social and business ostracism of the minority.

I wonder, gentlemen of this committee, how far that feeling is shared with the non-Mormon element of this Territory. It is a question which produces the profound thought in my mind, I wonder to what extent that feeling is shared by the non-Mormon element of this Territory.

I supposed that when we divided upon party lines, and agreed to bury the differences and bitterness in which we had come through, that those things should lay dormant, and that we would march hand in hand to a common purpose, looking to the interests of the citizens of our Territory, with a desire constantly in view of placing that star of Utah upon the glorious banner, made more so because it was designed by woman, to take its place in common with the balance of the states of the Union. But if there is a general lurking fear of this nature, we should probe it to the very quick, and if there is anything in it we should recognize it, and if there is not, it should be set aside and let the past be the past.

I am familiar with the history of this people, with the colonizing of this inter-mountain region. From the earliest period of my remembrance, those grand old mountains stand in my vision. My education, if it may be called such, was not acquired in colleges and institutions of learning. It was acquired in this inter-mountain region by the humble fireside after a hard day's work, or in these mountains after the close of the day's rustling with the timber, there, by a fireside upon those broad prairies, after a hard day's march, with only the open canopy of heaven for my covering; the people's sufferings and privations have been my sufferings and privations; their hunger, in early days, has been my hunger, and I know the integrity of their hearts and of their purposes. I know that they have come up through trying scenes of many a nature and of diverse character, until we have reached that point where I was in hopes that the glorious sunlight which has been so long within our vision, sparkling across the horizon, was here at our door; and then to be confronted with such circumstances as we have here, makes me wonder, and it makes me hesitate, and it makes me say, if those things are general, that probation should still be continued. Gentlemen, now I can afford to wait as long as you can afford to wait, until the differences

and bitterness of the past have been buried beneath our feet, and that we have confidence in each other to a reasonable and a proper extent at least. I am willing to say this much, gentlemen of this Convention, and I would be willing to pledge my life, or what is more sacred to me, my honor, that those conditions will never rise, unless it is in the interests of defense. Never. Let me ask, in making selections of delegates to represent the people, whether it be in county conventions, or in territorial conventions, or in constitutional conventions, has there, in any instance, been any inclination on the part of the Mormon people to discriminate in any way against the non-Mormon people? Has it been manifested? You can all, perhaps, answer this yourselves.

Have the Mormon people not been willing to accord, and that cheerfully, a full representation to their non-Mormon brethren. If they had not it has not come to my observation. Now, let me turn the question over. Has there been any disposition, at any time, or anywhere since the division upon party lines, in which our non-Mormon brethren have laid plots, schemes, or sought to devise measures——

Mr. RALEIGH. I wish to ask a question. I would like to ask the gentleman what non-Mormon or Mormon has to do with this question before this Convention? I thought we had come here as democrats and republicans.

Mr. ELDREDGE. I thought so myself. I will answer the gentleman of Salt Lake, and in answer to his question, I will call his attention to the report made upon this question that we are now discussing, and in that is developed a question which I think we should reach a full understanding upon. Turn it over and ask the other element if we are going to so consider it, if there has been any thing on that side, and let them answer that. Let's all answer. Then if we are satisfied that these fears here expressed are not general—and let me say right here, Mr. Chairman, the reason that I have attached more importance to it perhaps than I would on other occasions, is because I take into consideration the standing and the ability and the character of the gentlemen that made the report. I suppose they are in a position to know and to understand at least to a reasonable extent, the sentiments of their associates in a political way. I know that I am in a position to understand and to know, and I judge them from my standpoint, and I believe that it is a fair criterion to be governed by. So that if there is nothing afloat to justify these fears and these misgivings, then let us let the past be the past and go on working for a common interest and a common purpose; if there is anything to justify it, let us bring it to the front and have an understanding that we may know in the future where we do stand. I am in favor of statehood, first and last and all the time; providing the conditions are ripe for such a step in advance, and that we can acquire it without sacrificing any principle or any honor. But under no other circumstances, am I in favor of such a measure. I say, let us keep our pledges faithfully, let us fulfill, according to our own declarations, which we have agreed to, and if it is not wisdom, the future will develop that, if it should be wise, then all the better for us; our steps are not like the Medes and Persians; though it may be a constitution and that constitution may be accepted and ratified by the people, it is not to endure for all time; it is subject to improvements and amendments. The power that was in the people to delegate us to create it still remains to delegate people to amend it. And, therefore, I am in favor of the committee's report, and shall vote against the amendment.

Mr. EVANS (Weber.) Mr. Chairman, and gentlemen of the committee: in the language of the great statesman, some-

what paraphrased, I will say, sink or swim, live or die, survive or perish, I am for equal suffrage. During the days of debate upon this question, conflicting views have arisen among our delegates, and it is well enough after the storm of discussion, to pause a moment and understand where we are. As I understand the question before this committee, it is this: first, is it expedient that at this time we should insert a clause in the Constitution of our new State giving women an equal right with men in the civil affairs of our government; and second, will it degrade women and unsex them?

I will discuss the first briefly, somewhat in a line in reply to the distinguished gentleman from Davis County. He has expressed many admirable thoughts, but, gentlemen, to my mind, although he has discussed the question of logic, we shall see whether, in the light of the facts, it be logical or illogical. Some six or seven points have been made in their turn, all of which are expressive of a fear of endangering statehood for Utah. Woman suffrage is one, the fear of taxation another, the subject of prohibition another. The fear of an element in this Territory which exists in their midst, with respect to the old condition of affairs, is another. And so it is. What is it all when it is summed up together? It is a fear that Utah's statehood may be defeated. Gentlemen in eloquent terms declare that it is courageous to stand single handed and alone, an admirable and eloquent thought indeed; but gentlemen, is it true? I maintain that the courage in the discussion of this question is upon the part of those who are here insisting upon the right of woman to take her part in the political concerns of the government. Holland, Sweden, and Australia and Austria, and three of our states, give women suffrage either in whole or in part. In the nations first named, property classification alone is required, and in some thirteen other states, I believe, partial woman suffrage is given. Aside from these cases and localities, women have never exercised the right of franchise equal with men. The prejudices of the human race are against it and have been for ages past. Since the time that it was written in holy writ, that the desires of the wife should be to her husband and he should rule over her—from that time to this that scriptural command has been used against woman in the exercise of her rights of suffrage, in the civil affairs of government. Does that mean that which gentlemen claim for it, that man shall rule over woman in a political sense? Does it mean that man shall tyrannize over woman? Does it mean that she shall not have equal rights with man in administering the government to whose laws she is as amenable as men? I contend that no such construction can be placed upon it. Gentlemen of the committee, the cause of these prejudices, ages after ages, has been transmitted to us, and naturally we have prejudices against extending this right to woman.

Free thought better than the throne? Certainly it is; but, gentlemen, in our system of republican government the voters at the polls are the kings, and the people who occupy the throne, and the officer, is the servant of the people. If, then, it be true that in republican government and in theory, men are the kings and the officers are their servants, why not also elevate woman in the same sense to the throne to which she is entitled? I would rather give a free expression of thought upon this question, although it be unpopular, than to occupy a throne. It is the unpopular side of the question we are taking, gentlemen, and the distinguished gentleman is shrewd enough to know it. Get outside of particular localities where we are—the particular circle in which we move, and the sentiment is against the progress we are about to take in this Convention. But

gentlemen say it will imperil the Constitution. Imperil the Constitution, will it? How can it imperil it? The intimation is thrown out that the President of the United States will withhold his signature, or rather his proclamation. What right or power has the executive of this nation to withhold the proclamation, the result of the vote upon the Constitution? The Enabling Act, under which we are here assembled and organized, expressly provides that when the Constitution shall have been submitted to the people, and if it be ratified by their votes, it shall be the duty of the President of the United States to declare the result. It is merely a perfunctory duty upon his part. It would be that of tyranny and oppression, were he to withhold the proclamation. And whatever else may be said of Grover Cleveland, he is one of those men, gentlemen, who has the courage to do that which is right, and I would therefore dispel the idea which seems to be prevailing among the people that it might endanger statehood to insert the section proposed by the committee. I join, however, my views with those who say that if it be right that woman should occupy her place in the government of the new State, I would have the courage to stand by my pledges and by my principles and would relegate myself with the balance of the people of Utah back into a territorial vassalage. Talk about fears when we are doing right! Suppose at the time that we were struggling for independence against the great powers of Europe that Washington would have said, "I fear some danger if we take this important step for liberty?" What did Patrick Henry do when he hurled his slogan at the head of George the Third, "Give me liberty or give me death?"

Why not, then, stand in his place and say to the suffering colonies pleading and demanding their rights of representation in a free government: "I fear that if we demand it that the gallows might be our lot." Gentlemen, suppose at the time that the colonies were in Valley Forge, that their leaders, they had feared the greatest nation on earth, England, the mistress of the seas and pride of the world, with munitions of war and trained soldiers—suppose we had in those days men standing in holy fear of the great power which they were contending against, to-day, we would have been in a position of dependency; but men did not take that course at that time; they were courageous, patriotic and fearless, as men ought to be in this Convention.

Why, gentlemen of the committee, the only question to consider, is it right? The gentleman from Davis says that the franchise is not right. In legal contemplation it is not. He is right with respect to that matter. He is right when he says that legal writers have laid it down as an indisputable principle that franchise is a privilege; but, gentlemen, that is with respect to the execution of the laws. We are here in a different capacity. We are collected together here for the purpose of laying the foundation of the fundamental law. Cooley says:

> These rights cannot be demanded as a right—neither inalienable or naturally; they cannot be made so without constitutional provision.

That is what we are here for; to lay the foundation and to insert in the fundamental law of the land a provision by which woman has the right—the inalienable and indefeasible right to occupy a place in the civil affairs of our government. We are now making the fundamental law upon which all other laws must revolve as mere satellites and limitation upon others, and, if this be inserted in the Constitution, it is as much the right of a woman then to vote as it is the right of any individual to have a jury of his peers when charged with crime. It is as much a right then as any right which was ever taken from the golden casket of liberty. It will

then be one of the jewels set in the coronet of the new State, and she can say, like man, "It is my right and I will exercise it."

But, gentlemen, the distinguished gentleman was very fair—extremely fair; he says whether this provision be inserted in the Constitution or not, he will be found upon the stump, everywhere advocating its adoption. He is so very fair about it, that it seems to me that there can be no objection at all to that. It reminds me about a little story of a jovial fellow once, who had been out a little late; he had taken a little too much spirits for his moral or physical welfare. On the way home it became necessary to hold to the railings of the fence as he staggered along; he came to a gate which opened into a graveyard; swinging around by the gate he soon fell behind an old fashioned tombstone, and fell into a deep sleep. In the morning a funeral procession came into the graveyard, headed by the clergyman reading from the ritual, "Even as in Adam all shall die, so in Christ shall all be made alive."

The fellow roused up and says, "Well, that's a fair enough proposition, sure enough."

Gentlemen, if it is fair—if it is fair to work for this provision in the Constitution, whether it be inserted there or not, it resolves itself back to the same question, is it fair? Is it fair that women should exercise this right which we propose to give them? I might quote another passage of scripture, although I am not much of a divine, which might be applicable somewhat to the gentleman from Davis, and probably one of the things which he might fear. I believe that Isaiah once prophesied that, "as to my people their children shall be their oppressors, and women shall rule over them." [Laughter.]

I wonder if it is that fear that exists in the mind of my esteemed friend that he opposes so strenuously this proposition. But, gentlemen, let me proceed a little further. Is not it true that this is a reform which we propose to here adopt? If it be a reform, then is not it also true that every reform which has ever been practised or carried on in the history of the world, was carried on by those shining lights of courage? Courage is what is wanted here, and I doubt not but the committee will take the step when the time shall arrive.

I will leave the question of expediency now just for a moment, and I will go into the question of the right of woman to exercise the franchise as well as the man. Gentlemen, as I understand the argument, it is this: that if woman be given this right it will drag her down from the exalted pinnacle of admiration where she is placed in the estimation of man; that it will drag her into the mire of politics; that it will unsex her. If those were true, then I would oppose woman suffrage, and so would every other man. The only trouble about it, gentlemen, is, is the premise itself right? That is the question to consider. I care not now whether you consider the question of platform or not; for my own individual part, I would absolve every man from any party pledge he has made, I would not begrudgingly extend the right of franchise to the opposite sex if it is not right that she should have it, and if I believed it was not right that she should have it, I would cast my vote against it irrespective of platforms. It was once said by Senator Hill, I believe, that political platforms were like the platforms of a car, made to get in on and not to ride on. Some men regard platforms of parties in that light. My distinguished friend says, they are like the shifting clouds in the sky, shifting here and there and everywhere, for the purpose of political gain and advantage. For my own part, so far as our platform is concerned, upon which we stand, I believed it was right when it was passed; I participated in its formation, and voted for its adoption. I

believed then that it was right; I believe that it was right before; I believe that it is right now. But, so far as those platforms are concerned individually, I would absolve any man from them upon this important question. But there is one thing, gentlemen, that we ought to do to be consistent with ourselves, being members of a political party where the representatives of the parties come together, and, in the same convention declare for an important principle. I think that if any gentleman in that party does not believe in the platform, that he ought to make it known. I believe in honesty to his constituents and the people; he should say he cannot stand on it. Not made an issue, so my distinguished friend says. Not made an issue? Of course it was not, simply because both political parties declared in favor of it. There was no chance to join an issue on this question. My republican friends, I give you my right hand of fellowship, and for one I stand here not only for the honor of myself, but for the honor of my party and for the people of Utah. Will it drag woman into the mire of politics? Can it do it? Why, the report of the minority committee is to the effect that women in intellectual attainments are the equals of men. Indeed, their report goes on to say that they are better; but they do not want to drag them into the mire of politics. Let us put the proposition this way, gentlemen, you should oppose woman suffrage, and let us see whether it is logical or not to oppose it. If women are the equal of men in intellectual attainments, and are better in point of morality, why not logically disfranchise men and give women the right to carry on the affairs of this government?

Is it to be argued that the worst element of society is to carry on this government? That is the logical conclusion; but, gentlemen, neither is the case. There are good men, there are bad women; there are bad men and there are good women; in my opinion, it is a question of what they are by right entitled to have. If they are entitled to this right of franchise, it makes no difference whether a portion of them be good and a portion of them be bad, or whether they all be good or better than men. Will any gentleman say to me that it is degrading for me to walk side by side with my mother to the polls to cast my ballot with her? Would any gentleman insist that it would be demoralizing that I should go with my sister or my wife; that we should consult with each other with respect to the administration of the affairs of government, and make up our minds to vote? Why, gentlemen, think of it, slavery was the real cause of the civil war; it was so stated by General Grant in his memoirs.

This country was racked from center to circumference in the preservation of the Union, and for the purpose of liberating millions of people from bondage and from slavery. A constitutional guaranty was given these people concerning the elective franchise; even the Enabling Act under which we are assembled here to-day gives that class of people the right of the elective franchise. It gives the Indian—aborigines of this country—the right when he severs his tribal relations and is taxed. Under our institution and form of government, the drunken bum in the rut can walk proudly to the polls and cast his ballot whether it be venial or honest. Men charged and convicted of crime have the right to vote, and yet, in the midst of all this, even in this enlightened age and period of time, we say that woman shall not have the right. Gentlemen, is there any consistency in this?

My position is that it will purify politics, that it will not degrade women, it will elevate them, cause them to think and reflect upon the institutions of our

country that we will march on to a higher civilization and a better government.

But, gentlemen, upon this question, when it comes to discussing it upon its merits, I believe that no reason has yet been given why woman should not have the suffrage. If any reason has been given it does not appeal to my mind. Some men say it would endanger the question of prohibition, if women have it, and that is one of the arguments, I believe, used in the minority report. While I am not in favor of prohibition, if women have the right to vote, and if they desire prohibition, why should not they have it? I see that amuses my friend on my left.

Mr. ROBERTS. Excuse me, it was not I who laughed.

Mr. EVANS (Weber). Oh, it is a government of the people. If the people desire to put better restrictions upon that traffic, have not they the right to do it? Would it be in the interest of morality and a better form of government, and a better state of society? Gentlemen, talk about selfish purposes, and about political aspirations. I care nothing about it, but other gentlemen have selfish purposes for opposing the right of women to vote. Gentlemen, upon this question, I believe, upon my honor, that the people of Utah would dishonor themselves were they to deny this right under the circumstances. I vote for the proposition as inserted in the majority report, I would vote until the last vote expired. I would vote for our homes and our futures, I would vote for equal suffrage and in our native land.

Mr. WHITNEY. Mr. Chairman, I have listened with no common interest to what I consider one of the greatest debates which it has fallen to my lot to hear; and I do not rise to contribute my quota of argument because I deem it necessary that I should speak in order to decide this question. It is not so much from a desire to be heard, as it is to respect the wishes and respond to the requests of certain of my friends, that I now take part in this discussion. To me it is battle of destiny that is in progress, and the battles of destiny are won before they are fought. The success of the movement for woman suffrage is a foregone conclusion; and were it not that gentlemen may wish, as I do, to respond to the requests of their friends and place themselves on record in this connection, I opine that not many more would impose on the patience of the Convention.

I have listened enraptured to the eloquent periods that have rolled forth from the lips of the gifted men who have preceded me, and have spoken upon either side of this question. I was particularly charmed with the eloquent remarks of the gentleman from Davis County, Mr. Roberts, whom I not only admire as a gifted man, but esteem as a personal friend—sincere, I believe, in the position he has assumed, and anxious only to defend the right as he sees it. I could not but admire the courage with which he faced a frowning multitude, and withstood the onslaughts of a multitudinous foe. While he was speaking my mind scanned the pages of history in quest of some hero with whom to compare him. I thought of Horatius at the Roman bridge, standing single-handed and alone, beating back the Tuscan legions advancing to attack the Eternal City; and I fain would have compared my friend to that hero of antiquity. But I could not; because Horatius was fighting for freedom, and in my opinion my eloquent but mistaken friend was fighting against it. [Applause].

I went back farther into the past. I thought of Leonidas and his three hundred Spartans, defending the pass of Thermopylæ against the overwhelming hordes of Persians, sweeping down like an avalanche upon his native land. I wanted to compare him to that hero—one of the noblest in history—but again I was met by the reflection that

Leonidas fought and fell in a battle for liberty, and I was convinced that my friend from Davis County was taking part in no such engagement. [Applause.]

Then I remembered a little anecdote—one that is doubtless trite and commonplace to you all. A bull was feeding in a pasture through which a railway track extended, along which an express train was advancing at lightning speed. The bull got upon the track and tried to prevent the train from passing. He did not seem to know what was coming, and "preferring his free thought to a throne" [laughter], planted himself squarely in the way of the invincible power that came rushing and roaring on. The bull, I say, did not seem to know what was coming, but the farmer, his owner, did [laughter], and with a gasp of astonishment, mingled with admiration he exclaimed: "Well I admire your courage, but d—n your judgment." [Laughter and applause.]

But I did not like to compare my friend to a dumb animal; he had given convincing proof that he was not dumb; and though there was once an animal that spake [laughter], the property of one Balaam [renewed laughter], it spake by inspiration from on high, so that I could not compare it to the gentleman from Davis County. [Laughter and applause.]

Finally my mind, coming down to modern times, rested upon a scene made memorable in history, and I thought I had at last found the object of my search—a proper subject for comparison. Imagination pictured that eventful day—June 18, 1815—when the allied armies, the representatives of banded nations, stood facing upon the field of Waterloo one bold, independent, desperate man, embodying in his person the imperial despotism from which Europe struggled to be free. During the first day's discussion of this question, I thought I saw enacted before my eyes the scenes of that memorable occasion. I heard the thunder of the cannon, belching death and destruction across the narrow valley from mountain to mountain. I saw the French march up the slope and attack the English squares. There were charges and counter-charges. I heard the Prussian trumpet blow, and the patter of their bullets as they fell in the midst of the fray. I saw the Old Guard make its last charge and "foam itself away." Then the Wellingtons and Bluchers arose; the cry was, "Up guards and at them!" and down the slopes pell-mell rushed the overwhelming, irresistible force of victors flinging themselves upon the vanquished. I had thought of taking part in the action, but remembering what history has to say of those who pursued the flying French, slaughtering for the mere love of slaughter, I could not convince myself that it was my duty to pursue, Blucher-like, with sword in hand, an already defeated enemy. I supposed that the battle was over, that the issue involved was decided; but it seems that I was mistaken. I had not been witnessing Waterloo at all. It was the defeat at Leipsic that I beheld, and the fleeing Napoleon was but banished to Elba, and not to St. Helena. He returned, insisting that he had not been conquered, and entered upon another campaign. Then we had a Waterloo indeed, and all these scenes were re-enacted.

Standing here to-day, not as a participant in the strife, but rather as some wandering Childe Harold, musing upon the battlefield, treading "this place of skulls," the grave of ambitious hopes and desires, I feel more like moralizing than fighting the battle over again.

There was one thing in the eloquent oration of the gentleman from Davis County that I did not much admire. He may not have meant it, and if he disclaims it, I shall accept his disclaimer. But running all through his remarks was the seeming imputation that all who opposed him and stood with the majority upon this question, in favor of woman suffrage, were actu-

ated by motives less noble and honorable than his own. He alone stood for principle, towering like a colossus in the midst of the debris surrounding him, while we who differed from him were merely indulging in maudlin sentiment, seeking for women's smiles, reaching after laurel wreaths with which, it was intimated, fair hands were waiting to bedeck our brows. I have seen no laurel wreaths distributed. I saw a bouquet of roses yesterday [langhter] standing upon the table at my left (Mr. Roberts' place). I presume it was put there for Mr. Thurman (Mr. Roberts' near neighbor), since he is one of those who have been reaching after such things [laughter], but I noticed that it was Mr. Roberts who walked away with it after adjournment. [Renewed laughter and applause].

I know not what reasons the gentleman has for thinking that his opponents are actuated by selfish and sordid motives. But I wish to say to him, and to all, that because a man "stands alone," in the midst of "the wreck of matter and the crash of worlds," that of itself is no sure sign that he is right, or more sincere and honest than his fellows. I grant you that in most of the great crises of history the minority have been right and the majority wrong. The grandest heroes are generally found among the few. One of our American poets has said:

Count me o'er earth's chosen heroes,—
They were souls who stood alone,
While the men they agonized for
Hurled the contumelious stone,
Stood serene, and down the future
Saw the golden beam incline
To the side of perfect justice,
Mastered by their faith divine,
By one man's plain truth to manhood
And to God's supreme design.

But it is not always so. Majorities are sometimes right, and their voice is then the voice of God. When Sumter was fired on, and the shots discharged at that devoted fortresse choed round the world, it was the minority that spoke, and that minority was in the wrong. But when the great North arose in its might, and buckling on its armor burst like a whirlwind of conquering wrath upon the advocates and supporters of secession, it was the voice of the majority—the voice of Omnipotence that declared: "The Union must and shall be preserved." [Applause.]

And when it became necessary, after ninety years of waiting, to make good the promise virtually pledged by the patriot founders of the nation, and the edict went forth that struck from the wrists of millions of slaves the fetters which bound them, and which had not been removed, notwithstanding the great declaration of freedom, it was the fiat of the Almighty that blazed from the lips of Lincoln, and it was the voice of the majority of the people that said "Amen."

The heroes of romance are always in the minority. The hero of the great epic, Paradise Lost, is not the Eternal Father, sitting upon His throne surrounded by numberless concourses of angels; not the Only Begotten of the Father, full of grace and truth; not the archangel, Michael, invincible in battle, with two-thirds of the hosts of heaven at his back. Neither of these is the hero of Paradise Lost. It is Lucifer, the fallen, that bold, brave, independent spirit "who dared look the omnipotent tyrant in his everlasting face and tell him that his evil was not good." He is the hero of the poem, the one toward whom the current of romantic sentiment naturally tends. But was he right? Because he stood alone, or with the minority, because he dug his own grave and went down into the depths with the heavens weeping over his fall, was he right or any more sincere than those who opposed him?

Were Lee, Jackson and Beauregard right because they fought upon the weaker side, and, in the eyes of the romancist, are the heroes of our great civil strife? No; let the current of generous

sympathy go out to them as it will, let the romancist choose his heroes where he may, the fact remains that they were wrong, and the Grants, Shermans and Sheridans were the instruments of Providence to put them down. It was the voice of the minority that spoke at Sumter, but it was the voice of the majority that thundered at Shiloh, Gettysburg and Appomattox.

Majorities, I repeat, are sometimes right, and I believe the majority upon this floor are right when they say, we will put woman suffrage in the Constitution; we will strike the fetters from the wrists of our wives, mothers, sisters and daughters; we will grant them the boon already granted to the black man under the pledge of the declaration that "all men are created equal" and that "governments derive their just powers from the consent of the governed;" we will take one more step in the mighty march of human liberty, which has been sweeping down the ages from the dawn of time even until now.

All the arguments against woman suffrage, however plausible, however sincere they may be, are simply pleas for non-progression. The eloquent notes that have been sounded here, while they please the ear and charm the senses, are not harmonious with the morning stars. They are not in tune with the march of human advancement. I stand for progress and not for stagnation. I believe that politics can be and will be something more than a filthy pool in which depraved men love to wallow. It is a noble science—the science of government—and it has a glorious future. And I believe in a future for woman, commensurate with the progress thereby indicated. I do not believe that she was made merely for a wife, a mother, a cook, and a housekeeper. These callings, however honorable—and no one doubts that they are so—are not the sum of her capabilities. While I agree with all that is true and beautiful in the portrayals that have been made of woman's domestic virtues and the home sphere, and would be as loath as anyone to have her lose that delicacy and refinement, that femininity which has been so deservedly lauded, I do not agree that this would necessarily follow, that she could not engage in politics and still retain those lovable traits which we so much admire. I believe the day will come when through that very refinement, the elevating and ennobling influence which woman exerts, in conjunction with other agencies that are at work for the betterment of the world, all that is base and unclean in politics—which when properly understood and practised is as high above the chicanery of the political trickster as heaven is above hades—will be "burnt and purged away," and the great result will justify woman's present participation in the cause of reform. It is not a sufficient answer to sneeringly inquire, how all this wonderful improvement is to be brought about? Even folly may ask questions that wisdom cannot answer. Reformers always build better than they know. It is Providence that directs their labors and guides them to their result. It is woman's destiny to have a voice in the affairs of government. She was designed for it. She has a right to it. This great social upheaval, this woman's movement that is making itself heard and felt, means something more than that certain women are ambitious to vote and hold office. I regard it as one of the great levers by which the Almighty is lifting up this fallen world, lifting it nearer to the throne of its Creator. What matters it if in the process some corrupt institutions perish, some antiquated errors are set aside, some narrow notions destroyed that are held by those who assume to know already what is the acme of woman's civilization and refinement? Let the fittest survive. What have we to fear? Let truth and falsehood grap-

ple. We will crown the brows of the victor and say: "You were worthy to survive."

Much has been said of the subversion of the domestic empire if woman takes part in politics. She cannot tamper with its filth and not befoul herself—she will not lift it up, but it will drag her down, we are told. My eloquent friend, in one of his most beautiful similes, spoke of two rivers, the Mississippi and the Missouri, one clear and sparkling mingling its pure waters with the turbid tide of the other, and in answer to the hypothetical argument that the muddy stream was never so muddy afterwards, he replied: "No, but neither was the clear and sparkling stream ever clear again." And there he left it. He did not tell you that those streams, those blended rivers were on their way to the ocean, where all that was muddy and unclean would sink to the bottom where it belongs, while all that was sparkling and clear would mingle with the limpid tide of the "self-purifying, unpolluted sea"—"the image of eternity, the throne of the invisible." [Applause.] Who pretends—not I—that man of himself, or that woman of herself, is conducting this great march of progress? There are some men who recognize an overruling Providence, a divine plan and purpose, as broad and as pure as the ocean, and into which all the rivers of human thought and action run. Whatever they may be before, they ultimately blend with and subserve that divine purpose, swelling the success of the perfect plan into which they flow. Having passed through that, rest assured they will be made pure.

When Stephenson built his first railroad, inaugurating the great improvement that has since revolutionized the world, he was compelled to cross a miry marsh, an almost bottomless pit, into which tons upon tons of solid matter were thrown before the roadbed at that point could be constructed and the track laid thereon. But that roadbed to-day is as solid as the eternal hills, and along that track, covering that once miry marsh, now speed triumphantly the trains that bear the commerce of a nation. So shall it be with the work of political reform. Politics is down in the mire, where great reforms are ofttimes obliged to begintheir work, but the future shall see arise upon the sunken foundation walls of beauty and towers of splendor that shall glitter with the glory of the skies. It is only by descending below all things that we can hope to rise above all things.

I take the ground—notwithstanding all that has been said upon this floor and elsewhere—that the elective franchise, or the underlying principle thereof, is a right, an inherent, God-given right. It existed before governments were formed, before constitutions were heard of. It does not depend upon ink and parchment. The doctrine that governments derive their just powers from the consent of the governed, was true before the immortal Jefferson blazoned it with pen of flame. It was true ere the morning stars sang together, ere the sons of God—ay, and the daughters of God—shouted for joy over the birth of the infant world. "Men are more than constitutions." "Before man made us citizens, great Nature made us men" and women, with rights inherent, God-given, which governments cannot confer, especially a government which possesses no power but what it derives from the people. The right to consent to be governed is such a right, and it is the right embodied in the elective franchise.

It has been claimed that the declaration in Genesis concerning woman, that her desire should be unto her husband, and he should rule over her, is no part of the curse pronounced upon her, but simply the divine arrangement respecting the mutual relations of the sexes. Grant it; what then? Man rules over

woman, but it is her desire that he should do so. Hence she consents to the arrangement, and exercises her inherent right in so doing. Is it unreasonable to suppose that she was consulted before that arrangement was made?

She votes "yes" or "no" upon the proposition as to who shall rule her in the household, when she accepts or rejects an offer of marriage.

The gentleman from Sanpete (Mr. Lund) would find that a woman could say no, and mean it, if he were to take the advice of the gentleman from Utah County (Mr. Boyer) and propose, with all his anti-suffrage notions, to one of that gentleman's daughters. [Laughter.]

Woman exercises this right in the family. Why should she not exercise it in the state? Is not the family the type of the state? Man is truly the head of the woman, as Christ is the head of the church, but not without her consent. Even the church has the right to consent as to who shall preside over it.

I am not sure but the gentleman from Davis County believes as much as I do in the right of women to vote under certain circumstances. On the 6th of April, 1830, a little band of disciples assembled at a farm house in Fayette, Seneca County, New York, and organized the church to which many of the gentlemen surrounding me, and I myself, belong. It is a popular idea that only six were present when that church was organized. This is a mistake. The laws of the state of New York required that at least six persons should compose a religious society, and six men were known and named in this organization; but they were not the only ones who took part in the proceedings. Forty or fifty persons were present, including a number of women, and before the first thing was done, before the founder of the church took his place at its head, he asked that little congregation if they were willing to accept him as their spiritual leader, and if they were willing to be organized as a religious body. The record says: "Unanimous consent being given, the purpose of the meeting was effected." Women voted there as well as men.

Many years later, on the banks of the Mississippi, the founder of this church called together the women of his people and said that the time had come—for he had turned the key—when woman should take her place beside her brother man and participate more fully in the affairs of the church government. The object of the meeting was to organize the women of the church. They were to have their presidents, secretaries, and separate though subordinate organizations, over which women were to preside, as President Smith and his counselors presided over the entire body. From that time until the present, these institutions have existed, and the doctrine of common consent has prevailed among this people. Twice a year they meet in their conferences and vote upon the various propositions laid before them, vote with the uplifted hand, and the women vote as well as the men. I bear in mind a certain occasion when I held up my hand with peculiar pleasure to signify my assent to the selection for a high ecclesiastical office of my esteemed friend from Davis County, and I noticed, as I looked over the vast sea of faces composing that congregation, that probably two-thirds of them were women—holding up their hands to elect a man who, upon the floor of this Convention, says that women ought not to be permitted to vote. He declares them incapable of independent action, and thinks they ought to be satisfied with being represented at the polls and in public life by their husbands who vote and hold office.

Our friend is not only an accomplished orator, he is a talented author as well. He has written books, the object of which was to show—what I have also heard him thunder from the pulpit with as much earnestness and eloquence as

he has here displayed—that it is the right and privilege of every soul, man or woman, to answer for itself before the bar of God. I never heard him proclaim, till now, that woman, be she wife or maid, was not in a position to act independently, either in church or in state. Why, the very genius of his religion teaches to the contrary. Women are free, as they ought to be, and no man by plunging into hell, can drag down with him the faithful and pure wife who stands at his side. She is a free moral agent, and can either ascend to heights of glory or descend into abysses of despair, let him take what course he may.

A word here in explanation, lest some one should say that I am advocating a union of church and state, the blending of religious and political functions. I am not. I advocate no such idea, though I believe that politics owes much to religion. What of the Mosaic law, for instance, the foundation of modern jurisprudence? All down the ages the church has taught the state good and correct principles, and it has adopted them. Whence came our idea of republican government? Was it not suggested, in part at least, by the Calvinistic principle of church government—the right of the congregation to elect its own ministers, instead of having them appointed by the pope of Rome or by kings and emperors? That idea sprang from Calvinism, permeated Switzerland, France, Holland, Great Britain, and was brought by the pilgrim fathers to the shores of the New World. There is little doubt that it helped to give form and color to the institutions of the American Republic.

My argument is that we can afford to follow a good example, and accept truth from whatever source it comes. If the church can afford to be liberal, and not only recognize but permit the exercise of woman's inherent right to a voice in the election of those who rule her, why cannot the state afford to be equally liberal? Why deny to her in the state what she enjoys in the family—which, I repeat, is the type of the state—and what the church, the elder sister of the state, is willing she should enjoy?

I am speaking, not to democrats, not to republicans; I am not speaking as a partisan for party ends. I am speaking as an American to Americans; not to that class who, it is said, fled from the tyranny of the old world that they might worship God according to the dictates of their consciences and compel everybody else to do likewise; but to descendants of those who fought and bled for freedom and bequeathed it as a sacred legacy to mankind; being willing that others should enjoy the same rights that they secured for themselves. I hope I am speaking to lovers of liberty, to champions of progress, who comprehend and appreciate the divine mission and destiny of their country—America.

—A land of liberty,
A home of peace and human brotherhood,
Where men should equal stand, a sovereign host,
Nor owe to haughty birth their high degree;
Where merit's star o'er mammon's might ascend,
Where brain and brawn should blood and birth outweigh,
Where law should liberty and life defend,
And tyranny be traitor to the realm;
Where right, not might, should monarch rise and reign
O'er all that breathed or blossomed 'neath the sun;
Where, linked in chain of loving unity—
The only chain that freedom's land could bind—
A sisterhood of empires, hand in hand
Timing their steps to truth's triumphal tread,
Might march to music of Millennial strains;
Glad harbinger of still more glorious state—
The welding of the nations' world-wide chain,
With freedom's ensign waving over all.

This land, which God gave to our forefathers, was, as I believe, the predestined site of a government that was expected to set an example to all the

world; standing as a goddess in the midst of the earth, holding aloft the torch of truth to kindle and illumine the nations. It was founded for the many, not merely for a few, and no class should have a monopoly of its blessings.

Is true freedom but to break
Fetters for our own dear sake,
And with leathern hearts forget
That we owe mankind a debt?
No; true freedom is to share
All the chains our brothers wear,
And with heart and hand to be
Earnest to make others free.

This was written for the black man; but why not apply it to the white woman, and the black woman? [Applause].

America, the champion and exemplar of freedom! How can she go forth to evangelize the nations, to liberate the world, with gyves upon her wrists, with half of her own children in chains?

And now a word, which I do not mean to be offensive, in relation to a remark made by my friend, which I was somewhat shocked to hear. It shows to what desperate straits he was reduced, that he must use an argument which he himself was compelled to discredit and cast into the waste-basket. He only gave it time to be noted down in the hearts and minds of those whom he wished to convert, and then he discarded it, for he felt ashamed of it; and I must add that his shame did him more credit than his argument. He said, in reference to what he termed an "invasion" of ladies, who came into the Convention in response to the hearty and wholesouled invitation of its members, extending to them that courtesy; that if they could have heard the gibes and jeers that he had heard concerning them, they would have hung their heads in shame. Some one had said to him, quoting:

They are neither man nor woman,
They are neither brute nor human,
They are ghouls.

Let me emphasize what I have already stated, that the gentleman only repeated what had been quoted and applied by another, and that he himself discredited the application. He avowed—and I believe him—that he has the highest respect for these same ladies. But it seems to me that he could have shown his respect for them far better by refraining from the repetition of the slanderous saying, than by giving it utterance upon this floor.

Who are these ladies that have presented their petitions here, who have listened with the greatest respect to the remarks made by the honorable gentleman and by others who have spoken? They are intelligent, high-minded women, Mormon and Gentile, among the purest, noblest and best of the land. [Applause.] They are here to listen to this debate because it affects them to the heart's core. They are interested in the discussion of a question fraught with so much for woman and her cause.

I do not ask for their smiles, their laurel wreaths, their bouquets of roses. I ask only to be considered sincere. I speak from a heart where the conviction of truth sits enthroned as regards this question, and I thank you for bearing with me so long and permitting me to voice the sentiments of my soul.

I believe in woman suffrage. I have always believed in it. I look upon it as another step, another impulse of humanity toward perfection. Its success is assured. Victory, anticipating the inevitable, has always perched upon its banners. Its course cannot be staid. As well try to check the mountain torrent, or the mighty waters of the Mississippi, thundering onward to the sea. Its triumph is decreed. Its destiny is fixed. It is the march of human liberty, the pageant of eternal progress; and those who will not join it must stand aside and see the great procession sweep on without them. [Applause.] And if this Convention fails to act favorably

upon this proposition, some future Convention will so act, and gazing upon our record with reproach, will crown her brows with the glory we have denied. [Applause.]

Mr. BOYER. Mr. Chairman, I now move that the committee rise and report progress.

Mr. BUTTON. Mr. Chairman, I move that we take a recess until 2:30.

Mr. BOYER. Mr. Chairman, I do not desire to insist on this matter; the object I have is this, to rise and report and then take an adjournment until Monday. I desire to move for an adjournment until Monday at 10 o'clock. I will not insist. I will withdraw the motion.

The committee then took a recess until 2:30 o'clock p. m.

Afternoon session.

Mr. SQUIRES. I had not expected, Mr. Chairman and gentlemen of the committee, to take up any of your time in discussing the subject now before the Convention. I believe with the distinguished gentleman from Davis County, that the matter was fixed before any debate was had upon this floor, and in the interest of economy of time, I should have been glad if we could have gone to a vote without this display of oratory which has charmed every member of the Convention. But I have noticed that in the debate thus far, there are very few who come from the anti-Mormon side of the community of Utah, that have been heard upon this subject, and it is for that reason that I want a little of the time of the Convention, representing that side of the house. There is another reason why I deem it useless to make any remarks here; the reason given by the gentleman from Davis in his speech of the first day, that it was useless to reason with men who were already convinced and who had already reached a conclusion. From the pertinacity with which the minority of this Convention have pushed the debate upon this subject, it is evident to my mind that they are as absolutely convinced and have their minds as well made up as have the majority of the Convention, and therefore, I believe that arguments addressed to those gentlemen will be as useless as they deem their arguments are on the majority of the Convention.

I had supposed, Mr. Chairman, that after the eloquent speech of the gentleman from Davis, (Mr. Roberts,) on yesterday in which he magnified and glorified the women of Utah, pointing out to them what their proper sphere of usefulness in society should be, that the representatives of that womanhood who were present in this Convention would join hands and say, "Gentlemen, we relieve you of your obligation, we withdraw the petition which we have sent to this Convention, we are all convinced that the suffrage should not be extended to woman, and we would not embarrass the great question which is now before the Territory, the question of statehood, by cumbering up the Constitution with an article of this sort." But, to my surprise, sir, the ladies universally and unanimously disclaim that they have been converted by the eloquent speech of the gentleman from Davis. I therefore hold myself just as much bound as though the magnificent argument had never been uttered. I do not agree, Mr. Chairman, with some of the gentlemen who have spoken on this floor in regard to the duty which we owe, the obligations we are under to party platforms. For my part a party platform is not to me what the distinguished gentleman from New York City said, "something to get in on but not to ride on." I believe, sir, that the platforms at least of the republican party mean what they say. There is no useless timber in the platforms which that party constructs. I was a member of the convention at Provo, although I was not on committee on resolutions, and had no hand

or voice in framing that declaration of principles. I gave my hearty adhesion, and during all the campaign that followed, wherever I went through this county, speaking in behalf of the republican party, I took that platform for my text, and for my guide, and I did promise the women of this county that if the republican party should be in a majority in this Convention the women of Utah would be honored by that Constitution, and suffrage would be granted to them as we had promised. I am not in a position sir, to take the back track, I cannot reverse myself, I stand on record for, and however much I desire or might desire to waver or to weaken upon this proposition, after it has been reinforced as it has been in this Convention, by petition after petition coming from county after county, petitions from those who are to be benefitted by this proposition I cannot withdraw. I believe that these women know what they want, and if they are as our minority committee tell us in this report upon this proposition—if they are better than men, if their instincts are truer, if they are intellectually superior, as gentlemen on this floor have been willing to say, then, sir, I am willing to believe that the intelligence which they possess has taught them that the very best thing that the womanhood of Utah can have is the ballot, and I am ready to accord it to them.

I remember, sir, that after the convention was held at Provo, and after this plank had been written in the republican platform, that the gentlemen who represent the other political party in this Territory pointed out to us how utterly meaningless it was. Gentlemen have told me these two days, upon the floor of this Convention, that I ought to know that the party did not mean anything when they wrote that plank in their platform. I do know this, sir, that the democratic party were so much afraid of that platform that when they met in Salt Lake City a few days afterward and wrote out their own declaration of principles that should be a guide for their speakers during the campaign, they attempted to improve upon that plank.

I was present in that convention as an interested spectator, and I remember the scene that was enacted there. I remember that the ladies who belonged as members of that convention were so eager in support of this proposition, that they, themselves, went upon the stage and thanked the convention, pointing out the difference in the meaningless plank in the Provo platform, and this broad and just proposition which had just been adopted by that convention; and all through that campaign, sir, from the beginning to the end, in every part of this Territory, the effort was put forth by the democratic speakers to show the people that the one meant everything and the other meant nothing. Well, my republican friends in this Convention, are you ready to tell the people of this Territory that our democratic friends were right? Are you ready to tell them that you did mean nothing when you put this plank in your platform? If you are, then vote that way. Myself, I believed in it from the time it was put in the platform until the election was over. Let me ask you, gentlemen, supposing at Provo you had not indorsed equal suffrage for women; and suppose that this same scene had been enacted in Salt Lake City, do you believe that the republicans would have been a majority of this Convention? I do not believe that there is a man within the sound of my voice that believes it. Why not? Because the people of this Territory wanted woman suffrage, and if the members of my own political party who are to-day criticising and finding fault with those who stand upon this floor in defense of this proposition, who change their mind upon the subject—there have been twenty-six legislative

days here in which they could have presented petitions to that effect, but up to the present time, so far as I know, not a single petition or remonstrance has reached this Convention. Therefore, gentlemen, I feel just as much bound to that platform to-day as I did when it was adopted.

Gentlemen have said that we are starting off in this Territory upon new lines, we are just beginning to teach the people politics. Well, shall we teach them as the first lesson, that it is wise and prudent to be dishonest in politics? The distinguished gentleman from Davis County told us the other day he was not bound by the platform upon which he stood. As I understand, he was nominated while he was absent from the Territory, and that at no meetings held within in his own district was a single word uttered upon this subject.

Mr. ROBERTS. That I attended.

Mr. SQUIRES. That is as I understood it, and that he continued to be the standard bearer of the democratic party, from the southern line of the Territory to Idaho, and that in no meeting was this question discussed in any manner. If I am wrong, the gentleman will correct me.

Mr. ROBERTS. Your are right in that.

Mr. SQUIRES. What wonder, then my friends, what wonder that the democratic party is sitting to-day in sackcloth and ashes, and that Frank J. Cannon is the delegate in Congress from Utah. Such a violation of the known will of the people was sufficient to account for the majority which our candidate received. I tell you, gentlemen, it pays to be honest in politics as it does in business. For one, I am not content that the democratic side of the house shall receive all the credit which may come to the men of Utah for conferring this inestimable blessing upon woman. I am not content that all the influences that are brought to bear upon this subject in this Convention shall come from the distinguished speakers of the other side, and I remind you, gentlemen, that the majority of this Convention is composed of republicans; I remind you that without the votes of those gentlemen from the republican side of the house, this proposition cannot pass. I call attention to it now because there is a coming campaign in which the credit of this proposed action will be discussed. I am willing to give to the opposition all the credit that they deserve, and I was only sorry while petitions were coming in here daily, from the women of this Territory, they chose as means of introducing them, in almost every instance, gentlemen from the minority. It looked as though they had some expectations of the good faith of the men of the other side of the house, and I assure the ladies who are present, and who are representing the woman suffragists of this Territory, that they have almost to a unity prevailed on the republican membership of this Convention, as you will discover when you come to a vote.

The fear is expressed, Mr. Chairman, that it is a dangerous thing to give to these women, who are so intelligent and so far superior to men, this right of suffrage, because it may take us back to the old contentions. I say to you, gentlemen, do not stir up these smouldering embers; let the dead past bury its dead. Let us put behind us all that is in the past. Let us as we start in for statehood remember that we are citizens of great State of Utah, with its best interest at heart, and stop all this talk about a denomination of any body in this Territory. I have not been so long a resident as some of the gentlemen here; I came to the Territory just as you were reaching the crisis of this great question that had divided the people. I never could work up a great deal of enthusiasm for the liberal party. I had not been here long enough for that, but I tell you that I believe solemnly that when the division came between the republican and demo-

cratic parties and men who had formerly belonged to the people's party, and who had formerly belonged to the liberal party, finally divided upon those national lines, I believed in the interest and the integrity of that movement, and I believe it still. If there had ever been fetters of any sort placed upon the minds, upon the hearts or upon the consciences of men in this Territory, I believed that that manifesto and the proceedings which followed it after they released those men from bondage, and when a man who had been a slave had once been made free, there is no power on earth that can put the fetters upon him, and if those men are free, if they are politically free, if they are politically honest, as I believe them to be, will they stand quietly by and see the dominant church or any other authority interfere with ultimate freedom—the absolute freedom of the female members of their household? I believe not.

I noticed the other day that in the Wisconsin legislature, the question of equal suffrage for women was being discussed.

On the 27th of this month, in the senate, after a two hours debate, a bill was laid upon the table by a vote of 18 to 14. I just call your attention to that for two reasons: first, to show you the growth of the sentiment in those old states upon this very question; and secondly, to remind this Convention that very likely the legislature of Wisconsin is waiting to see what Utah will do. This matter has been laid upon the table. I have no doubt, sir, that when it shall have been wired across the country that the Utah State Constitution has adopted an article giving the suffrage to women, that immediately that matter will be brought from the table in Wisconsin and passed. I believe it is our duty to set that example to our fellows at Madison.

There is another reason, Mr. Chairman, why I want to vote upon this measure. There has been some reference made to a caucus that was held the other night by our side of the house. I was president at that caucus, and as has been said there was nothing in it that was binding upon any gentleman present. Every man was absolutely free to vote as he pleased when he left the caucus; no vote was taken upon any matter pertaining to this subject, but there were several gentlemen from some of the southern counties who made the alarming statement to us that unless this was put into the Constitution, they would be absolutely afraid to go home. [Laughter.] Now, gentlemen, I don't want to send anybody adrift, an outcast upon the face of the earth, for doing his duty, and if there were no other reason why I should vote for this proposition, it would be that my friends from Garfield County and from these other counties might safely return home at the close of this Convention.

My distinguished friend from Summit, this morning, making a speech against this proposition, assured us that he represented, as I understood it, 1200 families in Summit County, where there were no woman suffragists. Well, if he represents that kind of a county, I don't wonder that he spoke the way he did, and I do not wonder that he is going to vote the way that he indicates that he will vote. I do not come from such a county. I do not come from such a district. The district which I represent is the county outside of Salt Lake, right here at home, and I am afraid from the experiences that I had during the campaign, that if I had said a word in the campaign against the equal right of women to vote, some other gentleman would be occupying my seat in this Convention. I must, therefore, be consistent.

But, the proposition is made that it would be wise and perhaps fairer than what we are doing, if we submit this matter again to the Legislature. Give them an opportunity to pass upon it. While, at first thought, gentlemen, one

might think that that would be wise, I point the gentleman to the condition of affairs that would then confront us. Two great parties in the field, each seeking for preferment, each seeking for the votes of the people; would there be any changed condition from what we had last fall? Would the republican party go into a convention and admit a clause giving women the suffrage? Would the democratic party do it? We should just simply be back in the conditions that we found ourselves during the last campaign. We fight to fight over again? No gentleman, unless it be my friend from Davis County, would have the temerity I believe to stump this Territory against this proposition. Indignant womanhood of the Territory would rise and protest, and for my part, if that was going to be an issue in the campaign, I, and if the party that I represent did not put it in the platform, I should have to stay at home.

I see nothing to be gained, therefore, by relegating this thing back again to the people. I believe that we come here clothed with the full power. I believe that we come here with almost the unanimous wish of the people of this Territory to put this very article into the Constitution, and for that very reason, Mr. Chairman, it will receive my vote.

Mr. ROBERTS. It is not my purpose, sir, at this stage of the discussion to again enter into a discussion of the main proposition, but simply to ask a privilege of the house. I think, sir, that it was conceded that in consequence of my relationship to this discussion that I ought to have the privilege of closing the debate, and, therefore, I wish to ask that when all the members who desire to speak upon the proposition have spoken, that the remaining time that was given to me, or so much of it as I may think necessary to use, shall be devoted in drawing to a close this debate. There is a circumstance, sir, that will perhaps justify the request that I am going to make, or do make now to this committee. The courtesy that has been accorded me on this floor, and the patience with which I have been listened to through two rather long speeches—unless modesty would require that the look upon that is sufficient—but there is a great probability, sir, that this next speech of mine will be the last that I shall make upon the floor of this Convention.

I have received a dispatch signed by the democratic committee of Davis County this morning, saying, "We must ask you to cease opposing woman suffrage or resign. Party pledges are sacred and must be kept." I presume, sir, that will be a grain of comfort to the democrats upon this floor, for the reason that they have thought that my position on this subject has endangered their party integrity.

To this dispatch I have this afternoon sent the following reply, "You must do what you think proper, I shall not change my course." As soon as it can be made known to me through the agencies of the democratic party in Davis County, that my constituents make this request, and they will point out the method by which I can make my resignation, I shall very cheerfully do so and bow to their wishes. It is for this reason, Mr. Chairman, that I shall ask this committee the privilege of speaking in the close of this debate.

Mr. KIMBALL (Weber). Mr. Roberts of Davis County has already exhausted his time; it is only by the unanimous consent of this committee that he can speak. I now move that it be the sense of the committee that the gentleman from Davis County, Mr. Roberts, shall close this debate, and that he be limited to one-half hour in the close.

Mr. HEYBOURNE. I desire to make an amendment to the gentleman's motion, that Mr. Roberts be accorded one hour in closing the debate.

Mr. KIESEL. I move that he may have all the time he wants. [Laughter.]

Mr. KIMBALL (Weber). I accept the amendment of Mr. Heybourne, that it be limited to one hour.

Mr. DRIVER. Mr. Chairman, my friend Mr. Kiesel, from Weber County, moves that Mr. Roberts be accorded all the time he wants. I want to make a motion that all the time Mr. Roberts occupies, over one hour, of this Convention, be paid for out of the pocket of Mr. Kiesel.

Mr. KIESEL. Mr. Chairman, I will most cheerfully pay for all that time.

Mr. CREER. As a question of personal privilege, I wish to say this: While I accord the gentleman all the courtesy that he can ask for, at the same time, I believe that at least one party ought to have the opportunity upon the affirmative side of this question, that is my colleague from Utah County. But there is another thing that I wish to refer to and that is this: That quite a number of the members of this committee desire to return this afternoon, some of them have already gone home, and it seems to me that the time of those speakers, with due respect to the eloquent gentleman, should be so measured out that we may reach a vote this afternoon. Now is the opportune time; therefore, I would, as an amendment to that, move after the half hour that is taken by the gentleman from Davis County, that Mr. Thurman, my colleague, also have the privilege of occupying a few moments.

Mr. VAN HORNE. Mr. Chairman, I shall not detain this Convention more than one moment—only long enough to say that I agree with the minority report in principle, that I agree also with that report as to expediency or lack of expediency of presenting this question in the Constitution where it will probably require, in case a change should be necessary, a vote much larger than would be required to insert it into that document. For that reason, whatever the political fates may be that will overtake those who vote according to their real convictions on the question that is before this committee, I expect to vote for the minority report; with that statement I will give all of my time to Mr. Roberts.

Mr. JAMES. I want the amendment read and then I want the privilege of making a remark.

Mr. THURMAN. Mr. Chairman, permit me to say a word, not on the question, but rather in the way of personal privilege.

Mr. JAMES. That is what I arose to, but if you do not intend to take up the time so but what I can make a little explanation, I will give way.

Mr. THURMAN. I will only take about two minutes; and in this particular, Mr. Chairman, I speak in behalf of the democratic party on this floor—the first time that I have thought there was any necessity for bringing in party politics. I do not know why my friend from Davis County has thought it necessary to state here before this Convention that the democrats on this floor will be glad to know that he is called upon to resign. He has never heard that from any democrat, in my opinion. We regret that his convictions have been such that he has been unable to go with the body of democrats upon this question, but I will say to him we will be more loath than he can imagine to part with him. He is and has been a pillar of strength in the democratic party, and if he leaves the party, he will go because he wants to go, not because the democrats want to get rid of him.

The CHAIRMAN. The question is now on the amendment that Mr. Thurman be allowed to follow Mr. Roberts.

Mr. THURMAN. I do not wish to follow the gentleman from Davis County, he is entitled to close this discussion; I have no request on my own behalf, and do not desire that my friend shall make it.

Amendment withdrawn.

The CHAIRMAN. The question is then on the motion of Mr. Kimball.

Mr. SQUIRES. Why do the gentlemen of this Convention, in view of the fact that Mr. Roberts has sent in his resignation and will not have an opportunity to speak to us, do him the discourtesy of cutting him off in an hour? We know he does not fairly get to work in an hour. We want his best effort. I am in favor of giving him all the time he wants, and let's listen to him.

The CHAIRMAN. The question then is on the motion of Mr. Kiesel from Ogden, that he have all the time he wants.

Mr. KIMBALL (Weber). When I made the motion that Mr. Roberts close this debate and be limited to one hour, I did not know he had resigned, and I am very sorry he has; I do not think there is any necessity for that.

Mr. ROBERTS. Would you let me correct you? I have not resigned but I promise to do so the moment my constituents shall indicate clearly that this is their wishes.

Mr. KIMBALL (Weber). Well, if your constituents ever indicate that, they are bigger fools than I think they are. [Laughter.] Therefore, I am in favor of giving Mr. Roberts all the time he wants. I am willing to sit here from now until next Saturday morning, a week from to-day, to listen to Mr. Roberts on this proposition, because I think he is right, and so far as I am personally concerned, I stand behind Mr. Roberts, and I will support him all the way through.

Mr. MURDOCK (Beaver). Do we understand when he takes the floor that cuts off all further debate?

The CHAIRMAN. That is as the chair understands.

Mr. CANNON. I would like to offer an amendment, that we do not rise until Mr. Roberts gets through.

Seconded.

Mr. GOODWIN. If it is in order I move a vote of confidence in Davis County.

Mr. KIMBALL (Weber). I am opposed to the amendment of the gentleman from Salt Lake. We are now close on the middle of the afternoon, there may be several gentlemen here who may want to speak on this question before Mr. Roberts reaches it, and I am opposed to shutting him off by any motion to arise, and think he should have all the time he wants. And, for that reason, I am opposed to the motion of Mr. Cannon of Salt Lake, because his motion is out of order, for this reason that we must take a vote on the amendment just now pending, before this committee finally arises. There is an amendment pending here, that we have to vote on, and, under Mr. Cannon's motion, we will rise without any vote on that amendment.

Mr. CANNON. The gentleman is laboring under a misapprehension. My motion is not to arise at the close of Mr. Roberts' remarks, but my amendment is that we do not arise until he gets through. I feel it is the general feeling among the delegates that we should dispose of this matter as speedily as possible, and give the gentleman all the time he wants. I am willing that Mr. Kimball should sit here until next Saturday if need be.

Mr. KIMBALL (Weber). I am further opposed to the gentleman's motion for this reason, that with the incentive to talk that the majority on this floor have, Mr. Roberts will not reach his speech until about next Wednesday evening, and I do not care about sitting here all that time.

Mr. WHITNEY. I do not think it is a very cogent reason that Mr. Roberts should have the closing of the debate simply because the gentleman from Weber County believes he is right. Neither do I think the motion should pass in this form, that the debate should close as soon as Mr. Roberts gets the floor. I second the original motion

that Mr. Roberts have the privilege of closing the debate, but I shall expect him not to take the floor until we know by some manifestation that there is no one else wishes to speak.

Mr. ROBERTS. That is right.

Mr. KIMBALL (Weber). That is my view of it. I say that Mr. Roberts should not rise in his place until every other man has had his say.

Mr. WHITNEY. I agree to that.

The amendment of Mr. Cannon was rejected.

The motion of Mr. Kimball, as amended, was agreed to.

Mr. BARNES. Matters have assumed a shape in this Convention which I think calls forth some remarks from me as a delegate from Davis County. It may be somewhat presumptuous on my part to take up the time of this Convention after listening to the able oratory with which we have been favored during the last day or two, but, Mr. Chairman, I desire to say a few words in defense of the residents of Davis County—my constituents and the constituents of Mr. Roberts. We are informed this afternoon, that through the chairman of the democratic committee of Davis County, Mr. Roberts is asked to resign unless he takes a different stand from that which he has taken upon the subject of giving the right of suffrage to women. I will say that I exceedingly regret that this step has been taken.

Why, I doubt if there is a man on the floor that respects Mr. Roberts more than I do; he is my personal friend; I accord to him all the honors which have been shown him by this Convention. He is worthy of them, and I think possibly the step may be ill-advised, but, Mr. Chairman and gentlemen, why do the democrats of Davis County take the stand? It is because they feel that Mr. Roberts has taken a stand diametrically opposed to their views and to their request made upon their delegates. I have here a copy of a letter which was sent to Mr. Roberts a few days ago, and which embodies, I think, the views of the convention which met in Farmington, at which Mr. Roberts, Mr. Call and myself were elected as delegates to this Convention, and if the gentlemen will bear with me I will read it:

Kaysville, Utah, March 26th, 1895.

B. H. ROBERTS, ESQ.:

DEAR SIR:—Our attention has been called to the position you are taking in the Convention, regarding woman suffrage, and we are informed, in fact the Herald says as much, that you are looked upon as a leader of the opposition on the floor of the Convention. This position is not in line with the sentiments of your constituents, and further, in the county convention that nominated you, a resolution was presented and adopted, favoring equal suffrage, and requesting our delegates to work for it. Our campaign, locally and territorially, was conducted with this as an important plank in the platform.

In view of these facts, and the further fact that Davis County is so overwhelmingly in favor of an equal suffrage provision in the Constitution, we feel it our duty to ask you to not oppose this suffrage plank. If your convictions will not permit you to vote in favor of it, you might at least, remain inactive in the matter, and thus save our party the humiliation of having their pledges broken.

We hope you will give this matter favorable consideration.

Respectfully,

JOHN G. M. BARNES,
Chairman Democratic County Com.
HENRY H. BLOOD, Secretary.

As you are all aware, gentlemen, the honorable Mr. Roberts gave no heed whatever to this advice from his friends, from his constituents, but has utterly disregarded it. They not being here to listen to his argument, know only what they get through the press as to what is going on here, and it is very evident from what the gentlemen have said that their feelings are worked up to that pitch that they feel that they can no longer endure it.

I wish, in this connection, to state my own position. I either moved the adoption of the resolution or seconded it; my memory is uncertain as to which it

was, but I most certainly, in the convention held at Farmington, endorsed the idea of granting equal suffrage to women and men. Why did I do this? Because I believed it right. I believed that women should have an equal privilege with men here, and that is why I endorsed it.

It is true, as Mr. Roberts has stated, that a gentleman informed him, that objections were raised there to binding delegates. I am the individual who raised those objections. I am the person who told Mr. Roberts this; and why was it? The convention in Farmington was held prior to the convention of democrats being held in Salt Lake City, and, as I there stated, the resolution that was proposed was in very strong language, binding their delegates to the accomplishment of a certain object. I said, gentlemen it may be impossible for them thus to do, and, therefore, I object. It was reconsidered and this motion was passed which I endorsed then and endorse to-day. I went before the people in a few instances in Davis County and I there pledged my word that if elected to a seat in this Convention, I would here vote and use my humble influence in favor of granting the women of Utah an equal suffrage with men. I, too, believe that I am the one referred to as having stated to Mr. Roberts that party pledges were binding upon me, and I reiterate it here gentlemen, that party pledges are binding. What do I care for your politics if there is neither truth nor honor in them? Sweep them to the four winds and give us truth and honor. Do I say this excitedly? I say it firmly, because I mean it, gentlemen. Who taught me to be honorable here upon earth? My mother, a woman. She taught me, gentlemen, the principle of honor, the principle of integrity; she taught me to be true to my word. And could I go back and face my constituents in Davis County, without lifting my voice, seeing that matters have assumed the proportion that they have in favor of granting them suffrage? No. Were I to be unfaithful and untrue to my pledge to them, for ever after would I hang my head in shame when meeting the citizens of Davis County. This is how much I regard my word.

What are party pledges, gentlemen, but aggregation of individual pledges? Then, if party pledges must be ignored, individual pledges must follow, and where are we? A worthless set of beings here upon the earth. That is the view I take of this matter. I stand before you to-day pledged to the support of woman suffrage, and while I have power to lift my feeble hand, and to raise my feeble voice, and wag my unwilling tongue (unwilling because of its inability, that is all) to express the sentiments of my heart, I hope ever to raise my voice in defense of human liberty. Would it be in defense of human liberty were I to say to one-half of the population of Utah, you, notwithstanding you are the equal, and, as gentlemen have expressed it here, you are the superiors of man, you, because we have the right in our hands, shall not exercise your privilege? No, gentlemen, we cannot afford it in view of the pledges that our parties have given to the people of Utah; we are in honor bound to grant the ladies of Utah the right of suffrage.

I claim it as a right—as was explained this morning—beautifully explained. And again if our politics, as I said before, have descended to that point that there is neither truth nor honor in them they are fitly illustrated by the muddy stream of the Missouri river. Then, I say, gentlemen, inasmuch as woman is the purer element, inasmuch as she is superior to man, the greater need is there of engrafting into the muddy stream the pure element. If the muddy stream cannot be entirely cleansed it may at least be benefitted; it may at least be palatable and peaceable, and so that we can support it.

The objection has been raised upon this floor that if we grant unto the ladies of Utah equal suffrage it will bring division, strife and confusion into our homes. Gentlemen, I do not think for a moment that this needs to concern you. Think you that our daughters, our wives, or our mothers, will take any greater interest than they have done in the last year or two? I do not believe for one moment that they can. I am blessed with two or three daughters who are pretty well grown; they have taken a lively interest in politics; they are divided in their opinions. Does it cause jars, strifes and contentions in the family? Why, no; we are willing to accord to each other our views. I claim that the views of my daughter are entitled to as great respect as my own. I am willing to accord to her and to one of my sons an equal privilege with myself. They listen to my views; I listen to theirs, and in this way what will we arrive at? At that which is best to do. Gentlemen, in view of these facts, let us unitedly stand by our party pledges. Let us give unto the women of Utah their rights. Will we regret it? No. The ideas that have been brought up here why it is inexpedient, to me are far fetched. To me they are simply facts of imagination. Do I believe if this plan goes into the Constitution, that for one moment the old conditions will be resorted to? No, gentlemen, I have a better faith in the Mormon people than that. I have lived in this Territory for nearly forty-two years, I know somewhat of the disposition, the honor and integrity of the Mormon people. When we yielded to the conditions which were inevitable, we did it in good faith.

I stand here, gentlemen, as the representative of that class, and I say that what we did, we did in good faith, and if ever those conditions are returned, it will not be because of the action of the Mormon people, but because of the action of those few who doubt their sincerity.

I feel, gentlemen, that I have taken up enough of your time. Undoubtedly my colleague, Mr. Call, he being a representative also of Davis County, will want to say a few words. Now, I will say to my honorable friend, do not resign your position. Stay by it. If it is your convictions, erroneous though I believe them to be, I honor your courage, I honor you, sir, for staying by your convictions, but, sir, I cannot agree with you in disclaiming any allegiance to the wishes of your constituents. [Applause.]

Mr. L. LARSEN. I did not think that I should occupy any time upon the floor of this Convention, because I have had my mind, as I told you—I could have voted upon this question long ago, and I might say here as well as any other time, that to me it is a foregone conclusion. My friends can take it as they please. I have believed in the woman suffrage right for many years. I have lived in this Territory for many years, and while the women did have the right of suffrage in Utah Territory, I was in for it that they should have continued. I only regretted that the Congress of the United States took away from them that right in 1887. So far as the ladies are concerned, I think I can assure them that they need have no fears. They have plenty of stand-bys on the floor of this Convention. That is my honest conviction. All the eloquence that can be brought to bear upon this now against it will have no effect. That is, on me; I have decided on this question and upon its merits too, for many years. I see no reason why that half of our community should not have the right to vote, should not have a right to go to the ballot box with their brethren and cast their votes. I see no reason why this in any manner should lower them in the estimation of mankind, or degrade them in the least.

It has been read to us from the newspapers that women acted in an unmannerly way at a certain gathering at Chicago or New York, or some other place where women have the suffrage or the right to vote. Why, that was not because of this. I think that the ladies can be just as pure because they go to vote with their political brethren at the election day. Why should they not have a right in the say of who shall preside over them? They are taxpayers, many of them, but they are those who oppose it. They argue that they have their husbands and brothers to defend their rights and to vote for them, etc. Well, that is not a reason to me why they should be deprived of the privilege, and I am certainly willing to accord it to them. If it would be any good I would vote with both hands. But the reason I have arisen here is more particularly to refute some statements that were made here yesterday. I tried to get the floor yesterday, but I was not recognized and so I had to take my seat. So far as the ladies from the county from which I hail together with others of my fellow colleagues of this Convention, we represent in the neighborhood of thirteen thousand people, and I can speak so far as the ladies are concerned, in Spring City, that I know they want the right of suffrage, notwithstanding the remark made by my young and esteemed friend, and I might add newly converted into the other side, because of eloquent language that has been used, etc. I do not know—he knows his own reasons and I should say nothing about it. As I see he is not here in his chair, I will refrain from saying very much; if he had been here I should have had more to say. I believe that I would have been willing, as it were, to take the side of the ladies in his own town and even refuted the statement from whence I hail, Ephraim City, but I will not say anything about those, but I will speak in behalf of the ladies of Spring City. I will speak in behalf of the ladies of Mt. Pleasant. And when I now speak I know what I am saying and speaking, because I have heard their views expressed on many occasions. I know that they ask for the right of suffrage, and to state here that the ladies from Sanpete do not want it, why, I could not go home and face my constituency, if I had not raised my voice upon this floor against such a statement as that.

I almost felt when the remark was made, why, "the people of Salt Lake will think that we are an age behind the times in Sanpete." People did think years ago that nothing could come from Sanpete. I began to think yesterday that we yet were under those old conditions, that we had not advanced any further in the scale of progress, and that we yet stand on the old ground, and say our women, our ladies, our wives, our daughters, and our sisters are so ignorant yet that they don't rise up and ask for their rights among their fellowmen. I tell you it is not so, that the statement was made, and I was asked the question before the young gentleman spoke—I do not wish to cast a word of reflection upon our friend, for I esteem him and love him, but he asked me the question, I only wish he had been here to hear my remark.

Mr. SQUIRES. Send the sergeant-at-arms after him.

Mr. LARSEN. He asked me the question, "Have you got a woman suffrage club in Spring City?" I had to say no. Well, why is the reason that our ladies have been perhaps a little dilatory in this regard? Why is the reason? I will tell you the reason. They put in a plank in the platform at the Provo convention "we favor the granting of equal suffrage to women." These words were the assurance of their political brethren, why we do not need to organize, we do not need to ask them. We have asked, they have granted, and they have said what they will do, we have confidence in them

that they are men of their word; that they will stand by their platform. [Applause.]

That is the reason why the women of Sanpete have not yet organized a political club. They knew that they were men in which there was stamina, in whom there was backbone to stand by their convictions and who could not be turned by anything that might occur. They knew that we were willing to grant to them. I wish it was understood. I am willing to grant to my wife the privilege to go with me to the polls, although she is a democrat. [Laughter.] But we will never quarrel in politics and I fear not the consequences. I have said to her, "I do not want to convince you, or at least I do not want to persuade you; you are perfectly at liberty to keep your views on politics, and if you get the suffrage or the right to vote, I shall be most pleased to go with you, side by side, and you cast your democratic ticket and me the republican. You shall have that privilege and I shall feel honored if you stay with this, and these are your convictions." But, gentlemen, when the election came around and she, as many others, have seen the trickery that was brought to bear, and that some of our men—some of whom are here to-day, were counted out, she was afraid—yes, far more so than I was, that I was counted out also. [Laughter.] I told her that rather than see those men who were counted out not get a seat in the Convention, I would rather be counted out with them, that was my feelings. I sought no political influence or office, I have no political star in the horizon or in the sky. [Laughter.]

I have never asked for a position from a political point of view. If I ever held an office I am pleased to say, and take honor in saying it, that office has sought me. I came to this Convention upon this ground, I did not seek for that position. I cast my vote for another gentleman who lived in my own town whom I claim had greater wisdom, greater influence, and greater knowledge; knew more than I did. I cast my vote for him in our caucus, but no, says the people, you are the man we want to go, and, on the second ballot—the first was a tie—and on the second I was in the majority and hence I had to go.

But I did not arise to occupy much time. I am not much of a politician, not much of a political speaker; I was born in the country far away from here, and it puzzles me sometimes to use the proper language and especially to do it grammatically. But I challenge any gentleman who never was outside of America, that if they are willing to discuss with me in the language in which I was born and raised, then I will do it. [Laughter.]

I admire the courage of your friend and I reverence him in his position, because he is eloquent—but I thought to myself the force of his eloquence was lost in the very fact that he went back on his constituents. When we say here, and did say in Provo, "we favor the granting of equal suffrage to women" this was ratified in my county convention at Manti.

Mr. ROBERTS. That is the republican platform.

Mr. LARSEN. Yes, but the democrats claim their's even superior to this and that it goes even further than what this does. [Laughter.] So, I suppose I am justified in going as far as the republican platform goes at least.

Well, I believe that I have said all that I care to say, I will, before I sit down, just read a few lines of a newspaper, it is a democratic one at that, but I think it is to the point:

We have hope and faith that the men of Utah who now have the power to right this wrong will not falter in their work by pleas of expediency or flights of rhetoric, which please the ear but do not convince the mind, and that the pledges given by both parties will be

held sacred notwithstanding the influences to disregard them and betray the trust reposed in the representatives of the people. Give men and women equal political rights and trust to their good sense and honor for the faithful exercise of those inestimable privileges.

I thank you for your kindness. [Applause.]

Mr. HOWARD. Mr. Chairman, I had not thought to say much upon this subject, but there has been some reference made here in regard to party pledges, etc., and I wish to say a little in support of the position of the majority of this Convention. The delegation from Emry County came here pledged in support of the plank of the Constitution of woman suffrage, and I can say, as did Mr. Squires about Salt Lake, that in the political meetings held in Emery County, and in Carbon County, that question was brought up and talked about and discussed, and I never heard a man or a woman throughout all the meetings that we had there that I visited, have one word to say against the proposition, but it was promised to them, and that promise came upon the ground that it was in the party platform, and the people expected it as such. The ladies want it. They ask for it, and, as has been said here, there has been no opposition to it, there has been no petition sent to this Convention asking that it may not be granted to them. But they ask for it and they want it, and I believe they ought to have it. And I will also add, although some of the delegates here ridicule the idea, that I myself would rather vote against the Constitution with that out of it than to vote for it in any other way. I do not want to see the Constitution formed here with that plank out of it, I want to see it go before the people as both of the political parties in Utah promise that it should go before them—with that in it; and the fear that has been expressed here by some of the speakers, that it would endanger the Constitution, I believe is ungrounded. Mr. Roberts made a statement the other day in his remarks with reference to the franchise that the women of Utah held here for quite a number of years, it was given to them on account of a challenge that had been given to them, that they dare not give the women the franchise, or right to vote or conditions would be changed if they voted, and it was given to them, not altogether on that ground; perhaps that brought it a little quicker than it would have been otherwise, but it was given to them and it did not result as was expected it would be by those who gave the challenge. It was also said that a gentleman had made the remark, that whenever the women had the franchise, going to the polls was like going to a Relief Society meeting. I, for one, would say that that was one great point in favor of woman suffrage, because if you go to a Relief Society you will find no drunkenness, you will find no rowdyism, you will find no profanity, you may find a great deal of talk. [Laughter.] You will find that at the polls, whether the women vote there or not, and if the women are not there it will be of a degrading character, more so than if they were there. Men, as a rule, will try and behave themselves in the presence of women, and if they go to the polls, while they are men, if they are gentlemen at all, will behave themselves, they will conduct themselves as gentlemen should conduct themselves, and to say that it will degrade them to give them the right to vote, I do not believe it for a moment. I have not got so far along as to think as some of the gentlemen on this floor have intimated, that women are angels, and are up above the men, but I have got far enough to know that we should give them equal rights with men, and at least raise them up to our standard, and if they earn, through their good conduct, which I have no doubt but what they will, the title to be called angels in the

future, then I will willingly give them that title.

But we are to-day human, man and woman is one, and the men who get up here on this floor and talk about women being so much better than the men, and that we should not hold them down to man's level—why, women ask for this. They want to come down, if it be that they are above them. They want to be on an equal footing with the men. They do not want to be placed away up above them where they have no rights; so far ahead that they cannot say anything at all in regard to the government under which they live, but they want to come down and mingle with the men, and have the right to talk in our political affairs.

I could not expect, Mr. Chairman—I never will expect to equal the oratory of some of the gentlemen on this floor, or to go back into history as some of them have; but I will say this, that if we will look at history, if we will examine the history of the people of this earth, go back as far as we will, we will find that where woman has been exalted in the estimation of men, it has been among the most enlightened nations; among the most civilized; among those who have been most Christianized and who believe in a Supreme Being, that has power to reward men for the good that they do. And, on the other hand, where you find woman degraded, you will find it among the savage nations, and the more savage they are the more degraded their women are.

I am prepared, Mr. Chairman, to vote and sustain the plank that has been offered here by the committee and against the proposition or the substitute offered by the minority.

I will call your attention to section 6 of the article presented here by the committee on election and suffrage, which I believe will be adopted. Now, if we refuse the women the right to vote, if we refuse to give them the franchise, we will then place them on the same footing with the persons described in that section.

(Reads section 6.)

That is the footing and that is the place we are placing women when we refuse them the right of franchise, and I do not think we ought to do it. I think we ought to give them what they ask for. I will do that. I have been upbraided sometimes for not getting my wife things she did not ask for. She did not ask for this, and I calculate to surprise her, and will if my vote will get it for her and give her the franchise.

Mr. CREER. I have an illustration to make on the point the last gentleman has spoken on, and that is this. We are confronted this afternoon with a very strange picture contrasted with what I am about to relate. Of course, it has been demonstrated by argument upon this floor, that if we deny woman the right of the franchise, we are deny-them the right that the Indian, the criminal or the lunatic may have, because the Indian may sever his tribal relations, and the criminal may have his disabilities removed, and the lunatic may return to his reason. I say this in deference to the gentleman whose eloquence has been so clearly portrayed upon this floor, that we stand here a parallel—perhaps no better parallel can be found in the Territory. He was born within a few miles of where I was born. We came here to this land to seek our liberties; he has had to pass through tutelage, and so have I, in order to obtain the high privileges that we have to-day. Further, it seems to me very remarkable, every one of those who have signed this minority report are men who have had to pass through tutelage to obtain the franchise, but the only difference is this, that the gentleman is unwilling to accord that to the females, but I am. I was about to say, that twice in my life-time I have had to pick up men who have been mutilated by the scalping knife of the Indian in this Territory. And it is

within a possibility that these men, under the provisions of this substitute, would have the right to cast their vote and yet they deny this to the ladies here who are before you ladies who have been educated and ladies that have helped to bear the heat and burden of the day in the experience of our commonwealth. I say that this is certainly wrong. It is not in keeping with the times, and I say this further, that the gentlemen who are in favor of voting for the affirmative of this, are in accord with the progression of the age. There is no need debating the fact that the question of female suffrage is progressing, it is not retrogressing. Over one hundred states and provinces have already granted it to some degree, and even the birthplace of my friend, and all of those who have signed the minority report, grant it to the ladies in some degree—the gentleman who says of course unmarried women and widows can vote, but he is unwilling even to grant that much to the ladies. It is an absolute refusal to grant them the privileges that the ladies received in the land of their birth; greater privileges of course, are accorded them in many other states and some other provinces.

I say this is not democratic, but I had rather follow the judgment of the gentlemen, who, in territorial convention, as well as county convention, laid the platform broad and strong that we were willing to stand by the ladies and grant them this privilege. I say it is a shame then that we should deny the privileges that this class of people whom I have referred to would enjoy. Talking about the placid waters of the sea; I remember, nearly half a century ago, we were coming along there in the Gulf of Mexico, those muddy waters that he spoke of were blended with the beautiful water of the Gulf of Mexico. And why then can we not afford to repose upon their bosom and grant to all classes the rights we enjoy as American citizens?

Mr. JAMES. For my benefit, and others in this Convention, I ask for the reading of the substitute; it has been a long time since it was read to this committee, so long since it was read that I almost forget what it contains.

The substitute was read by the secretary?

Mr. JAMES. As the substitute is read I had not understood from the time this debate began up to the present time. My impression was that this provided for submitting the question of woman suffrage to the people in a separate article. I was not present at the time it was offered, and I only knew of, or judged what it contained from the remarks that were made upon it. That being so, it stops my discussion that I have arisen here to offer to this committee, and I will only make a few remarks, explanatory to the form and course that the debate on this floor has taken.

There has been a position taken that if a member of this Convention should vote for to submit this to the people in a separate article, they were anti-woman suffragists, which I wanted to arise and disclaim. I maintain and I supposed that I knew something about the position in Salt Lake County in the republican party upon this question, and this issue during the past campaign. I supposed I knew something about it, although I have come to a conclusion to some extent since I have met my friends and co-workers, that I must have been dreaming or asleep. My understanding was—of course I knew that that provision was in the territorial platform, but I never met anyone—a single person during that campaign that belonged to my party, that maintained that that meant that there must be a plank put in our platform granting suffrage to the women of Utah Territory. But, on the other hand, it was conceded that it meant that suffrage should be granted

to the women of Utah, and the republican party in favor of it, but it should go to the people in a way so that they could say whether they wanted it or whether they did not want it. It never was understood by me or any of the numerous other speakers we sent out throughout this county that they should take any such stand as that. In cases where any remark was made or explanation made by me, as chairman of your county committee, was that that meant the submitting of that question and the ratification of woman suffrage by the people when it went before them and was discussed upon its merits.

Now, I did not attend a single republican meeting during the campaign (and I attended a good many) that the question was ever in my presence mentioned—not one from the start. I say, gentlemen, it is my opinion that in Salt Lake County to-day, unless it may be some isolated outside precinct that I am not much acquainted in, this question is unsettled so far as its having been placed before the people and debated and understood. Now, for that reason I do not want any gentleman to be placed in the position that they are opposed to woman suffrage simply because they are opposed to the plank going into our Constitution that we are framing for our new State. I am opposed to that position and that style of argument, and I am rather in favor of our friend's from Summit County position this morning on this floor, that the unfairness of the position comes from the gentlemen that insist that it must go there. Now, why? There are honest people all over this great United States, and, for that matter they are around this great globe, that do not believe in woman suffrage. There is a great mass of them that do not believe in it. Now, it is to be supposed that there are some in Utah Territory that do not believe in it, but the mass of the people of Utah Territory want statehood, they want it to a man, they want it to a woman, and their children want it. Now, you gentlemen, turn around and say to those people who may be honestly convinced that woman suffrage is not the proper thing; you say to them, "you take that or you take no statehood." Now, is that a better way to do this business, Mr. Chairman? Is it not a better proposition to submit this matter to the people of this Territory in a separate article and permit them to say whether they want woman suffrage or whether they do not want it. Can any man say, because I raise my voice in favor of submitting it to the people and having it discussed from the points of merit when I claim that it has not been in this Territory, it may have been in some places but they are where I am not acquainted with—is it unfair that it should go to them, and is it fair that you should say that I am an anti-suffragist? No, I say, gentlemen, it is not.

Now, I do not blame any man for coming here and voting his honest convictions; I am not upholding any feelings against any gentleman for that reason, and I do not blame a man if he comes from a district where his people understood that he was pledged to woman suffrage before he came here, where it was discussed and debated, and he came upon that issue, for coming here and defending that principle. But, when men come here as I came, it is a different proposition. I say that in my district where I was nominated, in the convention which gave me the nomination, not one single word was uttered upon this question, not one word, and the fact of the matter was this: The understanding was, as our friend Mr. Thurman from Utah has stated to you, there should not come into this Convention anything of a political nature; and secondly, our nominations were given to us as the choice of our party. We're not committed beyond anything but what was supposed we would do, and that being our strict,

honest, sworn duty to this Convention. Now, the resolution as it has been read here, and, as I understand it now, I shall vote against it, but if I have an opportunity in this Convention to vote for a proposition that proposes to submit to the people of this Territory, and not force it into our Constitution, I shall support it, for I believe that that is the proper way to do it. I believe that the wishes of the people should be granted, but I believe still, that their wishes should be ascertained in a way so that it may be properly understood.

Mr. MACKINTOSH. As one of the minority committee I wish to say a very few words in support of that motion. I would say a little more, but I think the gentleman, Mr. Whitney, from Salt Lake, has made one of the most unanswerable arguments that was ever made; but that should not get into this Constitution, and I will refer to that portion of his argument where he departed from the merit of the question and cited the gentleman from Davis County, Mr. Roberts, and told of an instance where in the church nearly two thousand women held up their hands to vote for him for a high ecclesiastical office. He pulled on the floor of this Convention matters which I supposed were entirely out, but matters, sir, of which I have a grave and serious doubt. I hope I am mistaken, but that part of his argument convinced me that the report of the minority was correct, and I think I am correct. I have never yet in any way bound myself to a pledge that is put in that republican plank. The first I heard of it I denied it. When I heard it from the constituency in the second precinct, I told Mr. Walker and others that I did not endorse that portion of the platform. To-day I was not going to say a single word, but when I heard the gentleman, Mr. Whitney, from Salt Lake, arraign the gentleman from Davis County, and tell him the things ecclesiastical that he had done, and that two thousand women held up their hands, I am afraid that forty thousand women will go and raise up their hands to elect some one to a high political and temporal office. I thank you.

Mr. HEYBOURNE. I did not, Mr. Chairman and gentlemen of this committee, intend to take up any time in talking upon this important matter that has now been brought to our attention. But I am of the opinion, sir, that I would be somewhat derelict in my duty, were I not to stand up and express my views and sentiments, at least a few of them, in regard to this matter, thereby representing the people whom I have the honor to represent upon the floor of this Convention.

I, sir, listened with a great deal of interest, and I might say pleasure, to the able remarks that have been made during the pending of this important question, and in listening to them, sir, I have taken into consideration the circumstances that have transpired in this Territory since the memorable June when the territorial convention convened in the city of Provo, and among other things presented before the people of this Territory was their banner, upon which is written in unmistakable terms this fact, that the party was in favor of woman suffrage. I am really surprised, sir, at the statements that have been made by the honorable gentleman who, I understand, to-day holds the exalted position of chairman of the county republican committee of this county, and I should infer, sir, from the remarks that he has made, in connection with other gentlemen, that we are trying to carry water on both shoulders; that there is a disposition on the part of some to avoid the responsibility that now attaches to this important matter that has received, and is now receiving, our attention, and we are seeking now to shift it back and say to the people of this Territory and the

ladies, "You pass upon this question. You consider this question, and if you are favorably disposed, why, petition the Legislature that shall convene, and doubtless you will get the privilege granted you." Now, Mr. Chairman and and gentlemen of the committee, I do not propose to cast my vote or use the little influence that I command, in the agitation of any such proposition. I do not so understand it. I wish to state, sir, that when this matter was presented to the people, so far as the southern part of the Territory was concerned at least, they looked upon it with favor, and they looked forward to the time, particularly the ladies, when they might enjoy the rights and privileges that of right belonged to them. They looked forward to the happy time that was alluded to by my friend from Sanpete County when they might go hand in hand with their husbands, fathers and brothers and cast their ballot. That is what they looked forward to, and it was in anticipation of this great and glorious privilege our county conventions were convened. And what was the result? I do not call to mind, sir, at this time, one of those conventions that I read or heard about, but what endorsed the sentiment of the Provo platform and were willing to pledge their support not only upon the silver question, but particularly upon the woman suffrage question. And with that understanding we went before the country, we went before the people of this Territory, and we were proud to state that that spirit of liberality had aroused in the hearts and breasts of the republican party of this Territory that they would grant unto the women this inestimable privilege and prize. Now, some of the gentlemen upon the floor of this house say that they did not understand it in that light; that they did not understand that this should be placed in the Constitution of the coming State of Utah, and that it should be a matter that should be left entirely to the people. I have to differ with those gentlemen. I assumed this responsibility of coming here and throw in my humble efforts in connection with gentlemen, in the drafting of this fundamental law of the country, to accord this right and privilege to the ladies of Utah Territory. I have not yet, and am happy to say, been changed in that feeling and sentiment.

As was remarked by the honorable gentleman from Salt Lake, this morning, we are starting out on a new era. It is a time of progression. Now, gentlemen, when this opportunity is presented to us, shall we pass it by, shall we ignore it, shall we manifest to the people of this Territory that have imposed confidence in us, that we are too weak, that we are a party of broken pledges and promises? I have more confidence in those who compose this Convention than to even think of such an idea as that. Let us start the ship of state in progress. Do not let us throw an anchor around her that will hinder this progression that we look forward to in the future. Gentlemen upon the floor of this house have stated that they are looking forward to that with regard to the citizens of this coming State. They have referred to the institutions of learning as the foundation in which men and women could be reared in those principles, and that would make of them great men and great women, that would enable them to carry on the responsibilities that will devolve upon us when these changed conditions are brought about. Do you forget, gentlemen of the committee, that the very foundation stone lays with the women of this Territory. We can entrust them, gentlemen, with the molding and fashioning of the minds of our sons and our daughters, but we hesitate when an opportunity is presented to place them side by side with us lords of creation. I shall oppose the motion

that is now pending for the substitute, and I trust that I shall vote in favor of woman suffrage.

Mr. KIESEL. As one who signed the minority report, I feel it incumbent upon me to say a word or two. I have heard many eloquent orations here on the right of suffrage to be accorded to women, and, as a result of the various fine efforts, I will admit I am converted.

Mr. HAMMOND. To what?

Mr. KIESEL. Theoretically. In principle, and for this Territory, this is not applicable at all. It puts too much power in the hands of the clergy. We have just begun to assimilate and are trying to adjust the old people's party and the liberal party, and now you are about, through the aid of woman suffrage, to increase the vote which we are trying to assimilate, by about thirty thousand or more. I fear that this is the result more of the wishes of the men and not of the women. In my section, where I come from, I have not yet been appealed to by a single woman. On the contrary, (I go home once in a while) I have the approval of my course—the course that I have pursued this far. They have not tried to hang me in effigy or anything of that kind. On the contrary, I have held their approval.

Mr. DRIVER. May I ask a question?

Mr. KIESEL. I will answer your question when I get through; just put it on a slip of paper and by and by I will answer it. [Laughter.] Now, then, the people in Utah consist of at least four-fifths of the Mormon Church. If there were more churches, if this thing was a little better divided, I would not object so much, because I think in the discord of the churches lies the safety of the state. That is the way I look at it. Now, the Mormon people are good people; I have lived among them some thirty-two years or more. I know just as much about them as anybody. They are neither better nor worse than we are. The lust of power is inherent in the human breast, and they will use that power, unless I am very much mistaken, when opportunity arrives. I know we have the promise of gentlemen who are very sincere, I have no doubt, that this power shall never be used, but, gentlemen, in all these things we must be guided by history. And where has it been that when men have the power, that they would not use it? I know we Gentiles would use it. For this reason I say that the more you diffuse churches that much more will take away the power to do evil, politically. It has been said, and justly, that woman by reason of her sympathetic nature and religious impulses, will more readily yield to the submission of the clergy; it will take her some years to get over what she has been taught for so many years. I have the highest respect for woman; I yield to no one in that respect. I have worked for thirty years for her emancipation and for her enfranchisement here in Utah, and when that request for her enfranchisement came from the other side, and knowing how it had been used in times past, then, naturally my suspicions were aroused. Now, then, lead me not into temptation. The temptation is that this power will be used if it is given to them. For this reason, I am just at present opposed to conferring the electoral franchise on women in Utah. Otherwise, I might concede it. In Utah I consider it out of place and unsafe.

Mr. MILLER. Mr. Chairman, as this meeting has taken on the character of a love feast, I want to hand in my testimony. I took an active part in the campaign last fall from the beginning; was elected as a delegate to the territorial convention, which met at Provo, for the purpose of nominating a delegate to Congress, but through circumstances over which I had no control I was not permitted to meet with that body. One week after the convention met, the county of Sevier ratified the platform adopted by that convention. I was invited to participate, and the

only plank that attracted the attention of the women of Utah in the county convention—that plank was again adopted; ladies were present, both from the republican and democratic party, or ladies who were in sympathy with both parties. We extended them the courtesy of the floor; they talked or spoke to us in behalf of the measure. Right then and there that county convention that nominated three delegates from Sevier pledged themselves to that measure, and I could not consistently do otherwise than vote for the proposition submitted to us by the committee on elections and suffrage.

As for the proposed motion of submitting it to a separate vote of the people, I could not consent. If my wife was ever granted the right of franchise I want her to come in the same as myself and not be hung on the tail. And I believe, Mr. Chairman and gentlemen of this Convention, that if we shall vote down this measure, if we shall prove false to the trust that the people have imposed upon us, if we shall break our pledge and kill this measure, it will be the liveliest corpse that ever Utah had on her hands. It is a progressive measure, and I think we will take a forward stand in the forward rank among the states of this Union if this Convention shall adopt and place in the Constitution for the proposed State of Utah the proposition giving women the right of suffrage.

Mr. DRIVER. Mr. Chairman, I arose here a short time ago to ask my honorable colleague, Mr. Kiesel from Weber County, a gentleman capable of signing the minority report on this important question—to ask him a single question. He did not deign to answer me. I believe that is the first instance of the kind that has ever occurred on this floor. So far as I have noticed, when one gentleman has arisen to ask another a question, that gentleman who has been addressed has been polite enough to accord to that gentleman the privilege to ask the question, and if he could, to answer it. But, in my friend's case it has not been so. He said the ladies of Weber County did not approach him on this subject of woman suffrage, and ask him to support it. I do not believe they did. I believe he has spoken the truth on that matter, but I do not believe there is a lady to-day in Weber County that does not know, if she is over 20 years, or rising to that age, that Mr. Kiesel is diametrically opposed to woman suffrage, and would not allow it to exist if it was possible for him to prevent it. He is not in favor of woman suffrage, he is in favor of the principle enunciated in the minority report.

Mr. KEISEL. I told you I had been converted.

Mr. DRIVER. You never can be converted. [Laughter.] There are some things that may happen, there are some things that can never happen, and I believe honestly from my soul this is one of them. I have known Mr. Kiesel 25 or 30 years, and he has been traveling in the direction of suffrage all that time, yet, at the same time professing to be in favor of enfranchising the women of Utah. Now, if it takes a man 25 or 26 years traveling in one direction at a quick pace, how long will it take him with the obstacles that he would encounter on his return, to arrive at the position that the majority of this Convention is to-day? He never can get there in his lifetime, and when he does come, it will be from the grave in spirit to see the progress this movement has made during his absence. I say as a republican I was pledged to this step, to vote for the right of women to cast their ballots as well as men. And while I am not an old republican, I want to tell these gentlemen here that I was born into this party less than a year ago; I believe that the republicans were men of their words, that the republican principles were the correct principles for me to follow, and I understand that party plat-

forms were the same as articles of faith in matters of religion; they were to be honored and respected, and if possible, lived up to.

I was at Provo. I voted upon the article that gave the right to women to vote—the right of suffrage, and I have felt all the time that I was bound by that platform. Some people say that I voted for it because my wife was a leading suffragist. Not at all. I believe, like some other gentlemen here, that if my wife wanted to vote her way, why she should do it, and it would not interfere with the way I voted, but thank God we are both republicans on that point at least, and I think she is right. And I want to tell Mr. Kiesel and every other man who thinks as he does, that there has never been a time since the first pioneers entered this valley, since the first three ladies came through Emigration canyon, that they ever needed enfranchisement from the sources that he has suggested. Never. The ladies of the country never have been slaves; they are women who have been the pioneers of this country with their husbands and their brothers, and if there is anything around us to-day that we see to admire, the ladies of this country have helped to make it. Some say that they should be able to shoot the bullet and carry the bayonet and go to war. I believe lots of these ladies have done worse than that; they have worked all day long and killed the crickets to save their husbands' crops, and they have worked side by side with them to save their families from starvation, and I believe that if the time should ever come that they would have to carry the rifle, they are perfectly competent and able to do it. But is it necessary in order to give these ladies the right to vote, that we should have it demonstrated to us that they are Amazons—that they will go to the front and fight? No, sir; let the regular army go first, let the militia follow, then come on with your volunteers, and when they are all swept out, I guarantee you will find a fighting force in this country such as the world has never seen before. The women will fight for their liberties and for the liberties of their husbands and their sons. And I say, gentlemen, that the ladies of Weber County want the franchise, they want to vote, and they are going to have it. I did not think that it was necessary for anyone from Weber County outside of Mr. Evans to introduce this matter or to speak upon it upon this floor, and I would not have said one word, but here we are, eleven from that county; one has spoken in its favor, and one gentleman says that not a lady in all Weber County wants the right of suffrage; they came down here in advance of all others, from any section of this country; they held their convention in Ogden City and sent their delegates down here, and I believe those delegates from Ogden City are treated with respect and consideration by the committee before whom they appeared, as I know they would be.

Now, gentlemen of the Convention, this is all I need say upon this matter, but I want to say that I am for woman suffrage, first, last, and all the time, and I believe in giving the women the ballot that they may know how to use it, and that we will not regret it; and I hope to see the day when my friend, brother Kiesel, from Weber, and all that appertain unto him, will see the matter in the same light as the majority of this Convention see it to-day.

Mr. MORRIS. Mr. Chairman, I have been astounded in listening to the remarks of the chairman of the republican county committee. In his statement he stated that he never knew that the woman suffrage was to be placed as a plank in this Constitution, but that it was to be presented to the people as a side issue at the election. I have never heard such a thing mooted before in all the meetings that I have attended of the republican party. It is true that

prohibition has been mentioned as a side issue to be placed before the people to choose or to reject; and with all due respect to the member from Salt Lake, it looks to me as something in the shape of crawling back, because he knows well the sentiments of the republican party in regard to the woman suffrage. And I will say in regard to woman suffrage, it looks to me as a relic of a barbaric age; of the dark ages that have past. And I wish to say in regard to some point that was made by my friend from Davis County in his eloquent and masterly speech, which he made, when he made mention of the ladies and the conduct of the ladies which disqualified them as being worthy of the franchise. He read a newspaper here referring to the ladies of the World's Fair commission. I had to blush for him for bringing that up as a reason against woman suffrage, because whether it is true or not is more than he can say. For we all know that all that is printed in newspapers is not always true. But because of a little quarrel, a dispute between the ladies in the World's Fair commission meeting, that that should be sufficient to bring before this committee as a disqualification for ladies to receive the franchise. Because she uses the only weapon that she has in self-defense, that is the tongue. It is an old saying that that is the best and only weapon that ladies have in self-protection. But my friend from Davis County dare not mention about Breckenridge with a black eye and a bloody nose in the halls of Congress. That should disqualify him. Men are excused and honored while women are despised and set aside. On another point I want to differ from my friend from Davis, in regard to his remark about the tragedy and disgraceful conduct and action in Wyoming. He brought that up as a reason that they were not worthy as yet for the franchise. Why, who did it? Was it the women? Excuse me, no, it was the man that had the franchise — it was the man, not the women, and I cannot see where the points come unless it is to stigmatize the characters of our good ladies in this regard. Another statement was made in regard to going to the polls to cast their ballots. Is that a place fit for ladies to go? Why? Drunkenness, carousing, cursing, swearing, and not a fit place for a lady to go to cast her vote. Who makes it so—is it the women? Is it the women that make it so distasteful for men to go to cast their ballots? I say no, it is the men, and if I had my will, I would disfranchise all who cannot appreciate their high privileges and act as men, and give it to the women.

There was another remark made in regard to the first commandment that a woman was to look to her husband as her head. I would like to know if that would disqualify a woman for receiving the franchise. Have we not heads in our government? Have we not a President that rules supreme over this great and mighty nation? Yet does that deprive us of a right equal with him in casting our votes at the polls? I say no. Hence, I am free to acknowledge that I have not heard a good sound reason, logically, to disfranchise or to prevent the ladies from receiving the franchise—not one. They are entitled to it, and I for one feel that I can afford to stay out with them until they get it honorably in this nation. I can stay out with them, and I pity the kind of a nation or a kingdom without women. I would not want to have such a kingdom as that, unless there was a woman there. Hence, I am ready to give the franchise to the ladies, not half way but give it in full, equal with ourselves. Let us be men, and let us keep our word; I think they will add to our honor and to our glory if we take them side by side with us, and take them to the polls, and I think they will accomplish much in reforming those who already have the ballot or the suf-

frage. It is a shame when we look on our election day to find a miserable drunkard that will sell his franchise for a pot of beer, or sell it for a dollar, and refuse the good ladies of intelligence and owners of property a right to cast their votes. It is wrong and it is time that the change should come, and we will never see such a golden opportunity as to-day, in preparing ourselves to become a State. Now is our time. Leave it to the Legislature, leave it to the voters, and it will not be done. We have learned a lesson in regard to this. We have a power to-day to place it there, and no man living can prevent it. Hence, let them have it.

Mr. JAMES. Can I ask the gentleman a question? You can say that if it was left to the people and to the Legislature the women will never get it. Then isn't it because the people do not want it? If the people will not give it if we leave it to the people, I ask you do they want it?

Mr. MORRIS. I say they want it; and I also say that when this business is left outside of the Constitution there is such corruption in the midst of men to-day, and wire-pulling, and money spending, that they can obstruct anything that is right, in nine cases out of ten.

Mr. BOWDLE. I move you the committee now arise and report progress.

Seconded.

The motion was agreed to and the committee arose and reported as follows:

The committee of the whole which has had under consideration the proposed article on elections and right of suffrage, now report progress.

Mr. SQUIRES. I move the Convention now adjourn.

The Convention then, at 4:50 o'clock p. m., adjourned.

TWENTY-NINTH DAY.

MONDAY, April 1, 1895.

Convention called to order at 10 o'clock a. m.

President Smith in the chair.

Roll call showed a quorum present.

Prayer offered by Rev. Francis Herman, of the Scandinavian M. E. Church.

Journal of the twenty-seventh day's proceedings read by the secretary and approved.

Petitions and memorials.

A supplement to file No. 166, asking for prohibition, was received and referred to committee on schedule, future amendments and miscellaneous.

The committee on revenue, taxation and public debt reported, and the report was ordered printed and placed on the calendar of the committee of the whole.

The privilege of the floor was granted to Messrs. Sudberry and Judd.

The Convention then resolved itself into committee of the whole to consider the article on elections and right of suffrage, with Mr. Goodwin in the chair.

COMMITTEE OF THE WHOLE.

Mr. EICHNOR. Mr. Chairman, I ask for information; how many amendments are before the house?

The CHAIRMAN. One, I believe—one substitute.

Mr. EICHNOR. Mr. Chairman, I submit the following amendment, and move that everything be struck out and this be inserted in lieu thereof:

The following article shall be submitted as a separate article to the qualified electors for adoption or rejection at the election for the adoption of the Constitution:

Section 1. The rights of citizens of the State of Utah to vote and hold office shall not be denied or abridged on account of sex. Both male and female citizens of this State shall equally enjoy

all civil, political, and religious rights and privileges.

Mr. CREER. Mr. Chairman, it is exactly word for word the section as reported by the committee.

Mr. EICHNOR. I will state that the section is the same, but, of course, it is qualified by what precedes it, and I desire to state at this moment, as I have given my time away and cannot speak until I get more time—I introduce this in the interest of peace and harmony, for the good of the people of the Territory.

Mr. THURMAN. Mr. Chairman, I wish to make a point of order on the substitute, that it is not in order; it is not germane to the question before this committee to propose something to be submitted to the people hereafter as an amendment to a paragraph proposed to be placed in the Constitution; it is an independent question entirely. It has little or no relevancy. It may be all right for the gentleman to offer that as something he proposes to offer in case the proposed amendment is voted down, and in case the paragraph proposed by the committee is rejected. But to propose it now is a matter of argument; I do not think it ought to be considered; I do not think it is germane.

Mr. EICHNOR. Mr. Chairman, it is in the form of an amendment; I hold that it is strictly proper. It removes the whole subject and inserts something in lieu thereof. The move may be a little different by which it is reached, but certainly it bears on the subject.

The CHAIRMAN. The amendment has a direct bearing on this subject. It simply proposes to change the manner of reaching it. I think it is in order. The question will be on the amendment of Mr. Eichnor.

Mr. JOLLEY. Mr. Chairman, the condition we are in this morning reminds me of a couple of travelers who were traveling from one town to another in our county, and there came up a snow storm and they missed their way and were lost for a while. Finally the storm cleared away, they saw they were verging into a town, and meeting a boy on the street, one said to him, "Young man, where are we?" And I would like to ask the question this morning, where are we? If I understand it properly, all the gentlemen that are here upon this floor upon both sides, have come fully to an understanding, that they will vote for suffrage providing that would be true to the wishes of their constituents. It is true one or two have taken an opposite view and have spoken very fluently in their way of vindicating their side, and it is also true that we have some petitions, that have been recently, and quite recently too, hastily gotten up to sideswitch the suffrage question, and let the people vote on it. But in no instance that I am aware of up unto the present time, have we had a petition anywhere in Utah to lay the suffrage question aside entirely—that they were opposed to it. I did not expect to speak upon this question in the beginning of our Convention labors. There were a few that seemed to be desirous of occupying the floor, and I was willing to let them do so; but it appears to me that this question has been the chief topic that we are to take in hand. From the county where I have come, I take it that women want what we care to give them. Had they not wished it, they would have handed in a petition or said something to me or my co-laborers before we came here. It is true that the young man who has been referred to from our county (Mr. Lund) that said the women from Sanpete County did not want suffrage, has gleaned his information from some source that I am unacquainted with, and I think it is an assumption on his part to make such an assertion. And I imagine, he being a single man, that he would have been associated with the younger class, that possibly they whispered in his ear, and told him they would trust their suffrage in this

life to him, but as for the married ladies, as for the mothers, I think if they did not want suffrage they would have said something about it, and gave us a different position to stand upon than we are in at the present time. It has been said here by some of the former speakers that they are better than men. Yes, we will concede that, but I have never known many men that will go into the washtub. Their wives will go there. They are not too good to go there, or at least, Mr. Chairman, the ladies of our county are not too good to go into the washtub. They are not too good to stay in the kitchen all day, and my position that I occupy here to-day, is not exactly one of my own choice, for the simple reason that I have been elected upon the platform that grants or promises to grant equal suffrage to women with men. I can see no harm in them having that right. We have by those who have opposed the principle, the language that woman was made to be by the side of man, not following after him, not to be his lead. I will agree with that speaker. I do not expect that any of the ladies would want to be elected as justice of the peace. I trust they would not, for I believe it would go against the wishes of any American citizen for his wife to say, "take this husband of mine off to the lock-up." I would not like for my wife to say that to me. But the granting of this boon that we have promised them is one question, and going back on our word is another, and that is a serious one.

I am very much surprised at some of the leading men in Salt Lake County. I have wondered in my mind if some of us were not acting more like school boys than the intelligent men that have been selected to represent the Territory all over, to come here to make laws. I cannot see how it is that the chairman of the republican party of Salt Lake City can construe the meaning of that plank which is inserted in the republican platform as he does. I was out of the Territory at the time that the parties divided on party lines; when I came back, in the place of finding my family as I had left them, quiet and not thinking of politics, I found my wife and daughter aroused to politics, their thoughts were upon politics, not only that, but not knowing anything about my views, for I had never expressed them before I left them, had taken up party issues. They had declared themselves in the family circle to be republicans. On going to the first political meeting I did not behold simply the faces of men, but as I see here before me this morning, a mixed congregation. They were gentlemen, they were ladies, and it appeared to me from all I could see that one sex enjoyed what was said as much as the other, and took as great an interest in it. Mr. Chairman, suppose that we succeed in getting a State government, and send our senators east to represent fair Utah, we send them on the basis of silver sixteen to one, they go down there, they meet with men that are able to speak eloquently, as brilliant minds as there is in the great nation whom we represent a part of, and they would say to our senators from Utah, "Well, how do you stand out in the west on the silver question?" "Oh, we are solid, we have come down here to represent our people, and they want the double standard, sixteen to one." "Ah, that will hardly do, you must not be so selfish as that to represent your little district of the country, but when you come here, you come here to legislate for the whole nation. Why we people down here in New York, if we go to the bank and they go to shifting us out the silver we tell them we don't want to be loaded with the bullion. We want the gold."

Mr. RICKS. Mr. Chairman, I arise to a point of order. My point is this. Rule 20 says that no member shall speak more than twice on the same subject,

nor more than five minutes at any one time. I have allowed the gentleman to speak ten minutes, for fear that the rule may not be applicable to that idea, but I believe, sir, thatthe rule strictly forbids any member speaking longer than five minutes at one time, but allows them to speak twice occupying five minutes each. I would like to have a ruling of the chair on that subject.

The CHAIRMAN. Your point of order is well taken, but the rule has been ignored until now.

Mr. THURMAN. Mr. Chairman, I insist that there is a classified presumption in this Convention, that the gentleman has got a long list of names in his pocket that he can produce, but he ought not to be required to produce them.

The CHAIRMAN. I do not think any gentleman ought to be compelled to show what he has in his pocket. [Laughter.]

Mr. JOLLEY. Mr. Chairman, I seconded the motion on Saturday. Mr. Roberts had all the time that he wished in the closing of this debate. This is my first speech, gentlemen, upon this floor since the Convention met. I ask your indulgence a few moments. I will be brief.

The CHAIRMAN. Go on.

Mr. JOLLEY. Those senators in the east would say to ours, "You do not view those things right, be a little patient, agree with us for the single standard, and in a short time we will have shipped loads of gold from old Europe and it will be sent west and you people down there will not have your pockets full of bullion, but it will be full of twenty dollar gold pieces." Our senators would look at each other and say: "Well, things have changed materially since we left our homes." As was stated upon this floor in relation to suffrage, since last November—"Things have changed and if it is really so that our people by being a little patient can carry twenty dollar gold pieces in their pockets, in the place of silver at sixty-two and a half cents on the dollar, I think we had better change our issue, and when we go back and tell them what ground we had to change it, it will be all right, if not, they will have the privilege of voting upon it next time." I appeal, gentlemen, to you, the republican delegates of this Convention, I appeal to your honor, I appeal to your position, I appeal to your future desires, and the ambitions you should have as men and not as boys—not exactly as the Dutch justice was, when the lawyer in pleading his case got through, the judge says, "To be sure you have got and won the case," and the other one on the side of the defense, rose and made such an eloquent plea, as only some of our delegates here are able to do, and the judge says, "Sure he has won the case." So it left the judge to pay the debt and the costs. And I want to tell you republicans, being the majority in this Convention, that if you allow this issue to pass, if you do not stand upon the foundation of men of judgment, carrying out the wishes of your constituents who sent you here, and not allow your own feelings to come in and change the matter, you or the republican party will have to pay the costs in the future, for it will be laid to you, you being able to carry this measure through, or able to defeat it, or to switch it, and make it a rider—you are more responsible than our democratic friends because they realize that they are in the minority. From what I can see here (and I am sorry to say it), it appears to me that if the democratic side had been in the majority where the republicans are to-day they would have had this thing put through [applause], and it would have been settled. But I can see weakening knees in the republican ranks in this house that I am ashamed of, gentlemen. Those are my feelings in the matter. I am no boy, I came here as a man to represent men. I came here not to place my own feelings upon the standard, and vote as Mr.

Jolley would have a desire, but I came here to vote, to advocate and to fill the obligations that I have made with my constituents, and when I return I will look them in the face, and I can tell them, although I have not had a monopoly of this Convention, as some of my most intelligent friends have, that seem to be quite silent at the present time, and have not had a great deal to say—but I can look my people in the face, and say that I have done my duty. I want to tell you here, gentlemen, that Sanpete County wants suffrage for women, and I believe every other county wants it, and if Salt Lake County does not want it, why in the name of goodness have not they sent in a petition here telling us they do not want suffrage, that you make a mistake when you put it in the platform? I think that you men that are beginning to switch about here, had better consider where you are, who sent you here, and what you were sent here for.

Mr. ROBERTS. Mr. Chairman, I wish merely to say that before the house shall come to a vote upon this substitute, as I neither favor submitting a proposition to be voted upon by the people separately nor in inserting it in the Constitution itself—I wish it distinctly understood, that I reserve my opportunity to reply to this discussion before that matter shall come to a vote lest it should displace the substitute that has been under discussion for the last few days.

Mr. IVINS. Mr. Chairman, the very wide scope which this discussion has taken, and the introduction this morning of the amendment offered by my friend Mr. Eichnor of Salt Lake City, have prompted me to do that which I had not intended to do, for it was my intention to have let this matter go to a final vote without having taken part in this discussion. When I moved, Mr. Chairman, last Thursday morning, that this question be passed to its third reading without further debate, it was with the very best feeling on my part, and not by any means with an intention of preventing a full discussion of it, because the very nature of the motion indicates that when it should come up for its final reading it would still be open to amendment and discussion. That question has already been discussed during one whole day very ably and I thought profitably, but I fancy, Mr. Chairman, that I saw in that discussion, that which would lead up if it were continued, to criminations and recriminations, to heart burnings, to the introduction of matters upon the floor of this house, the revival of old issues and questions, which would be discussed here not only without profit but to the absolute disadvantage of the members of this Convention. Mr. Chairman, I did not understand when I came here that I came as a Mormon or anti-Mormon, as a Catholic or a Protestant, as a Christian or an infidel—no, not even as a republican or a democrat. Because on the very day that the majority of the votes in the county, which my colleague and I represent, indicated that we were to be their representatives I regarded it as my duty just as much to represent my republican constituents as I do feel that these questions which have been drawn into this debate were unnecessary, that they have been unprofitable.

So far as my personal convictions upon this matter are concerned, (and I must express them while I am on the floor,) I wish simply to say that at the convention where we were nominated, that ourselves being present and accepting that nomination, a resolution was introduced instructing us directly to use our best efforts to the end that a clause should be incorporated in this Constitution, which we are about to frame, granting equal suffrage. Under these conditions we came here pledged. We could not, if we desired, in honor to ourselves, swerve from that duty which was there placed upon us. Other-

wise than this, my own convictions are very strong upon this question. I do not wish to enter into an argument because it would only be a reiteration of that which has already been said. But the question of woman suffrage is not a new one in Utah. It has been discussed long and earnestly. Long ago I procured every book that I could find in a book store in this city that treated in any manner upon the rights of woman, and the position she should occupy in the professional, business and political world. I studied them carefully, and I read the debates. I read the arguments pro and con upon this question, and I must admit that in all the time we have devoted here to debate, there has not been a single new idea advanced. The very same arguments in opposition to woman suffrage that have been advanced here were advanced in Wyoming, they were advanced in Kansas, they were advanced in Colorado, and the same arguments in reply were made there. Why, the question, Mr. Chairman, has been discussed as though it was one that was peculiar to the people of this Territory, as being a special hobby of theirs. This is not the case. Woman suffrage is being discussed in every state in this Union, and the fact that a bill introduced granting equal suffrage has just been defeated in the legislature of Arizona by a majority of only two or three votes; the fact that the same result comes from California, the same result comes from New York, is an indication to us that this question is being favorably considered in other states of the Union, just as it is being considered in Utah.

Gentlemen say, "Why, for thousands of years, women have been asking for equal political rights with men, and if they are entitled to it, why have not they got it?" This may be true and that discussion will go on and go on, and in all of the thousands of years that it has been discussed it has never been so near favorable consideration as it is to-day. It is coming. There is no question about it in my mind. It is very true that traditions of long standing are not easily changed; reforms are not quickly accepted, or adopted, and this question of the rights of women will be no exception to the rule, and it will come. It is in the line of progression. The civilization of the world demands it, and the civilization of the age will have it. Who of us does not remember that only a few generations ago, the divine rights of kings were recognized in almost the entire earth, but as civilization advances, the minds of men, illuminated by the light of truth, lay hold upon the thought that the son of a king or emperor was endowed with no inherent right that was not also possessed by the son of the humblest peasant, and at the birth of this idea that all men were created free and equal, kingcraft received a blow from which it has never recovered, and since the day which has been referred to here upon the floor, when the barons of England upon the field of Runnymede demanded of King John a code, guaranteeing them protection in life, liberty and the possession of property, the idea that one class of citizens were endowed with rights above another, became less and less popular, until to-day the few kings that are left tremble upon their thrones, because of the voice of the people which is constantly thundering in their ears the great truth that all just governments derive their powers from the consent of the governed. Why, it is only a few years ago that here in our own land one class of men were deprived of the rights of citizenship. Yes, almost of the rights of human beings, for they were no better protected under the law, and in many instances no better treated, than the cattle in the field. They were chattels and were treated as such. But the time came when the aspirations which prompted the framers of the Declaration of Independence to say that all men were created free and equal,

took hold upon the minds of the American people, and they said that in this land of liberty there should be no more slavery nor involuntary servitude. It was in the line of progress, and the civilization of the age demanded it, and the slave was made free. Gentlemen, just as this question of greater civil and religious liberty for men and the emancipation of the slaves has come on, is this question of the rights of woman coming on for consideration and final judgment. And though the people may pooh pooh it, and attempt to brush it aside as a thing of little import, though invective may be hurled against it, and volumes of oratory uttered in opposition to it, it will go on and continue to be discussed until the civilization of this age will place woman where she belongs, not only the social but the professional and political equal of man.

There is one argument only that I have in mind to which I wish to refer before concluding that has not been made here upon the floor in opposition to woman's suffrage, and it is one, Mr. Chairman, that to my mind comes nearer to the pith of this matter, in very many instances, than any argument that has been produced, because it is a well known fact that men, should equal suffrage be granted, must of necessity come into competition with able, intelligent and capable women. A very prominent politician of this Territory, one, of course, who has no political aspirations, (politicians as a rule have none,) in discussing this question recently in private, after having made a very elaborate argument in opposition to woman's suffrage, after having recounted nearly all of the objections that have been recounted here upon the floor of this house, finally concluded his argument by saying (if I may be allowed to use such language here in the presence of these ladies), "that he'd be damned if he wanted any woman crowing over him."

Mr. MILLER. Mr. Chairman, I will not occupy over five minutes. I anticipated the measure that has been sprung this morning to sidetrack this question. I want to say that I am opposed to the substitute offered. It has occurred to me since this discussion began that the strongest opposition to this measure comes from opulent Salt Lake City. I don't know why Salt Lake City and Ogden should oppose it. It is true that the ablest champion they have had so far on the floor is not of their city, but in concurrence with the delegates from the outlying counties, this same feeling has been manifested in them, that Salt Lake City and Ogden were arrayed against this measure for the purpose of either killing it or sidetracking it. I appeal to the delegates of the outlying counties and to all those who desire to keep their pledges, both democrats and republicans, to vote down this substitute, let's continue the fight, win or lose upon the main question.

Mr. PAGE. Mr. Chairman, I happen to be one from one of the outlying counties of the Territory, and I must say for myself and also for my constituents that I have not found that unanimity of sentiment in regard to this question that a good many on the floor of this house would have us believe. I was with some of my constituents at home, no longer ago than yesterday, and discussing the proposition with those of all classes and as far as I was able to meet them, they are almost unanimously opposed to this proposition. I want to say right here and now, that I do not hold myself bound by any platforms that have been garbled and jingled together for a sounding phrase to catch votes. [Applause.] I consider that we are here engaged in a nobler duty than drafting political platforms. I understand that we are here to draft a Constitution for the new State of Utah, and I insist that such a state of jingled, garbled garbage as is incorporated in the political platforms of both parties should have no weight

here. I am opposed on other grounds to this principle of suffrage. I believe, too, that the people should have the right to vote upon it if they choose to do so. It is not unanimous by any means. The sidetracking of this question is only putting it where it properly belongs. Let it go to the people. Let there be a fair discussion and a fair consideration of the question. If they want it they will have it, but otherwise——

Mr. JOLLEY. I would ask of the delegate from Sanpete what those articles were put in there for?

Mr. PAGE. To catch votes. [Laughter.]

They were not framed there as a part of this Constitution. I appeal to every member upon the floor of this house, if those articles have to go into this Constitution or if they should cut any figure. I hold my pledges as sacred as any man on this floor, but I do not believe in making children of ourselves and following a blind lead on this question. I believe we should go down to the consideration of this question in a proper manner and give it the dignity and consideration it deserves, and act like men, not like children, afraid of our own shadows. I do not care whether it is democratic or republican powers that may be gained in this manner to go on the stump with. I believe we should consider it as a matter of what is best for the people. That is the way I look at it.

Mr. EVANS (Weber.) Mr. Page, you say that those planks in the platform were inserted for the purpose of catching votes. I will ask you if the women had the right to vote—women did not vote at the political election, did they?

Mr. PAGE. I believe not.

Mr. EVANS (Weber). Then whose votes would it catch?

Mr. PAGE. It was supposed to catch a certain party supposed to be in favor of that proposition.

Mr. EVANS (Weber). That is to catch the votes of those who were opposed to woman's suffrage?

Mr. PAGE. Who favored the proposition—yes, sir. I do not think it was unanimous by any means.

Mr. ROBERTS. Would Mr. Page allow me to answer Mr. Evans?

Mr. EVANS (Weber.) I certainly will.

Mr. ROBERTS. I will tell you what class of votes it was intended to catch. There was a prevailing idea that the Mormon population of this Territory were favorable to that doctrine, and the party that took the lead in it made a bid for that vote, and to appeal to that people on that ground, and the other party undertook to outbid them in order to keep solid with the same class of voters. [Applause.]

Mr. EVANS (Weber). I desire to offer Mr. Roberts just a moment.

The CHAIRMAN. Mr. Page has the floor.

Mr. PAGE. I wish to say in reply to that proposition in regard to the catching of votes, it is a condition that as I understand it in this country (and I believe it to be only a supposition) that the people of Utah are favorable to woman's suffrage. They have had something of an experiment in that line, as stated by my eloquent friend on the other side of the house; it is more in the nature of a Relief Society measure, at which the gentlemen went to the polls and the women followed declaring their testimony. I understand that really to be more in the nature of that than a conclusion arrived at by which the people could not act or vote intelligently on the measure. I am inclined to believe to-day, that if this thing is thoroughly agitated and thoroughly discussed through the Territory of Utah that the opposition will be in the majority against a measure of that kind; as far as the rights of the ladies are concerned, I believe there is no one who will be more glad to allow them the

privileges to which they are entitled than I would be.

Mr. THURMAN. May I ask the gentleman a question?

Inasmuch as the gentleman from Davis County undertook to answer for you, I want to ask you if his answer in which he said that that was put in for to catch Mormon votes by your party, is entirely satisfactory to you? Is that true?

Mr. PAGE. On the proposition of Mormon votes or Gentile votes, I hardly think the question is a proper one here in this Convention.

Mr. THURMAN. I understand that you do not wish to answer as to whether he has stated your position correctly?

Mr. PAGE. The conditions that exist we are all familiar with, but it is as well in my opinion, to avoid the discussion of that question here upon the floor of this house. I believe that both parties are sincere and honest in what they are attempting to do, and that is to reach a higher plane than that upon which they have been operating in the years that have passed.

Mr. THURMAN. It, I understand then, it is all right in a political convention, to put in those things to catch a certain class of votes, but it does not do after you get elected, is that the idea?

Mr. PAGE. Not always.

Mr. CANNON. I would like to ask Mr. Roberts a question, as he is answering them for Mr. Page. I would like to ask who drew the plank in the republican platform at Provo, providing for equal suffrage?

Mr. ROBERTS. I was not at the convention. I do not usually attend republican conventions.

Mr. CANNON. I suppose, however, that you read the newspapers.

Mr. ROBERTS. I do not know who drafted it.

Mr. CANNON. The chairman of that committee was ex-governor Arthur L. Thomas. It was prepared by him and presented, and if it was with the idea that the gentleman has answered, I never before heard it so explained.

Mr. JAMES. I would like to ask Mr. Cannon, if Mr. Thomas asked any advice from any other source, before writing that article, than his own individual self? [Laughter.]

Mr. EVANS (Weber). I would like to ask Mr. James, was there any gentleman in the republican convention that voted against the platform after it was drafted? [Laughter.]

The CHAIRMAN. That is not germane.

Mr. CANNON. I arise to a question of personal privilege. I have been asked a question, and if the chair permits a question to be asked, I demand the right to answer it.

The CHAIRMAN. If it is a germane question. The question asked by Mr. James is, what influence was had upon Mr. Arthur L. Thomas, or where did he get his advice?

Mr. JAMES. I arise to a point of order. I did not ask such a question. I asked if he consulted with others or did he write this article through his own personal volition, without consultation with other people?

Mr. MACKINTOSH. He did not.

The CHAIRMAN. I do not believe that is germane at all.

Mr. CANNON. I will say I do not know with whom Mr. Thomas consulted. I simply know that he, as chairman of the committee, brought it upon the platform and that he presented it as the report of the committee, and that if it did not voice his view, he should certainly have presented a minority report.

Mr. IVINS. I arise to a point of order. This whole discussion is not germane to the question before the house.

The CHAIRMAN. I think it is well taken.

Mr. KIMBALL (Salt Lake). Mr. Chairman, I have not offered to take

any of your valuable time during this Convention, but I feel duty bound this morning in justice to myself and to my moral convictions and upon this subject to state my position, and in justice to my constituents to say a few words. I am in the position of some who feel that they are bound by party pledges. I feel that I am bound by something stronger than this. I am bound with honor to my own convictions in justice to the gentler sex of our community. This principle cannot be changed in my mind by any amount of argument. It is true, I have listened here to the gentleman from Davis County, and other gentlemen who have spoken on this floor, but my opinion has not been changed. I am not my own servant, gentlemen, in this position. Were it so, I would consider that we were in a dangerous position indeed. I came here to represent the people, and in addition this is an inherent principle with me. I have understood it this way all my life. All my teachings have been to this end, and to-day I am satisfied, and I am sure there is no one on this floor that would question the fact that I have always been open to conviction and ready to receive truths from whatever source they may come. When I attended the democratic meeting in the theater and there listened to that declaration of liberty to the women, my heart rejoiced, though I will acknowledge here, that previous to that time, I had but very little confidence in the two political parties that were started out in this Territory. The position they took upon this question, whether it was to catch votes or not, gave me confidence in these two parties, that for once, if not before, they were doing justice to all concerned. I cannot understand it (and you will pardon me for speaking of the two political parties), how the democratic members on this floor can speak against woman suffrage. The very principle that got me on political lines was equal rights to all and special privileges to none. [Applause.]

I do not place my wisdom as against that of the learned gentleman from Davis County, for,

I am no orator, as Brutus is;
But as you know me all, a plain, blunt man,
That love my friend.

But if he is correct on this proposition, then the democratic party and myself are wrong. I have noticed too, with no small degree of pleasure, that the gentlemen who were being caught by his oratory, are not the solid democrats, but the people of the other party. Some person suggested to me yesterday, "Is not this thing well understood? Have not the democrats arranged to get Mr. Roberts to act in this capacity of decoying these fellows over?" Well, I do not think we are quite that small yet, but it looks very much to me as though that is what he is doing, and I believe the democratic party can afford to lose Mr. Roberts if he can put the republicans on record on this proposition, and let the democrats give suffrage to women. I only except one gentleman on this floor, who is better acquainted with the people of Utah than myself, and that is the honorable gentleman who presides over the Convention; it has been my privilege for years to travel from north to south, and east to west, visiting every hamlet and town and city, making acquaintance of the people in general, and I wish not to offend any on this floor, but I am going to say it is my experience, on entering any of the towns and all of the towns outside of these larger cities, that I find from one to twenty-five loafing bummers in every town, but do I see that with the women? It is my experience that there are from five to ten intelligent, well educated, refined and accomplished women where there is one man of the

rising generation who is equal to stand at her head and to be a husband to her.

Now, I am not extravagant in this proposition. It is an evident fact that the rising generation are dilatory, that they are careless, that they are not as industrious as they should be; while on the contrary the young ladies are using all their time to development to that extent, that they are rising away above the young men. Now, I ask this intelligent body of men, shall we say to the women, "You shall not vote, you shall have no say in these matters, but this element who is inferior to you shall come to the front, and exercise the franchise, and say who shall govern matters for you?" So I appeal to the honor of this body of men. I appeal to their wisdom and judgment on this proposition. And when I make this assertion, I do it in this way, that the people of Utah through their circumstances are different to any other people in the United States. Take our mothers, for instance. In early days here our fathers were frontier men, off in the canyons, out on the farm, out fighting the Indians, out on missionary work and in a hundred other pursuits which took them away from home and the mother was placed in the responsibility of being a father and a mother too. The experience that has come out of this kind of a life has placed our mothers on a different footing to that of the women in larger cities in the United States. Consequently our mothers, our daughters and our sisters, and all, stand not only abreast with men, but I dare venture on this floor that they are a long ways ahead in intelligence and in all the good qualities that go to make up men and women.

Now, I want to say, while I am open to conviction, I have heard nothing on this floor that has wavered me in the least. There is no man in this community that I respect higher than the honorable gentleman from Davis County, and on all other subjects would accept of his advice, but when it comes to this matter I must reject it, and stand on my own footing right here, and stand for woman to have equal rights with man and not to defer it to come in at the tail end, like another proposition that we expected to submit to the people. Now, gentlemen and ladies, I expect to vote for woman's suffrage right here. With it, as Mr. Evans said yesterday, I live or die, I sink or swim. I expect to stay with it until it is consummated, and I have sufficient confidence in this body of men that it will be consummated right here, and that very soon.

Mr. HILL. Mr. Chairman, I have not yet raised my voice on this floor in the advocacy or defense of any proposition that has been presented. My early education in this respect is deficient; I am not a public speaker, it is not my sphere. It is something that I am unaccustomed to. I believe I am entitled to five minutes, and if the Convention will bear with me, I will make the statement that I shall not detain them for more than thirty days. I donot take this floor with the expectation of making a single convert, but I am certainly surprised this morning at the acrimony and the feeling that has been manifested by the intelligent portion of the gentlemen I see before me. It appears more to me that we are on the eve of a great revolution than on the eve of establishing or forming a Constitution upon which this great commonwealth may enter into the community of the numerous stars that now bedeck our banners and flag. I say that this is apparently our position, and if there is anything that has annoyed me in this Convention, it is for any non-Mormon, any ex-democrat or any ex that you wish to prefix to his name, to say that they have come here to work for the interests of his particular party. I was not elected for that purpose. It is my disposition and my nature to be conserva-

tive. Bnt I certainly have been aroused here this morning, and not only this morning but on other occasions; and when listening to the eloquence that has been displayed by some of my associates in this Convention, I have been surprised to hear them this morning, after having said that this great Convention would produce such results that the morning stars would sing together—it appears to me that they are trying to bring the morning stars and the evening stars together to create a clash.

I believe, Mr. Chairman, that I to-day stand on this floor, occupying the position, and truthfully say I am one of the first, and oldest republicans in this Territory. I can recollect years and years ago when our esteemed President Wells and I used to converse together in reference to the political conditions throughout the nation. I was a believer in him. I believed in his principles. I believed that when we had placed at the head of this great American nation Abraham Lincoln, that we had one of the greatest republicans that was ever born, and to hear my friends get up here and take the positions that they do, and narrow this down until they have not a plank to stand on, I am surprised. We have heard a great deal about this particular plank in our different platforms that has cost so much strife. For the benefit of the republican party I will read—republicans agreed to it in Provo, and I am certainly surprised—it certainly astounds me to think that any man having any sense would take the position that some of us do here. Plank eighteen verbatim ad literatim [laughter] reads as follows: "We favor the granting of of equal suffrage to women."

Mr. PAGE. May I ask you a question?

Mr. HILL. Yes, sir.

Mr. PAGE. Does that say that we must necessarily incorporate that in this Constitution?

Mr. HILL. I will answer your question if you will only give me time. I told you that I should not detain you over thirty days. You must excuse my abruptness, Mr. Page, I told you to commence with to bear with me, and I would like it understood, gentlemen, that you must excuse me for being in this position. I am certainly embarrassed, I am not accustomed to this kind of business, my knees will hardly carry me, but let me take thirty days and I will show you whether they will carry me. [Laughter.]

I will read this again so that there may not be any individual present mistaken.

"Section 18. We favor the granting of equal suffrage to women."

I have another one here, I will refer to this later. The republicans not only in Utah, but in this great nation, favor liberty. Some of our friends from the democratic side of the house will say, "Do the democrats not favor liberty? Do they not favor equal rights? Do they not favor representation?" What do the republicans do? They do the same. I attended that convention where that plank was adopted. The question may be asked of me, "Did you vote for it? Do you wish to support it?" I will tell you right here in my argument that I am a female suffragist, I want you to understand that. No matter what I might say or any other man in controversy thereof may say, I believe in female suffrage in this way.

We had an illustration at the Grand theatre the other afternoon, when probably the mothers of some of those young men who are making some eloquent speeches upon this floor were voting against female suffrage. You say this is not the case. There was a matinee held in the Grand theatre, there were ballots printed, they were passed among the ladies, and for some reason I do not know, I was not there, I was here listening to some of your stories, they only distributed those ballots in

the parquette, they collected the votes, the vote as I have it here in my hand; there were 282 in the parquette voted against female suffrage, and 180 in favor of it. What does this mean? What does this mean? I respect every lady who is upon the floor of this house to-day. I wish I had them all within the sound of my voice, and I would say unto them, "If the majority of you ladies in this Territory, if the majority of you ladies within the confines of the United States, wish female suffrage, I will get it for you if I have to take the bayonet and fight for it. [Applause.] But if my mother, my sister, or my daughter objects to me getting suffrage for her, I will take the bayonet and fight against it. A little anecdote occurs to me just now, and it is a good place to tell it. I have a little daughter, she will be five years old on the 23rd day of next July; she says I have become a very bad man lately, and I believe I have. "Why, says she, "I never can get you home now nights, unless I come to the store and meet you, and then you send me home and tell me you are going to those old meetings," says she, "every day you are going to meetings—every day, and papa, do you know what they tell me, they tell me that those men down there at that meeting that you are going to, are trying to make a little boy of me." "Why" says, I, "what is the matter my dear, that is a mistake." "Yes," says she, "You are, and I am afraid you are going to do, it and if you do I will never like you, because I do not want to be a little boy."

Mr. RICHARDS. I desire to ask the gentleman whether he believes that the result of the vote at the Grand theatre on last Saturday represents the view of the majority of the women of Utah Territory?

Mr. HILL. I will answer you as I did the gentleman on my right who just spoke, I will answer it by going on and referring to another vote that was taken, then I will reply to you. At the Grand Pacific hotel, when there were quite a number of our lady friends present, they took a vote and it was similar to the vote taken at the Grand theatre. Now, I think I have answered your question, Mr. Richards. I do not think it is necessary to say anything further. I am unequivocally in favor of woman's suffrage if they want it, and it appears to me in those two particular places to which I referred a majority voted against it, and I am confident of this—I had my speech all arranged, Mr. Richards, as you did the other day, but you fellows knocked me out of it. I am not as composed as you are. I am not accustomed to it.

Mr. RICHARDS. I hope the gentleman will excuse me if I have embarrassed him, I certainly did not intend to. I think it would be impossible to embarrass him.

Mr. HILL. It certainly is. [Laughter].

Now, we have had petitions from females throughout this Territory presented here to this Convention for us to legislate to enfranchise them. I know not how those petitions were presented, I do not know under what conditions, but I do know that I as an individual have had some experience in having petitions presented to me, and my presenting petitions to others. For example, Mr. Richards comes to me, or Mr. Roberts, or Mr. Ivins, or any other gentleman; he has a certain scheme he wishes to accomplish, he probably states to me what he wishes to accomplish. He ask me for my support and signature, I give it to him, and in one particular instance, I cannot think of just now——

Mr. FRANCIS. I wish to ask the gentleman if that scheming operation applies to the Grand opera house election last Saturday?

Mr. HILL. If you will kindly not anticipate my answer you will get it without asking. [Laughter.] During the last campaign there was a petition brought to me to sign in favor of a prop-

osition that I certainly favored; it was a proposition to make silver 16 to 1, which is an awful difficult thing to do, we have experienced that. The parties bringing me that petition read it, it was brought up with a great many signatures to it; there were a great many sheets of paper; I signed it. The next time it was presented to me, it presented a very different appearance from what it did before, it was in support of a party measure of which I am not a member, but was being presented by the populists instead of the republicans I therefore, had to ignore it. I do not think for one moment —that answers your question—I do not think for one moment that the majority of the ladies of this Territory would vote against being enfranchised, if they thought they could enjoy all the rights and privileges that the gentlemen do without having the trouble to acquire or pass though the difficulties the gentlemen have to, though I want to state right here, and have you understand that my mother in her tuition of me, in her bearing me and making a man of me endured more than I ever have done in justice. I speak of her in that way, and the only ability that I possess to-day was given to me through her teaching, and I honor her, and I honor every one of those ladies who are present here today, in the interest they are taking in this matter. Probably gentlemen will go to asking me now, if I am a married man; I presume that question will be asked. Why there is not a lady in the house at present but what admires me. [Laughter.] They know I am pretty, and they admire the position that I take in their behalf and our behalf.

Mr. CREER. Mr. Chairman, I now emphatically insist upon the rule.

The CHAIRMAN. I think the Convention suspended the rules by its action on Saturday.

Mr. CREER. I do not understand it so.

The CHAIRMAN. I think it worked a suspension.

Mr. CREER. Some of the gentlemen have been confined to the five minute rule.

Mr. HILL. There are some who have not spoken yet that will give me an hour.

Mr. CREER. I object to their giving a history of their life, and the life of their mother, and the Grand opera house, and the Pacific hotel and all that sort of thing.

Mr. JAMES. Mr. Chairman, I arise to a point of order.

Mr. CREER. I insist upon the rule. The rule was that each member should speak five minutes.

The CHAIRMAN. I do not think the objection is well taken.

Mr. HILL. May I proceed, or am I ruled out?

The CHAIRMAN. Go on, Mr. Hill.

Mr. HILL. It was stated here on Saturday, by some party, that during our entire campaign it was presented before the different primaries, and the stumpers throughout the Territory had stumped in favor of female suffrage. I, unfortunately for me, as I stated sometime ago, was among the oldest, if not the oldest, republican in Utah—I fail to recollect, at any of our primaries, at any of our meetings, to have heard the question of female suffrage discussed from the platform or the rostrum, and I wish to say that I consider, as my remarks indicate, that the proper thing for the Convention to do is to introduce a plank in our Constitution giving the ladies the privilege at our coming election of voting yes or no on this proposition, and in that article specify that it may be the duty of our next Legislature, if the ladies so desire from that expression, to give them the elective franchise.

Trusting and thanking you for listening to my rambling remarks, I give my place to another speaker.

Mr. RICHARDS. Before the gentle-

man yields the floor, I desire to remind him that he kindly promised to answer my question and undoubtedly has overlooked it. The question I asked the gentleman is this: Whether or not, in his opinion, the majority of the women of Utah favor or oppose woman's suffrage?

Mr. HILL. My opinion would be of very little value to this Convention, for the reason that I am not sufficiently among the ladies to know their desires and wishes, and it would be inexpedient for me to answer that question.

Mr. RICHARDS. Then I take it you decline to answer?

Mr. HILL. No, sir; I say it would be inexpedient as I do not know. I do not know, sir.

Mr. RICHARDS. I ask your opinion, that is all.

Mr. LAMBERT. Mr. Chairman——

Mr. WELLS. Mr. Chairman——

The CHAIRMAN. Mr. Wells.

Mr. WELLS. I am a little out of place but I desire to be considered in the ring.

Mr. LAMBERT. Mr. Chairman, was I not recognized before Mr. Wells spoke? I want the privilege of asking a question.

The CHAIRMAN. I did not recognize you.

Mr. WELLS. I desire to say to the gentleman that I have a speech in my pocket and I feel very much like a hen that wanted to lay.

Mr. LAMBERT. Read it.

Mr. WELLS. When gentlemen who are opposed to prolonging this debate voted on Saturday to adjourn until today without bringing this question to a focus, they did a most injudicious thing. For they unwittingly afforded members like myself who are unaccustomed to public speaking an opportunity to prepare written remarks and thus subject the committee to a deluge of manuscript speeches it might otherwise have escaped.

But inasmuch as the discussion has taken so wide a range, I take it there is not the same disposition to cut off debate that existed a few days ago. In view of some of the sensational remarks of gentlemen I am willing that every man in the Convention should have an opportunity to speak, as I believe if there is distrust or suspicion or sentiments of fear lurking in the hearts of members as to the effect of the adoption of this section, that like the measles it is better out than in. Let us partake of the hot saffron tea of conviction, then wrap ourselves in the warm woolens of debate until we are red with the rash of wrath, and then see if we cannot agree upon some medicine that will dissipate our rage and put us on the road to convalescence, and finally to a healthy and permanent understanding.

There seem to be phases to this question which have been enlarged upon by gentlemen: first, as to the rightfulness of woman suffrage as a principle; and, second, as to the expediency of adopting it and putting it into the Constitution of the State of Utah.

I know a clever little woman who owns and runs a boarding house in this city. She pays annually in taxes something near a hundred dollars. But she has an average of about ten men who board there. The aggregate of their taxes, I do not suppose, would reach $50, because the most of them pay only poll tax. The other day there was an election in this county to determine whether the county debt should be funded by the issue of bonds.

It was a question vitally affecting the property interest of that little woman. All her boarders went to the polls and voted. She could not vote. Was that right? But gentlemen have said in such cases a woman may get her brother or her husband, or if she has not any, get her neighbor to vote for her. Let me ask the gentleman who made this argument, if he would be willing to let his neighbor vote for him on a question that affected his pocket? Now, if the

woman who owns property ought to have the right to vote upon that financial question, what reason is there for denying her the right to vote for the men who are to assess the taxes upon her property? The right of representation to all persons who are taxed is in my opinion an inherent right and a right which in this country was declared over a hundred years ago to be formidable to tyrants only. I have heard no plea that in the slightest degree swerves me from the belief that property owners, male or female, ought to have a voice in the government. Such rights are accorded to women in many of the states and in the old country in many of the nations. To deny this right to woman is to deny her a right recognized and accorded her even in monarchial governments.

Great Britain is governed by a woman. We will suppose that she should tire of the vexations of politics and public life and should seek an asylum such as the gentleman from Davis has alluded to, where she might remove her crown, comb out her bangs, put on her mother-hubbard and enjoy herself free from the restraints of royalty. Our government offers an asylum to the oppressed of every nation. Supposing she came to the United States, threw off her coronet and all allegiance to the mother country, became naturalized, as she has the right to do under our laws, settled down in Utah, and bought that magnificent residence in this city belonging to Mr. Mackintosh, would the gentleman from Davis or the gentleman from Salt Lake, both of whom I am informed were former subjects of her's, deny Victoria the queen, who erstwhile ruled over them in England, the scanty right to vote as a freeholder in this great land of liberty and equal rights? I think perhaps Mr. Roberts would not deny the right, but I am inclined to believe Mr. Mackintosh would want to know whether or not she belonged to the church. As for me, sink or swim, I am ready to vote first and last and always in favor of the franchise for any woman citizen holding in her hand that invincible credential, a property tax receipt. Now as to the rightfulness of extending the franchise to all women citizens regardless to their property rights. While not an ardent advocate of woman suffrage in this extended sense, I cannot see the justice of withholding the right to vote to an intelligent woman and giving it to an ignorant man. I am an admirer of modesty in women, and I confess there is a charm for me about the woman who says she does not desire to vote. I do not wish to be understood as intimating that there are not many modest women who desire the franchise, but I say that all women, whether they be modest or brazen, if they have the requisite qualifications of age, and citizenship, should have all the political rights, if they desire them, of modest or brazen men. Governments derive just powers from the consent of the governed. If women are governed they must give their consent or there is no just government. How can they give their consent? Through the ballot-box, as that is the authoritative expression of the will of the people. Women are certainly a portion of the people, and the people are the source of all political power.

It has been argued here that the ballot belongs exclusively to the men because there ought to be a bullet or a bayonet or a dirk, or some dread instrument of war behind it, the inference being that men have in some way earned the distinction by fighting, and as woman cannot fight she ought not to vote. To me this is the merest nonsense; if liberty was won by bullets and if men were behind the bullets, behind the men was the heroic devotion and the uncomplaining endurance and suffering of women. It was a mutual sacrifice and one in which the women of our country exhibited as high

courage and as constant a patriotism as men. The result of these mutual sacrifices was liberty in its national sense to all its people, yet only half of the people are really free, if perfect freedom is obtained through the ballot box. But if only those who have borne the shock of battle are entitled to vote, the executive head of this nation, the great Grover himself, would be disfranchised, as it is given out he hired a substitute. And how many of the gentlemen upon this floor have ever stood the brunt of battle. It has not come to my knowledge that many of us have "smelt blood, sah," in defense of our country's flag and thus earned in the sacred name of liberty the inestimable right to vote and pay poll tax. By such logic the franchise would belong exclusively to the military, and male civilians as well as women would be disfranchised. There has come to this Convention at various times among other estimable women, one whom I have especially in mind because she has all the grace and charms of her sex. She is a cultivated and intellectual woman, descended from revolutionary forefathers and related to one of the greatest statesmen that America has produced. She would consider it an inestimable privilege to be allowed to vote. Will gentlemen argue that it is right or just or decent to refuse her the franchise and bestow it upon Eph Kelly and Galleazzi? Other women who have come here who in point of ability are the peers of many of the gentlemen upon this floor. One of them is my aunt, and she is capable of making an argument upon this floor if she were permitted that would make the opponents of suffrage retire from this committee of the whole and pull the hole in after them. Some gentlemen have said they never fell in love with women on the platform, and that they would not like to hear their wives speak in public. More than likely their wives would not care to hear them either, unless they made better speeches than the majority of those against woman suffrage. Now, my position thus far is this: Firstly, women who own property ought to have the right pre-eminently to the franchise for the reason that taxation without representation is a species of tyranny that an American ought never to be guilty of. Secondly, women who want the franchise and the political rights that go with it, ought to be accorded the privilege because there is no justice in an aristocracy of sex. If women want to go further and part their hair on the side and sing bass, I have no objection. Give her all the rights she wants, and let her be responsible for their abuse. The women who do not want such rights need not exercise them. There would be no compulsion about it. There is no law that compels me to go the polls if I prefer to go fishing, so women could stay at home if they chose. Now as to the expediency of conferring the franchise upon women in this Constitution. The great overshadowing objection to it urged by its opponents is that it will be a menace to statehood because it will create forty thousand new voters whose politics are unknown, unsettled and uncomfortable, and a terrible unrest exists in the minds of many that these new voters will not vote the way they want to but the way some one else wants them to. I had thought it had become to be accepted as aphorism that:

When a woman will she will, you may depend on 't,
And when she won't she won't, and there's an end on 't.

That is, they usually have minds of their own and that they are not the weak and vacillating creatures gentlemen make them out to be. But the gentleman from Davis County, while he admits that he thinks that they will vote according to their own convictions, is quite clear that other people have a deep-seated fear that they won't, and

that we must take cognizance of this fear as a deplorable fact, and hence withhold the franchise. My friend from Salt Lake, Mr. Mackintosh, confirms this fear in a minority report and also in an excited speech, in which he endangers the lives of all of us in his immediate proximity by the violence of his gesticulations with a silver-mounted cane, and in which he declares he had an overwhelming and terrific terror that the forty thousand women might vote men into political office by the uplifted hand the same way that the two thousand women in the big tabernacle voted to sustain the authorities of the church twice a year. I give the gentleman credit for honesty in this sentiment of fear, and yet I am of the opinion that if he could in any way ascertain that the majority of these voters would find lodgment in the republican camp, it would do away with much of his antagonism to equal suffrage.

I remember a friend of his, at the time of the division on party lines, said he would stick to the old liberal party to the last, and when all the rest of the party had deserted it, he and his friend would be seen walking up the street carrying the old liberal banner. Yet, when he saw the new voters by the thousands going to the polls and voting his way, he said, "Let her go, Gallgher, its all right."

I have not much patience with these continued assaults on the integrity of one class of people of this Territory. I think they have demonstrated their perfect sincerity in politics and I have understood that Mr. Mackintosh and his friends thought so too. But I am wondering now how long, O Lord, how long this period of probation must last. I doubt if the Millennium will be long enough. When the angel Gabriel blows his trumpet, on that great final judgment day, summoning us all to arise and report progress, I shall be surprised if my friend Mackintosh does not peep out of his mounted sarcophagus and say, "Hold on, boys, till we see whether that old fellow with the horn isn't Moroni instead of old Gabe." Now is it possible to satisfy those who share this distrust? Can we do so by submitting this proposition in a separate article? No; because they know that it would carry anyway. Can we satisfy them by leaving it to the Legislature to regulate it hereafter? No; because they know the sentiment in favor of it is so strong that the Legislature will pass a bill conferring it at the very first session. What are we then to do? Vote against our convictions and the pledges our parties have made? My reason and sense of justice revolt at the idea. For seven months it has been known of all men and published far and wide that the republican party in Utah had pledged itself to woman suffrage; in all that time no voice has been raised against it. Neither from the press or pulpit or platform has one word been uttered opposing the measure. Why, if all this fear existed, has it not been expressed before? Why have not myself and others been taken into the confidence to discuss the matter with them? Why do they wait until the question is brought up for discussion on the floor of this house, and then cast unwarranted suspicion on the sincerity of a movement that has been agitated so long? As for myself, while as I have said I never was and am not now an ardent woman suffragist, I am convinced that duty to my party and to my own self-respect demands that we, republicans I mean, meet this issue squarely and be true to ourselves in spite of the groundless fears in the hearts of men who can live side by side with their neighbors a lifetime and then in a supreme moment, without warning or notice, cast suspicion and distrust upon them. If we do not meet this issue now, it must be met in the near future. No gentleman that has spoken but admits that it is coming.

To thine own self be true
And it must follow as the night the day,
Thou canst not then be false to any man.

Do gentlemen hope or expect they can change the sentiment of the people of the Territory on this question? The gentleman from Davis, with all his eloquence, knows he cannot do that. He may succeed in stirring up sedition and suspicion, but he cannot stem the tide of public opinion.

Will stalwart oak take root and grow,
Will last year's roses bud and blow,
Will rivers turn and backward flow?

The woman suffrage movement is dancing down the corridor of time, gentlemen; you may as well all choose your partners and balance to the lady on the left.

After recess.

Mr. Cannon offered a resolution that at 3:30 p. m. Mr. Roberts be given the floor for the purpose of closing the debate.

Mr. CANNON. Mr. Chairman, I realize that this can only be done by unanimous consent under our rules. A little over 18 hours have already been consumed in the discussion, but this gives an hour and thirty minutes to close the debate, and at that time Mr. Roberts will be granted the floor. I think it would be better to fix a time for one thing, in order that Mr. Roberts may know when he is expected to speak. As it is he has been waiting for nearly two days expecting to be called upon at any time, not knowing when his speech would be expected. I offer the resolution and move its adoption.

Mr. MURDOCK (Beaver). I second the motion.

Mr. BUTTON. I object, Mr. Chairman, for the reason that some gentlemen here have had all the time they wish. Now, let the other gentlemen have the same privilege.

Mr. THURMAN. I think a single objection kills the resolution.

Mr. LAMBERT. Mr. Chairman, I have sat here patiently and listened to these long discussions, and this is the first time I have attempted to trespass upon your attention, but this is a question of vital importance to the people of Utah and of the United States. It is a question that all eyes of this nation and other nations are looking for, the advancement being made by the people of this country tending towards the enfranchisement of woman. The progress of the age is marked in that direction, but gentlemen, when I look at this question as it has come before us by the report of the committee, I am led to think that in those propositions are too much legislation. We are here to formulate fundamental principles, and the balance should be left for the Legislature to arrange in the future. We are not here to enact all the laws that are necessary, but simply to formulate that fundamental principle upon which laws shall be founded. I am in favor of suffrage, but I am not in favor of granting to women all the rights that men enjoy. I don't think that the ladies of this Territory ask for all those rights and privileges. One gentleman said this morning, that he was acquainted with the people of this Territory. I claim that I know more people in Utah than any other man upon the floor. For years I have visited their homes. I have mingled among them. I have talked with the mothers of Utah, with those of intelligence, and conversed with them on this principle that is before us to-day. I have not yet met one intelligent mother who has asked for the position of sheriff; I have not met one yet who has asked for the position of constable. I have never met one who has asked for the position of justice of the peace. But they asked for the right of franchise, for the privilege to vote upon those questions that materially affect them. They ask it in reason. They ask that they may be privileged to vote upon school questions, upon questions where taxes are

to be levied, upon questions that create indebtedness, but they do not ask to hold all these positions that are incompatible with their sex.

Saturday, after the discussion was through, I walked down the street with some ladies of experience and intelligence. A gentleman was along who was opposed to this movement, and pointing to a person down the street on a bicycle, he said, "There is the coming woman on the street in her bathing suit. By and by she will have a star upon her breast and will arrest wrongdoers upon our streets." I think it was far-fetched, and I reiterate that I am in favor of granting the right of franchise, but when we come to claim for her all the rights and privileges that are accorded to male voters to-day, it is inconsistent, it is incompatible with reason. Who of us would like to see our wives and our mothers or our much beloved sisters in the jury box, locked up night and day while the question is being discussed among the jurors? I would not like to see it. I remember once over in Wyoming soon after equal suffrage was given to the people of their state, that a lady in Green River was elected justice of the peace. The boys filled her husband up with liquor and then took him before her to be tried for that misdemeanor, and she fined him and resigned her office. I do not wish to see such spectacles in this country; but I found in traveling from Idaho in the north to Arizona in the south, visiting every settlement of Utah's people, women of intelligence, woman capable of discussing intelligently all the questions that were before our male voters. I have found some of them deep thinkers, but I have yet to meet one who has asked for office, who ask the same privilege to sit on juries or to officiate in these different offices that men occupy, and I say that we should be careful in our work here, that we do not perform the work of legislators, that we leave those things for legislatures. It has been asked here what have the mothers of Utah taught their children? I can tell you from experience, because I was raised by a mother in Utah. They have taught them to be patriotic, they have taught them to love their country, they have taught them to revere the Constitution of the United States as a God-inspired instrument. That is what the mothers of Utah have taught. That is what the mothers of the future State will teach their sons and daughters, to love this great and glorious country of ours, to revere its laws. And when we go back into the buried past, when we resurrect things that have been dead and buried, we stir up a stench that is nauseating. Let us live for the future, let us enact things that will please us in the future, that which will make our State shine with glory, and let us lay aside what has been in the past in the hope of the glories of the future.

We can afford to live for the present, with hope extended out to the future, and let us live in that way; but let us not legislate in making that instrument that we hope will please and benefit mankind. Let us give to the women of Utah the franchise and then let us leave the rest for our Legislature to do.

Mr. CORAY. Mr. Chairman and gentlemen of the committee, this is the first time I have occupied this floor since the Convention convened, and I promise you that I will not detain you very long. I am not practiced as a public speaker and I did not think to have spoken on this question, but my constituents from Chicken Creek demanded, and therefore I will be obliged to accede to their demands. It has been asserted here on this floor by gentlemen from different parts of the Territory that this question was introduced into the platforms of the different parties, that is, the republican and the democratic parties, for the purpose of catching votes. I was not a member of either of these conventions, and I do not know what

their motive was, but this one thing is very evident, and that is. that if it was the motive to catch votes, they were eminently successful in doing so, for they got every vote in this Territory excepting about 500 populists. It has also been asserted that this action is premature, that the people are not ready for it, that it has not been discussed. Why, gentlemen, I submit that this question has been before the people for the last twenty years, or at least, ever since the women of Utah were disfranchised. It has been discussed by literary societies, it has been discussed by the teachers' associations, it has been discussed by the debating societies, it has been in everybody's mouth for the last ten or fifteen years that I know of. Ten years ago, when I was going to school in Ogden City, I remember distinctly that this question came before the teachers' association there. Professor Lewis was the principal of the high school and he and his corps of Ogden teachers discussed this question for two or three nights that I remember. It first came up in the shape of a resolution that women should have the right to higher education, and then from that it went to woman's suffrage, and it has been discussed in the Salt Lake Theater, it has been discussed everywhere, and I claim that the people are ready for the question and were ready for it when it was submitted to them for their approval in the different platforms of the two parties. And if there is anybody who doubts it, I wish to call their attention to the action taken by the the people of Davis County, in calling on Mr. Roberts for his resignation for opposing this proposition. No, gentlemen, I think it would be better for us to keep our pledges. Let us form this Constitution on the principles of justice and right, then Utah the divine, Utah the sublime, will take her place among the galaxy of stars that bespangle the great American flag, and there she will shine as the dogstar Sirius now shines from the zenith when Morpheus folds Apollo to his breast; and like Sirius, the brighest star in the firmament, whose beams almost penetrate the immensity of space, her light will shine forth in ever-divergent rays through the incalculable cycles of time. Gentlemen, I shall vote against every substitute to this proposition. I shall sustain it pure and simple as it is. I wish the reporters of the press to write me down in favor of woman's suffrage. I want them to underscore it, and I want them to follow it with three exclamation points, that I for one, gentlemen, am in favor of woman's suffrage. I need no pledge. I have been pledged to the party, I have pledged myself to the people of Juab County, but so far as that is concerned, I do not need any pledges, I will vote for this proposition without any pledge.

Mr. EVANS (Utah). Mr. Chairman, I have waited long and patiently, hoping that peradventure I might be able to see the end of this discussion, but it seems to me that it has taken upon itself the form that it has become necessary that each delegate shall express his views upon it, and that as long as he desires. I would not deign to mingle my views with others of this intelligent body, were it not for the fact that I feel that the head has said to the foot, "We have need of thee:" and taking that view of the question, I concluded that it was necessary that I should express my views upon this question. Going back to the history of our world, I remember reading where the great Creator, when He had rolled into existence the earth, He divided the darkness from the light, he had created fish that they might permeate the waters, noble fowls that they might soar amidst the heavens, the green verdure that it might make beautiful the earth, and at last it was concluded that there must be some being to dominate those conditions, and the great Ruler of the universe said: "Come, let's go to and make man." He proceeded

to make man in His own image—"In the image of God created He him, male and female, created He them." Sir, when this first proclamation was made, the word man included woman. Through the long ages of history there had been periods in the world's history when that was almost lost sight of, and in tracing down the history of the past we are confronted with the fact that to the greater extent that that separation is made, just to that degree has woman been placed beneath man. As nations have been uncivilized, so also have the fairer sex borne the burdens of that generation. When we come forth unto the period of our own country's history, we find again that the immortal Jefferson brought forth this declaration: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable rights, among which are life, liberty and the pursuit of happiness." Governments were instituted among men to secure unto them these inestimable privileges, and "All governments derive their just power from the consent of the governed." This, through the past ages of history, was the first time that the declaration was uttered that all men are created equal, incorporating women. Reverting back to the great proclamation that was made by Him who rolled the world into existence, Thomas Jefferson re-enunciates that great doctrine. Mr. Chairman, we have heard upon the floor of this house, men who have towered like giants among their fellows. They have taken the question upon either side, they have discussed it ably, they have discussed it as I believe honestly, but it is evident and apparent upon its face that some are right and some are wrong. It is recorded in ancient history by one of the great prophets, that if you speak not to the law and to the testimony, if you speak not according to that, it is because there is no light in you.

We have had the history of this question before us. Taking our own fair Territory here for an example. The women of this Territory exercised the elective franchise for seventeen years, and I have yet to see the first gentleman who has taken the other side of this question point to a single instance where they have disgraced that sacred trust.

I have noticed in looking over the papers here, that we have some testimony that comes from those upon the east of us, and I shall beg indulgence to read it, it is short:

Governors of western states on woman suffrage.

Baltimore, March 31st.

In the discussion of woman suffrage at the Friend's Circle last night, J. K. Taylor, president, read extracts of letters which he received from governors of western states.

Governor Morrill of Kansas writes, "There has been no complaint. It seems to be successful."

Governor McIntyre, of Colorado, "Their advent into political life will positively and permanently benefit all the people."

Governor Richards, of Wyoming, "Women are allowed all the privileges men have in voting. They are not allowed to sit on juries and don't ask for it any more than they ask for military rights."

Justice Groesbeck, chief justice of the supreme court of Wyoming, says, "It has been tried and not found wanting."

I submit to you, Mr. Chairman, that here are the declarations. We may perorate here from early morning until close of day, but as the prophet said of the testimony, "If you speak not according to that, there is no light in you." Here are men who are speaking by the testimony. The great executives of those states with one accord rise and say that this question has been weighed and not found wanting. By the experience of our own Territory for seventeen years it was weighed, and so far as the people who have the right to judge and investigate that question here, it was not found wanting. By peculiar conditions by which we are surrounded,

and to which I do not desire to refer, it was taken from them, and I stand here as an advocate of the right of woman. It has been said by eminent gentlemen upon this floor, who battle and grapple and struggle with the strifes that are inherent to the political arena, that they should have a home in which they might retire, and that they might rest from those labors, and that the peaceable influence surrounding the hearthstone shall gladden them in their respite. Mr. Chairman, I submit that there is not a man that will stand upon this floor and will undertake to say that that influence does not permeate the home; and I want to say to you, Mr. Chairman, that my firm conviction is, as I stand before you this afternoon, that if those good ladies with that refining influence can make it peaceable, can make it quiet, can make it happy and the place of respite for the individual man and the children that inhabit that domicile, so also can the aggregate of women bring our politics upon a higher plane, until it all will be happy and peaceable.

I come here from a county where I went before the people and told them in almost every hamlet and village, that I expected to come to this Convention, if elected, and stand upon its pledges. I read the platform or that portion of it relating to woman's suffrage, and I told the people that I expected to be found upon that side of the question. It has been stated upon the floor of this Convention that men did not feel themselves bound to party pledges and their platforms. Let me beg your indulgence for a moment and ask those gentlemen whether it is a fact—whether that is true or not? I will read from the platform that was adopted last fall upon which every delegate that is here was elected, or at least the democratic ones, and I take it for granted that the same principle will apply in behalf of every delegate from the side of the majority in this Convention:

We demand that economy shall rule in all branches of the public service. That public money shall be expended only for public uses, and that no class of the community shall be especially favored by the State to the detriment of any other class.

I submit, Mr. Chairman, is it a fact that gentlemen will stand upon the floor of this Convention and tell you that they should not be expected to carry out that pledge as set forth by the representatives of the democratic party in Convention assembled? If they tell you that they violate that with impunity, then I ask, where is the end? What is the necessity of a platform at all? What are our declarations to be rested upon, if those principles are not to be recognized after we have received the honest vote of the honest people? I say to you, Mr. Chairman, that while upon the floor of this Convention there are men who can express their ideas more clearly than I, who are able to clothe them with more flowery language, who will interject into it more rhetoric, but I say to you, Mr. Chairman, I trust there is not a man upon the floor of this Convention that will be more honest to his convictions than will I. I went before the people with that declaration, and I have consoled myself under this thought while listening to this grand oratory, and I have felt proud that we have had powers of strength looming up among the nations of men that were able to maintain their position, though as I believe mistaken ones; I have consoled myself with the fact that when the record shall be called upon this question I will be as strong as any man in this Convention, my vote shall count one, and his can do no more, and that shall be in favor of that section of the bill as reported from the committee, with every pledge held sacred in regard to this platform. [Applause.]

Mr. FRANCIS. Mr. Chairman, and gentlemen of the committee, I shall not worry you with any very long speech.

But I thought it a duty incumbent upon me to rise and speak my impressions and convictions upon this great and important question. I am opposed to the substitute presented here this morning. I am opposed to the minority report. I am in favor of the majority report as it is incorporated in section 1; I shall vote that the women of Utah shall enjoy equal rights with their fellow men. I do this from the convictions of my heart. I do not come here cringing or bowing to any party or to any person. I have been convinced for many years that this is a right that our mothers, daughters and sisters ought to have had long ago. It is a right that has been long deferred, but I am thankful that it is coming, that there is a majority in this Convention that is willing to vote for it, and I do not look with pleasure upon the pleas that have been made here to dissuade us from our fealty, from our duty, as we owe it to the people who have sent us here. It has been said by gentlemen upon this floor, that during the late campaign there was no mention made of woman's suffrage. I say so far as our county is concerned, it was said there, and the public speakers, democrats and republicans, that came there, said that a vote for their party meant the incorporation of just such an article as is incorporated by the committee, giving to our women equal rights with men. There are great fears resting down upon some that feelings may result from this. I can say that I have no such fears. I believe that woman will find her place in the government as she does in the home. She will not seek any position that she is not qualified for. She will not be hunting for something she does not want, and we all know that her natural modesty will not ask for this. There may be some unnatural outgrowths, as there are amongst our own sex, which we may disclaim, but the women will help us. They will have an influence for good in our society. I have listened, like you, to the orations of honorable gentlemen here holding up views against women. My mind has been open to conviction, but I have heard nothing that has weakened my knees, or that has in the least changed my mind. I have heard some very startling assertions, that I never expected to hear upon this floor. When it has been declared in very emphatic language that man is born to rule and woman to obey. I hear this as the very essence of despotism. It was the proclamation of kings years ago and perhaps is to-day, that they by the right of God are inherent to rule and the people to obey; it is the same principle I understand that this is founded upon antediluvian revelation; but I wish to say, gentlemen, that we have modern revelations; God has spoken in our day; He has given us revelations in the Declaration of Independence and the Constitution of the United States. It is the great magna charta of our country. It is the highest authority and the greatest authority from which we should speak, because from it we derive all our rights, and we should be willing that our mothers, our daughters, and our sisters should enjoy these. And can we say, speaking from this authority, that our mothers, our daughters and our sisters should not enjoy this right? It has been said that one of the speakers here last Saturday was inspired. Gentlemen of the committee, and Mr. Chairman, I wish to say that we all ought to be inspired like our fathers in this work, and it should be our desire to do that which is right, that we should give unto our people that liberty that they ask for and that we have been sent here to give them.

Without worrying you further, I will say that I shall hold up my hand—or I shall say yes when it comes to the vote to give unto the women of Utah the same right we now enjoy.

Mr. SNOW. Mr. Chairman, my colleague from Washington County this

morning told the committee of the platform upon which he and I were nominated to this Convention. Unlike a great many delegates who have seats in this deliberative assembly, as it appears to me, we brought along with us, with our credentials to this Convention, our convictions, and those convictions were in line and in harmony with our platforms, both state and county. I pity from the bottom of my heart men in this Convention who did not bring convictions here with them in line with the principles as enunciated and laid down in their party platforms. I see here men who get up and argue against their judgment—and say that their judgment—their convictions, their conscience is opposed to their platform, and yet they will vote it. If there is anything that comes within the definition of hell I think this does, "to want to and can't." They want to oppose the insertion of an equal suffrage plank in the Constitution, but they cannot because they are bound down by a party chain and they are surrounded with flame that has no end, and the worm that dieth not.

I tell you it must be gall and wormwood to them to sit and listen to the scathing denunciation of insincerity by my eloquent friend, Mr. Roberts from Davis County. I am proud of this gentleman that he belongs to these mountains and was reared here, and that he belongs to the democratic party. Unlike a fellow democrat upon this floor this morning, I would not trade him for all the republicans in Utah. [Applause.]

I hope that he will always be with me shoulder to shoulder in the democratic ranks. These are his convictions. I honor him further, he has a power to make the most of every point that is in line with his convictions, and differ from him as I may, I cannot but admire his courage, and that he is invoking in this Convention some little courage in others with like convictions. I believe that he and others that have opposed their party platforms upon this question, have built up a mountain of fires and prejudices that appeals to the selfishness of man. I do not believe they have opened this question upon a broad liberal view. It would be useless and presumptuous in me, Mr. Chairman, to go and argue in favor of woman's suffrage upon its merits after we have heard so many speeches on this subject, but there is one thing that I do not think has been touched upon here yet, and that is the economic question of woman as she applies to the social economy of this State. We have forgotten or gentlemen have overlooked the fact that woman is fast becoming an industrial class in social economy.

They have forgotten that it is the tendency of the age not to marry women, but to let them enter the race in life with men upon the principle that there must be and necessarily is a survival of the fittest, and when woman enters this race she enters so handicapped and discriminated against, that she has no voice in the questions that are of vital importance to her—her labor and the produce of her labor.

Mr. Chairman, I say woman is fast becoming the industrial class. The history of the world shows that along the line of a free ballot labor has its just rewards, and when you disfranchise a class, you discriminate that class, you decrease the demand for their labor and the remuneration for her labor. And again, I will tell you what you do when you discriminate against that class, you degrade their labor, you degrade their situation in life, and it too often occurs—it too frequently happens, that from that employment follows the public example. Mr. Chairman, I think that while we are entering upon a new State that now is the time to give equal suffrage, if we ever intend to give it at all. Why? Because this is the principal argument, it is the great objection in all the older states where this question is discussed. In New

York in the constitutional convention the great objection and the only one that carried weight with the members of that body was this:

That if woman was given suffrage she would enter into sharp competition with men, not only in labor that had already taken its defined line, but she would have a ten-fold force of power to force recognition of that labor, and the remuneration for that labor which man had intended not, and that it would cause an advance of thirty-three and one-third per cent. in her wages. It is because of the position that woman will hold and acquire in social economy, that the opposition to woman's suffrage comes principally in the eastern states. And I therefore say that if woman's suffrage is ever to come, now while we are in a new state, while our conditions have not settled down into social lines of polity—now is the time to give it to them, for it is inevitable, it will come, we cannot resist it, and now or never is the time to give our women suffrage.

Mr. Chairman, this is purely an intellectual fight on their part. They do not come here, they do not anywhere go to conventions, which have the right to give them their suffrage with an armed force, with any physical force, it is purely intellectual; they come before you relying entirely upon the generosity of men to give them their franchise, for they realize that it lies in their hands. If they had the power of the ballot, or had any other force to bring to bear upon us, we would not treat their demands with such flippancy. I say, Mr. Chairman, that the same intolerant spirit that opposes the advance of women in educational circles, now throws out its objection against her enfranchisement, but the progress of the world, the civilization of the age, has broken down all these barriers and woman has triumphed over them all in the scale of progress, she has mounted higher and higher, and shown that she is as capable and fit as man to occupy the highest chairs in our educational colleges, until to-day they are all open to her wits and her abilities, and she grapples with questions of political economy with as much zeal and ability as man.

I claim another thing for women, and that is, that in nine households out of ten she is a better financier than the man. [Applause.] Women are naturally financiers. Whenever in a household it becomes necessary for the most rigid economy to be practiced, you will find woman's powers brought into its noblest sphere and with the most telling effect. I sincerely believe that if ever a national crisis with woman's suffrage, that their financiering will help us much better throughout than we have gone through the last few years. We have every reason to believe that whatever woman is in the home she will be in the state, and if there is any place on earth, in any department of the civil government, where economy needs to be practiced, it is in the administration of public affairs. And for that reason I think woman's suffrage will help the new State of Utah.

Mr. Chairman, I am in favor of the article as it was reported by the committee. I do not share in the fears that are expressed here as to endangering statehood. I cannot see how it can possibly come if men are sincere in Utah. I feel like the historic character who was urged to temporizing to a temporary expediency, and I believe that every delegate who has the conviction that I have upon this question, is just like that character:

He either fears his fate too much or his deserts are small,
Who dare not put it to the test and win or lose it all.

Mr. MAESER. Mr. Chairman, I did not intend to take the floor to take any part in any discussion outside of my own particular field, or anything that has a bearing directly or indirectly

upon it. But for the last two or three days since this Convention has been in session, I have been wondering whether we were in a mass meeting or in some caucus meeting, or in some convention of the democratic or republican party, or whether I was sitting in a lecture room listening to rhetoric or to instructions on oratory or elocution, instead of being in a constitutional convention where men have come together to deliberate calmly and wisely, and in a statesmanlike way and manner, for the drafting of a constitution for a new state.

I am not a politician. I have not been in politics for many years, as it has been my privilege to be disfranchised, and I was not willing to pick up merely the crumbs that fell from the masses, table, I keep aloof therefore from politics; even when the nomination was suggested to me for this Convention, I protested against it, and only by the earnest solicitation of my democratic friends, and a great many republican friends, I accepted the nomination and was elected by the votes of the democrats and a good many republicans too. This, therefore, is my first study in politics, and my first study in politics was for to get the key for my future course in politics in the new State—the key. Is it fear that was hinted at and plainly spoken and expressed that fills the hearts of some delegates here yet, that if women should receive the franchise—fear? Is that the keynote for the politics of the future State of Utah? Why, we stand on a platform higher than the democratic, higher than the republican platform. They both express themselves in favor of female suffrage. Why it is, perhaps, in the language of an Italian diplomat, that language was only a veil to cover the thoughts with, or does it mean what it says? I was asking myself that question and trying to find an answer for it here in this Convention. I don't intend to make a long speech, I think I will get through within my five minutes; I hope so. But, gentlemen, at this, the threshold of our statehood here in Utah, with the eyes of the nation upon this Convention, let us not be politicians, let us try to be statesmen, and execute the highest workmanship of statesmanship, that is, the drafting of a Constitution for a free people.

Let us go on, and all our intrigues, let them all be put aside, and let these women of ours—these noble women, the mothers and wives and daughters and sisters of our people, have their rights. If by some trickery, (excuse the word, I do not know what better term I might use, perhaps there are a great many better than this, but that is the only word I can think of,) let us not spoil our work by trickery and procrastination from day to day. Gentlemen, I quote another European diplomat, who once said to some statesmen of Europe, "Gentlemen, that is worse than a crime, it is a mistake;" and that would be the mistake if we denied women the suffrage.

Mr. BOYER. Mr. Chairman, unfortunately my organization is somewhat different to other men, otherwise I would not rise to speak this afternoon; it has been stated here by a number of gentlemen upon this floor, that they have no political aspirations, they had no desire of notoriety. I admit that I am not so wholly unselfish. I desire that my name shall go upon the stenographer's record, and if necessary handed down upon the page of history for coming generations, if necessary to use in that record, that I, too, am an advocate of woman's suffrage. And right here I will say that if there is any one thing that gives me pleasure above another, it is to see so many people disappointed this afternoon. I think that so many of the fair sex that have come in our midst, have come here to listen to the eloquent oratory of some other gentleman than few the that have already occupied the time this afternoon. How-

ever, that may be, I desire to impose upon them one or two moments, and in so doing I trust that I am in harmony with the sentiment that has brought them here. That is the underlying sentiment of obtaining a full expression of the gentlemen that shall speak upon the subject. This question of woman's suffrage evidently has been in the minds of men many, many years; much thought has been given to it, and, as it has been remarked here by some of the speakers, great battles are ofttimes fought and won before going on to the battle ground, and I believe that this question is already fought and won, and that it is only a question of a little time until woman will receive her proper place and will be given the elective franchise to its fullest extent. Mr. Chairman, when I think in the history of the past of the innovations that have been made upon the iron hand of despots and look to the great degree of liberty that we enjoy to-day in this public land, and that you and I under God's benign influence are privileged to dwell here in this great Republic of ours, and then pick up this minority report and canvass the names and see that only—the chairman that brings in this minority report was, in the youthful vigor of manhood's life, a resident and a citizen of the stormtossed and downtrodden Erin's soil, and another from the land from which my father came, who might trace his ancestry back to the Puritan fathers that sought liberty in this land, and another coming from the cliffs and glens of liberty-loving Scotland, all at one time foreigners coming to this land, and for what? For that greater degree of liberty that is vouchsafed to man under the Stars and Stripes; that is a warning to all men of equal rights upon earth—when I see this I am surprised; and yet I thank my God that it is not a native son of America that has thus presented a minority report. [Applause.]

While I look upon those gentlemen and uphold them as men of renown and as men of great worth in our community, I believe that there is clinging in their breasts that superstitious nature and bigotry that was also in the Puritan fathers, that came so many years ago and landed upon Plymouth Rock, and when they had seen and obtained so much of freedom in this land, they, too, became the persecutors of men, and would if they could, have chained conscience down and not given it the liberty that they claim to enjoy in this land; and I believe that this thing is only the relics of a superstition that is handed down, and that it will all wear away, and that we will be on that plane that makes of one and all one common blood in the interests of this our Republic. I trust that such may be the case, and when I read here one of the clauses in this minority report, I am somewhat surprised. I desire to read it: "As a people we are poor, we need the strong arm and the capital of the more thickly settled portions of our country. To adopt the report of the majority will be to keep both away until the unnecessary experiment shall have been tried." Mr. Chairman and gentlemen of the committee, is this the truth? I trust not. I want to call your attention to this fact, as a people we are poor; this we grant, but is it a crime to be poor? I would rather be poor than to be enshrined with the splendor of wealth, and have the confidence of my constituency, the conscientiousness of knowing that I had done my duty. I would rather have the privilege of going to my constituency and know that I had their support than to have the strong arm of wealth. I care more, gentlemen and Mr. Chairman—not that I am particularly a ladies' man, but I wish to say that I care more for the arms of the fair sex in this beautiful land of ours [laughter] than I do for the strong arms of wealth. [Laughter.] Hence, gentlemen, I am in favor of this prop-

osition of universal franchise of mankind.

I will not take up the time of this Convention any longer, but I will say this, when I yesterday and this afternoon looked upon the beautiful bouquets of flowers presented here and that were presented, too, in the advocacy of the opposition to this question—or I will say in favor of the substitute, I could not help thinking that it is well that the brows of those that are passing to the land that is unknown should be bedecked with flowers, and that this was certainly a fair warning of the obituary scene that will soon be seen in this Convention, and as an admonition to those who have signed this minority report—men for whom I have the highest regard—I wish to admonish them not to place themselves in a position that it became my privilege, with some of my particular friends, to witness in the early days of the excitement in Carson City—in the good old days of the six-mule team and the overland stage coach. Many of you here remember it. My friend, Mr. Kiesel, will excuse me, for it happened to be one of his countrymen; he had been to Carson; he had gone in there with some five or six thousand dollars of hard money. I will say he had been admonished by his friends not to go there, for the reason that it was thought that his power was not equal to cope with the sharpers of a mining camp. However, he was full of zeal, and he went there with a view of investing his hard earned money, and he did so and lost it all, and after losing his cash he became so disgusted with himself and with the surroundings in general that he started home. After traveling a day's journey out of Carson, being overtaken by an honest freighter, the driver of the six-mule team asked the gentleman, who had his blankets on his back and a cane over his shoulder, whether he wouldn't ride. The gentleman said, no sir; he didn't care to ride. It was insisted that he should ride. No, sir; he would not ride. Finally it was extracted from him as to why he would not ride—what reason he had to give, he says, "Gentlemen, I goes to this town mit five thousand dollars and I put him all in the mining claim and I lost every damn cent. Now, before I ride, I will learn this damned Dutchman sumtings, and I will make him walk home every step of the way." [Laughter.]

Now, I hope and pray that my friends may not be in that forlorn path and walk and eventually kick themselves for the course they have taken, but let them come under the banner of the Republic and say, "Ladies, we extend to you our friendship, our good will and our feelings, and we know that you are equal to the occasion to vote and to vote honestly."

Mr. JAMES. Mr. Chairman, I suggest for the good of this Convention, and in the interests of this large assembly gathered here, that we suspend our remarks and permit the distinguished gentleman from Davis County to proceed with his argument.

Mr. KEARNS. I second that motion.

Mr. JAMES. It is evident that the people are assembled here for that express purpose. There is nothing that I can say to you or to them that would keep them here five minutes and I doubt if there is anybody else in this assemblage that can do it. I don't speak disparagingly of any gentleman, but I do speak encouragingly of that distinguished man, and I hope, gentlemen, you will let him go on. We can not legislate, we can not do any good, with all this vast congregation here. Let him finish his speech and let us to-morrow, when the people don't want to hear us, go on and settle this question. I ask the unanimous consent.

Mr. ROBERTS. I object for the present.

Mr. JAMES. Oh, Mr. Roberts, do not interfere with our work.

Mr. BOYER. Mr. Chairman, I desire

to submit this, that Mr. James and I now have had our talk, and of course we can conscientiously and freely submit to the gentleman from Davis; however, there are others here that perhaps would like to talk, and as the rules have already been suspended I would object.

Mr. ROBERTS. Mr. Chairman, my only objection is, that the arrangement proposed by the gentleman from Salt Lake would not leave me to close the debate, and that I must insist on doing so.

Mr. JAMES. I will say to the gentleman that this debate will not close for days.

Mr. ROBERTS. Well, then, I wish to wait for days, until it does close.

Mr. JAMES. Very well, sir.

Mr. IVINS. Mr. Chairman, inasmuch as this whole proceeding is a little out of the way, I would like to move again that it be the sense of this committee that Mr. Roberts now close the debate on this question.

The CHAIRMAN. It can only be by unanimous consent.

Mr. SMITH. Mr. Chairman and gentlemen of the committee, I had fully designed myself not to speak upon this question which has detained us so long, but in order that I may not be misunderstood as to my position upon the same, I feel that it is but just to myself and to my friends that I should declare myself, not with the idea in any sense of trying to sway or change the views of any gentleman upon this floor. There have been during the discussions that have been held upon this question, some recriminations back and forth, and some questions as to who were possibly the movers in this matter, looking to this question of suffrage. It is highly probable that I myself am as fully conversant with it as any other gentleman upon this floor, and will say that so far as the party of which I am a member is concerned (and you will pardon me for making reference to my party, because I regard this as eminently out of place in consideration of this question), it was the result of the deliberate counselling together of men of all shades of views, members of that party. I was not myself a delegate to what is known as the Provo convention, but I have been an active participant in the discussions that have occurred upon these political questions throughout this Territory, and I regard myself as fully and as thoroughly committed to the question of equal suffrage as it is possible for man to commit himself. The discussions that have been held thus far in this room, by the various gentlemen upon this floor, have in no way changed or altered my views; there was a time in the Territorial Legislature of Utah, when I fought the question of equal suffrage because my convictions were that it was improper at that time. I honor the courage and fortitude of my friend from Davis County; I respect his judgment. I respect his observations of the rule of his conscience, because I know that he stands upon this position in honesty, and that did he not honestly believe the views he has uttered, no more than any other gentleman would he have spoken upon this floor. And while I might differ with him in regard to these views and their announcement, I do not in any sense desire, nor would I in any sense utter one word to reflect upon him as a man and as a gentleman, and I regret the evidence of intolerance that came from some members upon this floor in calling him to account for an honest expression of his judgment and sentiment. [Applause.]

This question of suffrage to my mind is the question of questions among the American people. It lies at the foundation of all liberty, it is the structure upon which the American people have been building step by step, degree by degree, the uplifting of the race, the upbuilding and blessings of the children of one common parent who have found a home upon this broad soil. There is

no argument that man can produce, no word that he can utter, that would in any sense discredit woman in the exercise of the franchise, that it does not apply in the same sense to every man. You may discuss, you may argue, you may reason upon the inequalities of the conditions, you may laud the virtues of woman, you may point to her with pride, and rejoice in her peculiar characteristics, say that you do not want to lower her to that condition in which man has fallen. These things are simply nonsense; she eats, she drinks, she sleeps, she moves just as man moves. Her aspirations and ambitions are as man's are. No man has ever made a mark among the human race or exercised power and dominion among his fellowmen, but that, standing at his head and implanting within his breast, a love of liberty and respect for right and regard for government or the uplifting of any court or proper principle, has been a noble woman who taught him every lesson that enabled him to perform his part no matter where it may have been upon the field of battle, as a soldier, or in the forum in the discussions of those public questions and in the consideration of the interests and well-being of his and her kind. We may consider these and look with fear and doubt upon each other in regard to the basis upon which we stand. We may feel our fears and our doubts in regard to this matter, but where is the woman that ever betrayed her trust half so many times in this life as has her brother broken faith and betrayed his trusts. In the midst of distress, they have ever been true, in the midst of trial they have ever been true, upon the field of battle following the wake of armies that have gone forth to accomplish victories in the interests of the upbuilding of our government, and in the maintenance of that government, they have been found nursing the sick and wounded. They have said to their sons, "The liberties of the people are at stake, go, my heart goes with you, and all that is possible for me to do I will do for your interests and for your well-being. I brought you into the world, but I give you to your country, and will stand by you in the midst of your distress."

The same has been true in their husbands; the same has been true in their brothers; the same has been true in their utterance to lovers; ever ready to make a sacrifice to perform their part in honor before their fellow beings, and with justice and propriety to themselves.

It seems to me that the range of discussion that this question has taken is entirely improper and wrong. We stand here as citizens, we stand here upon the basis of right, we stand here as the lovers of wives, as the lovers of mothers, as the lovers of sons, as the lovers of daughters. We are not here to place laurels on the brow of the son to displace one from the brow of the daughter. We are not here in any sense to rob either of them of any right or any privilege, but we are here considering the conditions that have existed in the world. As has been explained, in the history of the past woman has been the beast of burden to a very great extent among our brothers, but I do thank Providence that in the uplifting and establishment of the government of which we propose forming a part, that the spirit has changed. An eloquent lecturer upon a certain occasion said, "You note the advancement that is made in this, for entering a dining room of a hotel in England, you see the husband leading the way and his wife following; entering a dining room of a hotel in France, and you see the husband and the wife side by side entering the dining room holding pleasant converse; but entering the dining room of an American hotel you notice that the woman comes in at the

head of the column swinging her skirts and her husband comes straggling after."

Yes, it is true, and it is miserably true; and they have been worthy of the confidence that has been placed in them. They have been found in every place of honor true to the trust reposed in them, and in this proposition we are but taking a step in the direction of universal progress, looking to the placing of man and woman in the positions of honor side by side, guided by every hope and aspiration, looking to the accomplishment of every given purpose, and seeking to enhance the interests and well being of their sons, of their daughters, of their brothers, of their sisters, and to-day standing upon this floor I take the ground I do on the question of equal suffrage, believing that it is a right that is theirs, as it is a right that is mine. Not because, forsooth, I hold the views of any special body of men, but I believe the handwriting upon the wall, the forefinger of destiny, the purpose of God himself, as well as the purpose of the American people, is that they, with their brothers, shall have and enjoy every right that humanity can enjoy and that it shall not be taken from them, and that my vote shall not be cast to retard their advancement or interfere with their progress in the accomplishment of this great step, that by them and with them we may accomplish our mission in the world, and indeed have liberty among the human race.

One of the gentlemen in speaking, spoke glowingly of the services of that gifted man, Thomas Jefferson. We are informed that the Declaration of Independence for which he received so much credit, was the work of a woman; we have seen the heroic efforts of the ladies of various parts of the world, we know their worth in these directions, there is no need of our discussing that they have faults; they have their faults. Have not men? But they sometimes quarrel. Don't men? But they sometimes are selfish; are not men? But are not they more generous than men? Are they not willing and always willing to make the sacrifice as a rule that men are not willing to make? Is there a thing that can be applied to women in these various directions, that men are not guilty of to a greater degree in every sense? And have they and do not they, and will not they, as we go on in the accomplishment of the history of our race, display greater heroism, greater devotion, greater truth, greater worth, greater purity, greater consistency, and greater honor in every walk of life, where they may be brought in competition with man? It is but just and right that the opportunity should be theirs, and so far as I am concerned, I go upon the register as one in favor, as I believe in my conscience it is right, or if I did not believe it was right, I would stand side by side with my friend upon this proposition and combat it to the last inch. But it is right, it is just, and I say to you, you may discuss it, argue it till doomsday, and the same proposition that would deny to woman the right of franchise, applied would deny the same right to man. [Applause.]

Mr. LOW (Cache). Mr. Chairman, I have a request to make of the house by unanimous consent. While I have no desire to cut off the debate, I think that a definite conclusion can be arrived at that will be an advantage to Mr. Roberts, by way of concluding this question, provided we agree to it. It is that if the sense of the Convention can be obtained, so that we can ascertain before the time for closing this afternoon's session, whether the debate can be closed for the field, that some provision should be made that the honorable gentleman from Davis County could be heard this evening, and that a committee could be appointed to make such arrangements that the information could be given before the close of this afternoon's session. Whether this would meet the approval of the gentlemen present in the committee or not—I

merely present it for their consideration; and if there is a possibility that the field shall finish their arguments, since he is pitted against the field, allowing the closing of the debate to-night, and ample provisions could be made for his hearers, for he seems to be the attracting card in this matter.

Mr. KIESEL. Mr. Chairman, I would move that when we adjourn we adjourn until tomorrow morning, and at that time Mr. Roberts shall be allowed to close the debate.

Mr. EVANS (Weber). Mr. Chairman, Mr. Roberts has just informed me, that he would just as soon conclude this evening, provided we could have an evening session; it would save a good deal of time, and, therefore, I will oppose the motion made by the gentleman from Weber.

Mr. RICHARDS. Mr. Chairman, I have a suggestion to make; it seems to me that if the gentlemen who desire to speak on this question, would now signify to the chair how many of them desire the floor, we might be able to arrive at some conclusion as to the probable continuance of this discussion.

Mr. LOW (Cache). And about what time they would occupy.

Mr. ELDREDGE. Mr. Chairman, I arise to a point of order. I suggest the motion of the gentleman from Weber County is out of order, that it is not within the purview of this committee to adjourn.

Mr. CHAIRMAN. That is technically correct.

Mr. LOW (Cache). Mr. Chairman, I offer my suggestion so that if there be no objection to it it might go into effect.

Mr. THURMAN. I object.

Mr. C. P. LARSEN. Mr. Chairman, surrounded here as I am by the beauty and grace of our capital, it may be somewhat difficult for me to express my feelings, but I would not feel justified in not saying a few words on this question. As this seems to be a testimony meeting, I desire to just bear my testimony as well. There have been some things said that perhaps had better never been said. There is apprehension that if we give the women the franchise that conditions will be brought about that none of us will like. I am in favor, sir, gentlemen, of the enfranchisement of the women, and I do not see, as some of the gentlemen have expressed themselves here, that this question has not been talked about, some of them saying that it is just now that we are beginning to think how serious a matter it is. It does not certainly, sir, speak much for the intelligence of these delegates that are here present. Is this the first time we have thought we would have to meet this question? I hardly think so. I hardly think that there is one delegate here present but what has given this some thought, but it seems to me that they have made it convenient during the campaign to say at least nothing against it if they could not say anything in favor of it. It has been told here that these pledges are nothing, that they are not sacred. I look upon it in a different light altogether. It has been said that the republicans by putting in the platform this plank, were making a bid for a certain class of voters of this Territory. I deny it. I say it is not so. I was not there at that convention, but I say it is not a fact. It has been practically acknowledged as a fact by a number of my own party. I say it is not so.

I think that we have given this question many serious thoughts. How would you feel, you that belong to a party, that has ever said that we will meet a question fair and square, we don't believe in dodging and straddling and sidetracking, but we will meet an issue fair and square—how would you feel to go before the public this fall? Do not deceive yourselves, do not think for a moment that you can deceive the people. You are only deceiving yourselves, and of all deceptions that is the worst. We were elected on this plat-

form, democrats and republicans, with that plank in both platforms.

Now, as to the apprehension, which is there among the people of Utah that want the old conditions brought back? I don't think there is anyone. I have known no sect since we divided on party lines, and I wish to God that that condition had been brought about twenty years ago. And let me tell you right here, gentlemen, I do not know your complexion religiously in this body, I do not care to know; that makes no difference to me, but I can tell you that whether you give the women the franchise or not, the issue of this State and this nation will be fought out between the two great parties, and they are both necessary and they will work it out on these lines. There is room for us all, there is room for millions in this coming State, and we must be and will be an homogeneous people and live in peace and quiet together. Whether you give the women the franchise or not, there is no need of any apprehension or any fear.

Gentlemen, let us not deceive ourselves, let us do what we have said we would do; I am conscientious in this matter. I believe that side—I believe that politics will gain through the women having a voice in political matters as they now have in social matters. I believe in the great principles enunciated in the Declaration of Independence by those men whom we are inclined to look upon more to-day like gods among men than men. I am in favor of the clause as introduced by the committee.

Mr. HART. Mr. Chairman, as it has been made known that it is not the wish of this committee that there should be no more discussion, I do not rise to make a speech, but I think it is only justice to myself to take the time to state that I wish to vote in favor of the first clause as reported by the committee and against all the substitutes.

Cache County is in favor of equal suffrage for women, and I think her delegation—I believe that I may speak for them, when I say that every one of them will vote in favor of equal suffrage for women, not only for the pleasure in so doing of casting my vote in line of redeeming a party pledge and party platform, that at least is binding upon me, and I have at the same time the pleasure of voting for a doctrine that I have for many years dearly cherished. [Applause.]

Mr. ANDERSON. Mr. Chairman and gentlemen of the committee, I am opposed to the substitute of submitting woman's suffrage as a separate article to the people for many reasons, the chief of which is, because I am unwilling to give the saloon men, liquor dealers, gamblers, and the bad element of society, who are afraid of a good vote, an opportunity of defeating it by corrupt influences and the fraudulent use of money, and if it is so submitted no one can deny that such influence will be used. I have listened earnestly and attentively throughout the entire discussion of this question, but I do not think there has been one logical argument made against woman's suffrage that it would not as consistently apply to men. The gentleman from Davis has laid great stress on what he styled a decree of the Almighty which has been handed down from the mythical and barbarous realms of the past at a time when all forms of oppression were justified by law, and of course such decree was interpreted in accordance with the uncivilized ideas of that age; but truth and justice would make the decree of the Almighty to read, "Woman, thou art man's equal and companion, together thou shalt travel the journey of life, and enjoy equally with him all rights and privileges."

I believe and shall support woman's suffrage for many reasons, the chief of which is because I think it is right and just and necessary for the protection and perpetuation of the principles of a

free government, and also because I am pledged to do so by the platform of my party and by solemn promises made to my constituents, and I would be a traitor indeed if I would break my faith with my constituents and my own convictions. During my whole life I have endeavored to follow the star of duty and sincerely trust that its light may ever continue to guide my actions.

Would it be any argument against men exercising the right of franchise, to bring up examples of their incompetency and wickedness? If so, a dark and gruesome record could easily be established that would forever bar them from exercising such right. If some women do not want the right of franchise it is no reason that it should be denied to those who desire it. If mankind had always remained in the grooves of the past and had made no changes, we would still be barbarians, with our minds enslaved by bigotry and superstition; therefore, the road to progress and advancement lies in the direction of changes and innovations and in breaking loose from old forms and customs, and it has been upon that road that all the great principles of truth and liberty have been discovered.

We are certainly all pledged to support woman's suffrage, and no member can absolve himself therefrom by saying even publicly that he disapproved the same. It would have been his duty if he could not support it, to have resigned before election, and if he did not do so, and now opposes it, he places himself in a false position before the people, and future history will so record it. I am surprised to hear some of my republican colleagues get upon this floor and say that we are not bound by the principles and platform of our party, intimating that the republican party is a party of broken promises and pledges, which I deny. It would be just as consistent to repudiate any or all principles of our platform. We do not come here to express our own individual views, if they are opposed to the majority of our constituents as expressed by platforms on which we are all elected. What confidence would the people have in political speakers if such dishonesty was practised in politics. They would say, your principles are beautiful, but they are only made to catch votes, and members of your party may repudiate them at any time when at variance with their individual ideas. I have always considered the republican party to be a party of honor, a party true to its promises and pledges, and I think it is so considered by its supporters. But if it should break this pledge, after holding it out to the hopes of the people, then good-bye to the republican party in Utah; for the people would have no more confidence in any of its promises. There is nothing that would so demoralize the party and bring it into disrepute with the people. Therefore, our sacred honor and future success are at stake, which we cannot afford to sacrifice.

The gentlemen comprising the opposition offer the following reasons why woman should not be granted the right of franchise, viz:

First.—Because woman is better than man.

Second.—Man has too much respect for woman.

Third.—Good women will not vote if given the opportunity.

Fourth.—It is not expedient because it will endanger the ratification of the Constitution.

Let us examine these reasons.

First.—Women are better than men. The same line of reasoning would disfranchise all honest men and give the franchise to the villain and drunkard.

Second.—Man has too much respect for woman. It is claimed by woman that man cannot respect her when he looks upon her with so much distrust and suspicion that he cannot accord her the right of franchise, and it is also claimed that the truest can only exist where there is perfect equality. The op-

position admit that woman is morally superior and mentally equal to man, and yet they are unwilling to allow her equal rights. It was this same spirit of intolerance that caused such a withering blight upon the progress and liberty of the people during that period known as the "Dark Ages." The opposition misrepresented the question by conjuring up improbable conditions and scenes for the very purpose of working upon our sentiments and sympathies.

Third.—Good women will not vote if given the opportunity, which has been proved false repeatedly in Wyoming, Kansas and Colorado, where women have cast their votes repeatedly in the direction of reforms.

Fourth.—It is not expedient because it will endanger the ratification of the Constitution. Now, I can say for myself, that I would rather Utah remain in territorial bondage throughout the endless cycles of time than to have her admitted disfranchising one-half the citizens of the new State, and I think I voice the sentiments of thousands throughout the Territory.

All eyes are now upon Utah. Let us get out of the ruts of bigotry, intolerance and injustice, and ascend to the broad, bright plane of liberty and equal rights, and our star of destiny will rise and shed its brilliant lustre on all mankind.

Mr. HAMMOND. Mr. Chairman, I was afraid this thing was going to close up before I had an opportunity of expressing a few of my feelings. I am getting tired of it, and I presume most of the people are who are spectators here. They are anxious to hear this tall cedar from Davis County, and I do want to hear him myself. I was a member of the committee on suffrage that presented this majority report; there was a good deal said about the rushing of this matter, and that the minority could not get heard or get their report ready. I want to state that this was one of the first matters that was entered into the first day of the meeting of the committee. I was not there, I had not arrived, but when I met with the committee the next morning, they told me what they had done; says I, "Gentlemen, I am with you to give the girls suffrage—female suffrage." That is what it is called here, I believe, and says I, "I go you one better, and let the girls vote when over eighteen years of age." Says I, "That is where I stand on that matter, for I believe they are just that much smarter than our dead-head boys that are holding up the corners of the saloons around here." Some years ago, I don't remember how many, while I was in the east, a mass meeting was called in Ogden. I was then a resident of Ogden, and I was told that my wife made one of the grandest speeches made there in favor of woman's suffrage. I was in favor of it before that time, I could not tell when I had not been in favor of equal rights to all the citizens of these United States, and for all in the world for that matter. Now, I represent, I am happy to state, the southeastern county of this Territory, bordering on New Mexico, Colorado, and Arizona. We are right down there in those four corners; there is not another spot like it on the map that I know of. Now, sir, I am happy to state as the young gentleman did the other day, they were a unit in their representation—I am a unit and have no differences to quarrel about it, with the delegates from that county, I am heartily in favor of equal suffrage to the women as well as the men; that is the sentiment of the women down there. They did not give me any particular instructions, for I know their sentiments, and as fine a class of women as I ever knew upon the earth, good housewives, good mothers, and attending to their duties as becomes them in the midst of the troubles and difficulties that we have there; they have stood shoulder to shoulder and side by

side with their husbands in every difficulty. I was told by a very eminent lady a few years ago, before I moved from Weber County, journeying up Ogden canyon in my buggy, and her by my side, says she, "Bishop, women led in the downfall of man—the degeneration—and it is their high destiny in the regeneration of man, that they should lead." Now, I appreciate that sentiment and it has sounded in my ears and my whole heart from that day to this. I believe in it. Talk about women—they are capable of anything. [Laughter.]

Now, I have said about my say, I have listened to speeches until my old head ached and cracked with them, hearing Cicero, Cæsar, Demosthenes, and the Websters and Clays, until I was fairly bursting wide open with them, and I would go to sleep and forget the whole business.

Mr. HEYBOURNE. Mr. Chairman, I am of the opinion very strongly, sir, that if this debate is continued much longer, provided we get a favorable vote on the woman's suffrage question, that there will be quite a number of the ladies that will not be able to exercise it, in their interests; I do now move you sir, that the committee rise and report.

Motion seconded.

Cries of no.

Mr. ALLEN. The gentleman that spoke just before me said that he was getting tired of this debate. I was getting tired of it two or three days ago, but I am getting used to it. I expect that in several years from now, when the young ladies come to examine the record of this Convention, they will find some men there recorded in favor of woman's suffrage, as many gentlemen upon this floor have made speeches for the purpose of pleasing the ladies. It is not necessary as far as I am concerned, because I will expect to live until that day when seven women will hang on to one man.

Mr. BOWDLE. Mr. Chairman, I have not occupied my own time nor sold it. I move you that it be the sense of this Convention, that this debate close at 5:30 this evening.

Mr. HART. Mr. Chairman, the motion is out of order. I believe it is already the sense of this house that the debate close within a reasonable time, but I am opposed to the motion. There may be gentlemen who wish to talk. The motion is certainly out of order.

Mr. BOWDLE. The motion is certainly in order. If you will turn to page 94 of Roberts' rules——

The CHAIRMAN. That matter has been forestalled. The Convention has already agreed to give Mr. Roberts all the time he wants to close this debate.

Mr. EICHNOR. Mr. Chairman, I arise to a point of order.

Mr. HEYBOURNE. I made a motion that we rise and report progress. The motion was duly seconded and that motion is also in order under our rules.

The question being taken on the motion of Mr. Heybourne, it was rejected.

Mr. CRANE. Mr. Chairman, I desire to say a few words on this important question. It cannot be said that I have been extremely garrulous on the floor of this Convention, nor have I squandered much of the time. But, sir, on this question I desire to occupy five minutes of your time to express the sense of the people who honored me by sending me as their delegate. I have been highly edified the last three days by the eloquence of the gentlemen who have preceded me — eloquence worthy of Demosthenes and Cicero. I think I have never listened to such orations as have fallen from the lips of at least two of the gentlemen from Salt Lake and one from Davis, nor do I know, Mr. Chairman, that I can give any further enlightenment upon this subject, although I do not propose to thrash old straw any more than I can help. There are phases in this discussion that I think have not been fully touched upon. This is a very grave question, Mr. Chair-

man, grave not only to the people in Utah to-day, but to those who wish to come after them. It is a question that has been agitated in this Territory for at least six or seven months, agitated by both political parties during one of the most bitter campaigns that perhaps was ever fought in any state or territory in the Union, and yet there are gentlemen on this floor who have intimated that they did not know that woman's suffrage was in the platform. Mr. Chairman, I am not here to express my individual sentiments as to my individual opinion. Public office is a public trust, I have heard. I am here simply to express the opinions of the people whom I represent in southern Utah. Since this Convention has met I have received letters from almost every person in my county, urging me as best they knew how, to vote for and support this plank in the republican platform, to which party I belong. But, sir, when I express my own individual desires and opinions, and they coincide with the opinions of those who have sent me here, a double pleasure has been given me. I received a note this morning, Mr. Chairman, from one of my friends in this city, I presume. He urged me not to speak upon this question, as like yourself I would be digging my political grave. Several gentlemen on this floor have intimated the same thing. They said they had no political aspirations. They said that they had no political stars in the horizon; whether I have or not, Mr. Chairman, that is not my province to speak of to-day, that is something which the people of Utah have in their power to say; but I want to say here and I want it fully understood, that if to express my honest sentiments or hopes and desires of the people of Millard County, which I in part have the honor to represent; if so doing, I dig my political grave, then let it be dug deep. If I should sink below the wave of the bubbling waters unhonored, unwept and unsung, I want to say, Mr. Chairman, that there is only one desire that I have and that is that you yourself should write my obituary. I want to draw the attention of every gentleman on this floor whose memory in some way seems to be extremely deficient, to the platforms upon which they stood and upon which they stand to-day. I do not wish to discuss the political aspects of the day, that is not what I am here for. I am not here as a partisan, none of us are here as partisans, but for a greater, grander and nobler purpose, to lay the foundation of the future laws of the State, a Constitution that in the language of yourself, Mr. Chairman, shall go tumbling down the ages in the last syllable of recorded time.

I want to draw the attention of the gentlemen to a platform that was created on the 15th day of September, 1894, I want to read it. There are gentlemen who differ, Mr. Chairman, and I honor them for it, if they have seen a new light; if they have received a revelation, I have nothing to say, but speaking for the great masses of the people of this Territory, I believe they have not yet received that revelation nor have they like Saul of Tarsus yet seen that great light. Forty thousand people on the 6th of last November voted for woman's suffrage in all its meanings, in all its ramifications, whatever they may be. Twenty-one thousand people in this Territory voted for this plank in this platform, "We favor the granting of equal suffrage to women." But, sir, below that plank in this platform, and this plank I learn was written by one of the distinguished gentlemen who has occupied a responsible position in this Territory for many years, "We demand for the new State of Utah a liberal Constitution." Mr. Chairman, there are gentlemen on this floor who differ with me in the meaning of this plank, perhaps, and I do not wish to be understood as doubting their honesty nor their integrity; but, sir, there is not a

republican on this floor, I hope, who did not read that platform upon which he stood before he accepted the nomination from his constituents. Consequently there was another political convention held by a political party, that was then the dominant political party in this Territory; they intimated that the republican platform was a platform to get in on and not to stand upon, but just as soon as they were in they could look out of the windows at the poor dupes who sent them there, and they went the republican platform one better, "The democrats of Utah are unequivocally in favor of woman's suffrage and the political rights and privileges equal with those of man, including the eligibility to office, and we demand that such guaranty shall be provided in the Constitution of the State of Utah as will secure to the women of Utah these inestimable rights." There are republicans and there are democrats on this floor who will not stand by these planks in these platforms, and it is not my purpose, nor do I so desire, Mr. Chairman, to criticise their changed opinions; but, sir, when those two planks were written and presented to the people of this Territory, whose honesty and whose integrity, whose loyalty and whose patriotism not a single man on the floor of this Convention dare doubt for one moment —40,000 votes were given on the promise of the platforms and these pledges made to them in these two conventions. I believe, Mr. Chairman, in being honest in every walk of life as well as in political promises made at political conventions, and I want to say to my political friends here, of both political parties, that the people of this Territory will strike from place and power that political party or parties that have been holding the cup of promise to their lips and drugging it to their hearts.

Mr. Chairman, speaking for the people of my county, I say that every man and every woman so far as I know are in favor of equal suffrage of the sexes. They demand it. They have asked me to advocate it, and I am their servant. Already five hundred women in my county away down in southern Utah are watching and waiting the electrical flash that will herald to them the glad tidings of their emancipation.

Mr. CHRISTIANSEN. I desire to occupy a few minutes of the time of this Convention. I have already expressed myself regarding suffrage of women, being a member of the committee upon suffrage, and elections and having signed my name with the majority of that committee in favor of woman's suffrage. I do not rise to occupy any length of time in this matter, as I realize that there has been so much said, and as has been stated, it is useless to thrash the straw over the second time. But as my signature appears on the report of the majority of that committee, I still feel the same. All this discussion against woman's suffrage has not changed my view in the least degree, and I stand here upon this floor ready at any time to cast my vote in that direction, to give to every person, both male and female, equal suffrage under the waving flag of this great Republic.

Mr. PARTRIDGE. I wish to bear my testimony. [Laughter.] While I occupy the floor, I would ask that the gentlemen and ladies present would refrain from any applause, and I will promise them that I will not be lengthy. The main object that I have in standing up here on this floor at the present time, is that I may register my protest against the proceedings that we have been engaged in for the last few days. At the commencement of this debate the gentleman who precipitated it upon us, gave us the assurance, or at least made the statement that he knew that it would have no effect, that it was a foregone conclusion that the section giving suffrage to women would be incorporated in the Constitution. Since that time I have been ready at any time and all the

time to dispense with any further discussion on the subject and to enter upon a vote. I have never yet been able to see any particular good that would result from all this time that has been wasted in this discussion of this subject upon this floor. True it may be a very nice thing to have an audience paid $4 a day by the government to listen to two-hour speeches, but I question the propriety of it; but while I am on the floor I wish to state that I have a great many ideas that I thought I would bring forth in favor of woman and in refutation to the arguments of gentlemen who have expressed themselves here, but as was remarked by a gentleman from Salt Lake, the ammunition that I had stored up has been exploded and shot out without my consent. But there is one thing in particular that comes to me with considerable force, that I have not heard any gentleman lay much stress upon, and that is, it seems to be understood by those gentlemen who oppose giving women the right of suffrage, that it is an absolute necessity that they must hold office if they have the right.

Now, I submit, Mr. Chairman, that there are many of these gentlemen here who have expressed themselves in that way. They may, perhaps, never get a chance to act as justice of the peace hereafter, especially if they record their vote in opposition to this measure. One gentleman cited us to an instance where a lady had been elected to the office of justice of the peace, and in the dispatch of her duty she was forced to sit in judgment upon her worthless husband, who was brought before her, and the argument or facts in the case simply brings the matter to my understanding that she was a competent person to dispatch the duties of that office, because she condemned him, she sent him to prison where he belonged; and for shame that she was connected with such an individual, linked to such a being in life, she resigned her position. I say that this is an argument in favor of the women, that they are honorable, that they will even dispatch their duties in the face of those circumstances.

And now, I wish to say one or two words in regard to the sacredness of contracts. I am surprised—I am ashamed to hear gentlemen stand up here in this Convention and repudiate the contracts that they have entered into with their constituents, and say when they come here to this Convention those contracts have no binding effect upon them. What are we to expect? Here we have been in this Territory accused of being a down-trodden people, priest-ridden, under the control of an hierarchy, and then we have had gentlemen come into our midst to teach us true principles of American politics, and we have taken hold of it in sincerity; they make promises to us with regard to these matters, pertaining to political matters, and then tell us they are of no effect. They are ropes of straw—simply something to ride into power on and then be disregarded.

Is this a lesson that is to be taught to these ignorant Mormons? I am sorry, Mr. Chairman, that the question of Mormonism or Gentileism has ever been introduced into this discussion. I am sorry that the minority report refers to any matters that past. We do not want to open up old issues, at least I do not, and I do not believe that the majority of this people do, and I wish to protest against anything of this kind being introduced here.

Men may think, perhaps some of them, that questionable jokes and language, which I consider unbecoming in the presence of ladies, may pass for argument, but I do not think it. I think that the presence of women at the polls would have a good effect upon the community. Therefore, as I said, I do not wish to make a long sermon, I just simply wish to bear my testimony and I will give way.

Mr. LOW (Cache). I am reminded of

the old adage, that desperate diseases require desperate remedies. If that is the case, the desperation of this question which is before the house is supported with desperate remedies, by the length of speeches that are given by the anti-suffragists. I am reminded also, that notwithstanding the fact that our sister State on the east enjoyed equal franchises in their organic act, while under territorial vassalage, also refused statehood without the same privilege being granted to them in their constitution. And therefore, if the true sentiment and the sincerity of the sections, from which the honorable gentlemen have spoken, upon this floor is voiced by the length of their speeches, and their lack of desire to tire us by their onerous work, I desire also to add strength to a motion that has been presented here before this house, and as a motion is of no value without a second, I shall second, hurriedly, this sentiment expressed by Mr. Hart, of Cache County, from which county I also come, and that our desires are in favor of woman's suffrage, first, last and all the time.

Mr. ROBISON (Wayne). Mr. Chairman, I want to say this, that I am in favor of woman's suffrage, and I want it recorded on the minutes of this Convention that when the vote does come, that my name will be found recorded in favor of that proposition; and I do not, sir, know that I could say any more if I should stand here an hour, consequently I will give way.

(Calls for Mr. Roberts.)

Mr. EICHNOR. Mr. Chairman, I think it would be unfair to insist on Mr. Roberts making his speech this evening; I therefore, move that the committee rise.

The motion was rejected.

Mr. GIBBS. I would just like to state the position that I occupy before this house in regard to the question that is before us. I notice from the remarks of my friends that if a man does he is damned and if he don't he is damned; if he stands up to the plank in his platform and his convictions may be otherwise, then whatever his platform is he is damned because he does not vote his convictions, and if he fly from the party plank he is damned on that side. So it makes no difference which side of the house we take on this question, it appears as though we are going to be damned anyway, and I wish to state that neither the report of the majority or the substitute that has been offered exactly meets with my approval. My friend Mr. Hill this morning voiced my sentiments. If a substitute be drawn up that it be submitted as a separate article and for the ladies to vote upon it this fall and decide the question for themselves, I am in favor of woman's suffrage. I only just wish in justice to myself to state the position that I occupy upon this floor.

Mr. EICHNOR. Mr. Chairman, I offered an amendment this morning to submit this question separately to the qualified voters of the people of the Territory. I will state that—I will be very brief in my remarks, and furthermore, that I have no apologies to make for offering that amendment. If we are bound by party platforms we are bound by party planks, what does either plank in the respective platform say? What does the plank say? It says that it desires it. Do they say that it shall be submitted, or put directly in the Constitution?

Mr. SQUIRES. The democratic platform does.

Mr. EICHNOR. Well, I was not familiar particularly with the democratic platform. Now, I will state right here, it has been intimated that the only class of people that are opposed to this proposition are the gamblers and saloon men and the bad element of society. Now, I will state to the gentleman that made that remark that he is sadly mistaken. There are a great number of people who supported me in our primary,

who supported me on election day, that requested me to introduce an amendment of this kind, so that the people can have an opportunity to vote upon it. Now, gentlemen, if I am wrong, and I hope I am, I will say this, if you imperil that Constitution either here or in Washington, my hands are clear. If this measure is in accord with the laws of Almighty God no power on earth can defeat it. If it is contrary to the mandates of the Divine Master, by sheer force you may build it mountain high yet of its own weight it will crumble into fragments and to dust. You may appeal to party platforms, I appeal to patriotism on this question. All we ask is, submit it separately; you must be fearfully afraid of the people. If the people want it they will vote for it; and I will say right here, if this is submitted as a separate plank I shall support it and vote for it, the same as if it is in the Constitution. But give the people a chance who earnestly ask that this matter be submitted to a separate vote. If you have lost faith in the people, you are afraid of their votes.

Mr. THURMAN. Who is asking to have it submitted to a separate vote?

Mr. EICHNOR. Mr. Chairman, if you will believe me, if I speak to you, that if one man has spoken to me in this city, more than 500 have requested me to vote in this way.

Mr. THURMAN. Why don't they put themselves on record here in a petition and remonstrance? We have heard enough of these rumors—undercurrent of feelings. Let's have some commit themselves. I would not represent an undercurrent of feelings.

Mr. EICHNOR. Mr. Chairman, if you desire, I guess they can place themselves on record.

Mr. KIESEL. For the information of Mr. Thurman, I think this little dispatch may be in order.

Mr. EICHNOR. I will give way to Mr. Kiesel for a few moments.

Mr. KIESEL. I will just simply read the dispatch. I think there is a sentiment awakening here. The people all over the country are waking up, and they telegraph to the delegates of Weber County: "Mass meeting here to-morrow night to consider woman suffrage. Have action delayed until after this meeting if possible." Now, if you will give the people time, you will hear from them. In two or three days you will hear from them all over the country.

The CHAIRMAN. Who is that signed by?

Mr. KIESEL. R. H. Whipple, chairman republican committee, H. H. Henderson, chairman democratic committee; it is dated to-day. Now, if you give them time you will hear from the people on this question.

Mr. BOYER. May I ask the gentleman a question?

Mr. EICHNOR. Yes, sir.

Mr. BOYER. Should the substitute, being submitted to the people to be voted upon as a separate article, be carried, will it or will it not become a part and portion of the Constitution?

Mr. EICHNOR. Yes, sir; if a majority vote in favor of that separate article it will be a part of the Constitution.

Mr. BOYER. Then another question. Will or will it not equally imperil the Constitution if it becomes a part of it?

Mr. EICHNOR. I answer no, and I will say to the democratic side of the house that the fire in the rear with respect to statehood is not coming from the republican side of the house. I think it has a proper place in our schedule as a separate article, and then when the majority of the people say yes, let it be a part and parcel of this Constitution. It won't do, gentlemen, to say that only the gamblers and saloon men and the bad element of society are opposed to this proposition. I will state that I am not opposed to it, but I speak in behalf of the people that are opposed to it, and that follow legitimate business, that demand

that they have the right to express their views on it.

I believe that it is the patriotic duty to place this in a separate article that the people can express their views upon it, and not crack the party lash and look upon a party mandate as a divine institution. I think we owe a higher duty to the people than party planks, and that is patriotism. The matter has been stated here that the Constitution of the United States is an inspired document. I hope it is. If God inspired the men that wrote that Constitution, they did not give equal rights to the women, but left it to the people of the United States. Now, Mr. Chairman, I have no quarrel with any man that desires to place this right in the body of the Constitution. I make this amendment in the interest of peace and harmony, because on Saturday afternoon there was a feeling rampant in this Convention that every person should have his way. I believe that this would remove the question and there could be no jar among the delegates. As for one I do not care who framed the plank in the republican platform. I will state that if the gentleman framed it whose name has been mentioned—that as for one I never signed a petition to disfranchise the Mormon people of this Territory.

Mr. BUTTON. Mr. Chairman, I move that the committee now rise.

The motion was rejected.

Mr. ROBERTS. Mr. Chairman, we have been discussing for some time a very important question, and I presume from the fact that no one else has requested the floor, the gentlemen of the Convention have now said all they wish to say; it has come now my turn, and that what remarks I have to make will close the discussion. I call attention to the fact, however, that this great concourse of people have been assembled for some length of time, and their position is very uncomfortable and I think it is alike unjust to them and to myself also, and to the great question that is before us, to insist on me going into a discussion of it, which I am sure I could not close before both the delegates and those who are here as spectators would become exceedingly weary; there would be a constant confusion, and therefore, in justice to myself and the cause in which I am to speak, I ask the delegates that the committee might rise, or take a recess until to-morrow and then I have the privilege of closing this discussion. It would be, sir, eminently unfair to ask me at this stage of the proceedings to enter upon my discussion upon the issue.

Mr. CRANE. I make a motion that we rise and report.

Mr. VARIAN. I hope that this committee will recognize the fact as suggested by my friend from Davis County, that it is, perhaps, absolutely necessary to enable him to respond to the acknowledged wish of the committee, that it do rise. Let us not interpose any further objection to the matter. I move that the committee do now rise.

The motion was agreed to.

The committee then rose and reported as follows:

The committee of the whole has had under consideration the article on election and rights of suffrage and report progress.

Mr. CANNON. Mr. President, I desire to move that we adjourn until some hour to be fixed this evening and secure a convenient place in which to assemble. If it will be agreeable to the gentleman from Davis County to speak to-night, I think it would be a great saving to the Convention. We are under an expense of $300 for a half day, and if a half day should be consumed, which I doubt not will be the case, it would be that much more saved if we could meet to-night, unless the gentleman is weary from being here; unless he objects, I move that a committee be appointed to look into the procurement of the Salt Lake Theatre for this evening.

Mr. EICHNOR. Mr. President, I hope that motion will not prevail.

Mr. VARIAN. I rise to a point of order, Mr. President. This Convention is not on wheels and it is not necessary to make a grand display like that.

Mr. GOODWIN. Mr. President, there are several committee meetings set down for to-night and I know this Convention is tired. I hope the request of Mr. Roberts that we adjourn until to-morrow morning will be treated with respect.

The Convention then, at 4:40 p. m., adjourned.

THIRTIETH DAY.

TUESDAY, April 2, 1895.

The Convention met at 10 o'clock a. m.

President Smith in the chair.

Roll call showed a quorum present.

Prayer was offered by Apostle F. M. Lyman, of the Church of Jesus Christ of Latter-day Saints.

The journal of the twenty-ninth day's session was read and approved.

A petition, signed by G. F. Hickman and forty-eight others, (file No. 171), was presented, requesting that the question of prohibition be submitted, as a separate article, to a vote of the people.

Referred to the committee on schedule, future amendments and miscellaneous.

Mr. Eldredge presented, by request, a petition from Mary A. Freese and twelve others, asking that the Convention adjourn to the Theatre. Also a petition asking that the Convention change its place of holding sessions.

Mr. VARIAN. Mr. President, I move these petitions lie upon the table.

The motion was agreed to.

The committee on water rights, irrigation, and agriculture, presented a report, which was referred to the committee on printing.

Mr. CHIDESTER. Mr. President, I move we now resolve ourselves into committee of the whole for the further consideration of the article on elections and right of suffrage.

Mr. RICKS. Mr. President, I move as an amendment to that that we remain in session until article 1 is disposed of.

Mr. CHIDESTER. I accept that amendment.

Mr. CRANE. Before that motion is put, Mr. President, I have a resolution I would like to present:

Resolved, that for the purpose of accommodating the public to hear the closing debate on woman's suffrage, that it is the sense of the Convention that we adjourn to the Salt Lake Theatre until after Mr. Roberts has concluded his remarks.

Mr. CRANE. I think perhaps that this resolution may be out of order, but I am informed that there are a thousand people waiting in the hallways and down to the ground to hear the eloquent speech of Mr. Roberts.

Mr. VARIAN. Mr. President, I arise to a point of order.

Mr. CRANE. I know the Convention is not on wheels, Mr. President.

Mr. VARIAN. I arise to a point of order.

Mr. CRANE. And I want everyone to hear these remarks——

Mr. VARIAN. The gentleman ought to sit down when I arise to a point of order. Such a resolution as that is out of order. It would violate the standing rules of this Convention, for one thing.

The PRESIDENT. We cannot adjourn to any place unless——

Mr. CRANE. Then, Mr. President, I would move that the rules be suspended and that we adopt this resolution.

Seconded.

Mr. VARIAN. Mr. President, I move to lay the resolution on the table.

The motion was agreed to.

The Convention then resolved itself into committee of the whole with Mr. Ivins in the chair.

COMMITTEE OF THE WHOLE.

The CHAIRMAN. The question, gentlemen, before you is the substitute offered by Mr. Eichnor, of Salt Lake City, to section 1 of the report of the committee on elections and rights of suffrage.

Mr. WHITNEY. Mr. Chairman, I arise to a question of personal privilege. I was not present in this room yesterday afternoon, when it was arranged that the debate should close and that Mr. Roberts should be the first speaker this morning. I was crowded out of the hall and out of my seat by the great influx of visitors. It was my intention to occupy five or ten minutes, in order to set myself right in relation to a portion of my speech on Saturday, which has not only been misunderstood, but grossly misrepresented; I ask permission to use five or ten minutes. I shall not need any longer time nor desire it, before the honorable gentleman from Davis County takes the floor.

Mr. ELDREDGE. Mr. Chairman, I will move that the gentleman have thirty minutes if he choose.

Seconded.

Mr. BUTTON. Mr. Chairman, before the motion is put, I would like to ask a question. How many more gentlemen are there in the house that want thirty minutes besides the gentleman who has just spoken?

Mr. VARIAN. None.

Mr. BUTTON. If there are none, I have no objection.

The CHAIRMAN. If there is no objection, Mr. Whitney, of Salt Lake, will be permitted to occupy a few minutes of time.

Mr. VARIAN. Thirty minutes.

Mr. ELDREDGE. Thirty minutes.

Mr. KIESEL. Mr. Chairman, I don't know whether I am in order or not, if not I will be so informed. I would like to renew the motion to adjourn to the Salt Lake Theatre instead of depriving the sovereign people of Utah of admission to its own halls; I do not approve of that. I think they want to hear this great debate and they have a right to hear it, and I think that is the place for us to go.

The CHAIRMAN. Mr. Whitney has the floor.

Mr. WHITNEY. Mr. Chairman, I do not deem it an unreasonable request that I have made.

It was I who seconded the motion giving to the gentleman from Davis County the privilege of closing the debate upon this question; he having requested that privilege in view of the fact that as he has been asked by his constituents to resign, it would probably be his last speech on the floor of this Convention. As this is probably the last speech I shall make on earth [laughter], for there is no telling what or where I shall be when the gentleman from Davis County gets through with me—I think it only right that I should be given a few minutes now.

In my remarks on Saturday I made mention of the fact that in the church to which the gentleman and myself belong, women are allowed to vote, and incidentally I stated that Mr. Roberts had been elected to a high ecclesiastical office by a congregation, two-thirds of whom were women. Because of this I have been accused of bringing into this discussion matters which should have been left outside. Some have gone so far as to say that I advocated the idea that the State of Utah should model its institutions after those of the Mormon Church. I am not afraid that my eloquent friend, in replying to me—for in his intelligence and fairness I have confidence—will revamp such an absurd and ridiculous idea. But I wish him to understand me clearly in every respect, so that he may answer, not what I have been falsely represented as saying, but what I actually did say.

My friend argued, you will remember, that suffrage is a privilege and not a right; that it ought not to be extended

to any class incapable of independent action, meaning that married women were not thus capable, and that they ought to be satisfied with the fact that at the polls and in public life they were represented by their husbands. By the way, I tried to convince my wife the other night that this was correct philosophy. I had stepped into the theatre on my way home and witnessed an act or two of the play in progress, and on reaching home, I endeavored to persuade Mrs. W. that she had witnessed the performance as well as myself, because, forsooth, in accordance with the philosophy of my admired friend, I represented her at the play. But it wouldn't work

And now passing on. I have stated Mr. Roberts' position. Let me now state what I said, or meant to say, in answer to him. I held that the right of consent—the underlying principle of the elective franchise—is an inherent right, possessed by every human being; that it existed before governments were formed, before constitutions were heard of; that it is a right which woman enjoys and exercises when she accepts or rejects an offer of marriage. She says yes or no, and thus votes upon the proposition as to who shall rule her in the household. The family, I averred, was the type of the state, and I contended that woman in the state was entitled to the exercise of the same right that she exercised in the family—the right to consent as to who shall or shall not rule over her.

In connection with this matter I mentioned that in the church to which Mr. Roberts and myself belong, this right is recognized and exercised, for the women of the church vote as well as the men, and vote independently and of their own volition. And I added that if a church which is generally though mistakenly supposed to be illiberal, especially to women, could afford to recognize that right, the State of Utah could afford to be equally liberal.

That is what I said and what I meant. I did not say, or mean, or intimate, that the State of Utah should model its institutions after those of the Mormon Church.

I meant no disrespect to Mr. Roberts in stating that he had been elected by women's votes to a high ecclesiastical office. I referred to that incident simply to remind him in a mild way of the inconsistency of his present position.

So far as the charge of bringing into this discussion matters that should have been left outside is concerned, I have this to say, that while I do not see any thing improper in what I said, I should sit down quite comfortably under a vote to the contrary if carried by a non-partisan majority of this committee. But granting, for argument's sake, that what I said was improper, it seems to me that the last person to cast a stone should have been the gentleman from Salt Lake (Mr. Mackintosh) who called me to account for it upon this floor; he being the first signer of the minority report impugning the sincerity of the Mormon people in dividing on national party lines—the cause of all the acrimony exhibited in this debate.

The gentleman, in commenting upon my statement that probably six thousand women voted for Mr. Roberts on the occasion in question, declared that that was just what he was afraid of—that forty thousand woman would so vote. He was answered by Mr. Wells, and I answer him now, that he, being a republican, probably feared that the forty thousand women would be democrats.

Mr. RALEIGH. Mr. Chairman, I think in justice to my constituents as well as to myself I should occupy a small portion of time. On this question my contention is that women born in America have the natural, inherent

right to vote, because of the freedom of our government, and have had the right though not the privilege from the incipiency of our government. When we say that we are a representative form of government—a republican form of government, and that we have a government for the people and of the people and by the people, the ladies compose a large component part of that people, and hence naturally have the right to vote. Now, every man that is on this floor that has studied up the power and policies of governments knows that we are directly the opposite to an absolute monarchial government. We are the sovereigns. If there are any sovereigns in this government, the people are the sovereigns, and the women are a portion of the sovereigns, and have just as natural right—a born right—every women that has been born within this government within the last 120 years or thereabouts has been born to that right. The simple fact that she has not had it conferred upon her legally is no reason why she should not have it, or no reason why she does not inherit it—no reason whatever. There have been many things put forth on this floor, that were not reasonable at all; that is they were not relevant to the case or the matter before us at all. And also every woman that has come into this country and conformed to the right—that has been naturalized, the right is inherent in them. It is a simple natural consequence. It is a simple natural result. It has never been denied. Men have put in all kinds of talk trying to reason why—but there is no cogent reason why women should not vote or should not have voted all the while. Now, because men got together in our government—our revolutionary fathers, and said what they did say in relation—in fact they did not say anything about women at all—didn't include them, with anything except silent consent; they went to work, that the free white male citizens should have the franchise, and from such an age upwards. Well, now, that was perhaps as much as they could say. They left the rest unsaid at that time. Perhaps that was all they could have said at that time. But now the time has come for us to say that the women shall exercise the franchise just the same as men. The time has arrived. We are supposed to be a world of progress, and if we are going to get into a higher plane, why, we had better be about it. It is time, high time. It is true that in all respects they did not say at that time everything they thought to be so. They said in words in their Declaration of Independence that we had certain rights, that man was born free and equal, and so on. That did not happen to be true in every sense of the word, because there were slaves at that time, but later, in the providence of God, President Lincoln was forced by sheer circumstances to knock the shackles off the black man, and we, I think, had better knock the shackles off women before we are obliged to. Just let us do it freely and voluntarily. I had a great deal rather do a thing because it is right and just and proper to be done than to be forced to do it. I am not of that make-up that I like to do things because I am obliged to. I prefer to do them because they ought to be done, and when this is put into the balance—that is, that justice and right and everything is put in the balance, expediency may go to the dogs and the devil so far as I am concerned. I believe in doing right—the justice and the proper thing to be done under the circumstances, and when it justifies that to be done. This is about all the time I care to take. I could go on and enlarge upon this, but I do not wish to do it. I do not wish to take up the time of the Convention.

The CHAIRMAN. Mr. Roberts, the chair observes no other member upon his feet. The time will be at your disposal. [Applause.]

The chair must request that during

the course of the gentleman's debate, he be not interrupted with noise or with applause on the floor.

Mr. ROBERTS. Mr. Chairman, I congratulate the Convention that the discussion relating to the first section of the article on rights of suffrage and elections is now about to draw to a close. All gentlemen who desire to speak, have expressed their views, and their opinions, and have explained the position they occupied in relation to this question. I take it, sir, that it is not only a courtesy that has been extended to me to close this discussion, but I believe that in consequence of my relationship to it, that it is my right to do so. Logically the position of affirmative ought to have been taken by gentlemen who have opposed me on this proposition, and indeed I have endeavored to urge them to do so, making a special request of the gentleman from Salt Lake, of the fourth precinct, Mr. Whitney, who entranced the Convention by his eloquence, to do so, but he declined. And hence the privilege of bringing the debate to a conclusion has devolved upon me—a privilege I would have been willing to have accorded him had he taken his logical position upon this question.

There are, sir, a few personal matters that it is necessary for me to refer to before proceeding directly to the subject of debate, and that grew out of the remarks made by one of my colleagues from Davis County, Mr. Barnes, in which he read a letter or a copy of a letter addressed to me from the chairman of the democratic committee of Davis County—the gentleman who subsequently gave me notice that I must either change my position on this question, or he would be compelled to ask me to resign. My colleague said I had paid no attention to that letter. I think at the time he forgot that the day after I received the letter, and before an answer could be sent, the gentleman who wrote it, together with another prominent democrat of Davis County, waited upon me in this building. We had a long interview upon the subject matter of that letter; as we drew our interview to a close, I told him that our conference in relation to it would obviate any necessity for my replying, at least for a few days, to which he assented. I had the letter I intended to send him as a reply, nearly completed, when his dispatch calling upon me to either close my mouth on this subject or resign, came to hand, and my reply to that of course, shut off all further necessity of consideration of that subject. I refer to this because I do not wish to be placed in a position before this Convention as being either disrespectful or inattentive to my constituents. I shall always treat them with the greatest respect and listen to whatever suggestions they may have to offer me, so long as I am their representative. The gentleman did me justice as I knew he would, because there is no man who possesses a higher sense of honor than my friend from Davis County, Mr. Barnes, who spoke on the occasion to which I refer; that is, he did me the justice to say to this Convention that he was the man who met me after the convention in Davis County had nominated me for delegate to this Convention; and that he told me when a proposition was introduced binding the delegates to work for and vote for suffrage, he himself refused to be bound and instructed in that way.

The gentleman, however, is of opinion that there was a modified resolution passed by that convention in Davis County, and perhaps, sir, that is correct; the gentleman may be entirely correct in regard to it. But, sir, there was no mention of that matter in the minutes that were published of the action of that convention. I took occasion on Saturday night to go through the files of the Salt Lake Herald, until at last I obtained a copy of those minutes, and gentlemen will look in vain i

them for any reference whatsoever to woman suffrage matters. These published minutes, with the conversation I had with the gentleman, since I was not in Davis County and in contact with my people, was the only thing upon which I could draw my conclusion in regard to the extent to which members from that county were to be bound on this proposition; and when the territorial convention assembled, and put in its platform the plank on woman suffrage, I felt myself at that time so opposed to it, that I had serious thoughts of declining the honor tendered me by the people of Davis County. I took into my confidence a number of leading democrats of this Territory, and went over the ground with them, explaining the conversation with Mr. Barnes, the absence of any mention of the subject in the minutes of the Davis County convention, and it was their united opinion that I could not be bound to support woman's suffrage, and that there was nothing that called for me to decline the honor that was tendered, especially as it was neither thought the proper thing to do, nor was there any necessity of making that question prominent in the campaign. I take the trouble to speak of these matters to the Convention, that gentlemen may understand that however much other members may have considered themselves bound by the action of conventions in the respective counties from which they hail, conscientiously I have no bonds upon me, to act in favor of this proposition. There are no obstacles in my way on that subject, and again, I repeat what I before said, if there were, if I considered myself bound by the platform of my party, and by the wishes of my constituents, in the face of facts that have since developed, and which, as I believe, are a menace to the attainment of statehood, I would still, sir, endeavor to serve my people in spite of their protests, and work for their best interests, which as I look upon it, lie in the attainment of statehood for Utah.

With so much of preliminary, I may come now to consideration of remarks by members upon the subject proper. Of course, sir, if you look at a range of mountains, there are here and there lofty peaks that rise above their fellows, and upon those peaks the eye naturally rests. So in this discussion, rising above the common level, there are a few gentlemen who have spoken, to whom I shall consider it my duty to pay particular attention. I refer to this matter so that if I do not mention each one who has not entered the arena against me, he will not feel slighted [laughter], and perhaps if I discuss some of the remarks made by those more prominent speakers upon the subject, I shall be able to satisfy you all. Among these particular ones to whom I ought to pay attention is my personal friend, a gentleman for whom I have the highest regard, from Weber County, Mr. Evans, a man I take it, sir, who thought he answered my argument by telling me I was mistaken, and that my fears were ill-founded. Apart from making those statements with more or less of flourish and eloquence, the gentleman concluded by saying that if he was conscientiously opposed to woman suffrage, no party platform would stand in his way of opposing it; if he believed that suffrage would degrade woman, no party platform would prevent him from opposing it. So I take it, that in the opinion of that gentleman, since I am of the opinion that it would be injurious to the State and degrading to woman, I am absolved.

One thing else the gentleman asked in fervid rhetoric, and that was, he would like to know what possible harm could come from his mother accompanying him to the polls. Well, sir, as I am of the opinion that his mother must be a most estimable lady, I think no real harm could come from her accompanying him to the polls, and I am rather

inclined to think it would be a good thing for her to do so [laughter]; and not only accompany the gentleman to the polls but I doubt not it would be a most excellent thing for him if she were constantly present with him to guide his footsteps through the meandering pathway of life. [Laughter and applause.]

Another of these mountain peaks in debate to which I ought to refer, was a gentleman (Mr. Wells), who spoke to us yesterday, out of his place, as he himself puts it, but nevertheless "in the ring." That gentleman, after detaining the Convention for a considerable length of time in a set speech, which both amused and instructed members, conscious, I doubt not, that there was not much force in it, finally told the Convention that he had an aunt, who if she could have the privilege of the floor and the freedom of debate, would be able to make such a speech on this subject that the committee of the whole would immediately take to flight and pull the hole in after it. Now, sir, I doubt not that that possibly would be the result, that we all would be converted if the lady instead of the gentleman had had the privilege of the floor and the freedom of debate; but there was one thing that appeared very curious to me, and that is that the eloquent lady had not more effectually converted her worthy nephew to her views, for, as I remember the whole tenor of his discussion, he believes in woman suffrage in a very attenuated form. Why, sir, I could almost strike hands with him and vote as far as he is willing to vote for suffrage of women.

And then, sir, the gentleman wondered in his soul how it was that anybody who had lived under the gentle sway of Victoria, queen of England, could object to woman voting in this country. I think, sir, that the gentleman overlooked what are well known to be the facts of history, and what he knows to be the facts of history, if he would but take a second thought of it, and that is this: Queen Victoria, however worthy the lady may be, is not, nor has any king or queen of England for three hundred years, been the ruler of that country. I presume we have all seen a figurehead upon the prow of a vessel, but not one of us has ever been deceived into thinking that it was some force in that figurehead that drew the mighty vessel through the stormy waters of the Atlantic.

If you would know what force propels the mighty steamer against the ocean currents and head winds, you must needs look to the rear, where plays the throbbing wheel and the helm guides the vessel through the waters. And so if you would know who the real governors of England are, you must look to parliament and the prime ministers of the country. Gladstone, Disraeli, Lord Derby and others, are the men who have governed England, and not the queen, not the king. For more than three hundred long years there has not sat upon the throne of England king or queen who has dared to oppose the will of the people as expressed through parliament. What do crowns and coronets amount to when they are reduced to this extremity? The have become nothing but figureheads, an insignia that in ancient times was the emblem of power. And I wish to say that to-day the thing that enshrines Victoria, queen of England, most in the hearts of the world, is the fact that she was a faithful, devoted wife, a pure and noble mother. [Applause.]

Against the lady spoken of so eloquently by the gentleman, I put the queens of the White House, unenfranchised it is true, and uncrowned, and yet who have every reason to be prouder than Victoria upon her throne; because, sir, their positions grow out of the fact that there is behind the husband, by whose side they stand, intellect, ability, force of character, that have been recognized by their fellow

citizens, and she has cast an influence upon his efforts, she has lent courage to him in the hours of darkness, and the glory is not his alone, but they share it together; and the unenfranchised wives of presidents in this United States have reason to be more proud than those who come to places of honor simply by the accidents of birth.

Now, we come to the proudest peak of them all. [Laughter.] You seem to know whom I mean. Before I enter into a criticism of what that gentleman had to say upon this subject, I ought to pause upon the threshold of the undertaking and ask myself what I am, what hero in the history of the world I am not, what hero has been selected to represent me; but most important of all I ought to discover whether I am a fish, flesh or fowl, and locate myself in the animal kingdom, as well as to seek out my place among the heroes of history.

The assault of the gentleman, for it could be called nothing else, was deliberately planned. In the silence of private study the arrows were sharpened and I must need think, sir, dipped in the gall of the gentleman's own bitterness. He denies me the honor of being Horatius at the bridge beating back the Tuscan enemies of Rome. He would not permit me in his comparisons to be represented by Leonidas at the pass of Thermopylæ. He elevated me one moment, only that he might debase me the more the next moment, and finally, sir, concluded that I was a bull without judgment, an ass without inspiration. I grant you, sir, that the thought was negatively expressed, by that peculiar trick of rhetoric, which affirms a truth in the form of a denial of it, but in his graciousness, and some pity perhaps, coming into his heart, he finally gave me an alternative from those dire comparisons; and I might choose Napoleon flying from Leipsic, imprisoned at Elba, back to Waterloo, thence banished to St. Helena, to die in solitude; or if I chose I might be compared with that proud spirit that looked omnipotence in the eye and told Him His good was evil. I thank the gentleman for the alternative. I presume that either Napoleon or the devil would be preferable to Balaam's ass, especially when inspiration shall not accompany it. [Laughter.]

But the gentleman overshot the mark, if he intended to wound my feelings; because, sir, he kept me in such a state of suspense to know what my final destiny would be, that in my anxiety to find that place, I forgot that I was receiving a castigation. However, if the gentleman is satisfied with his elegant comparisons (and of course he is a gentleman of refined tastes, as we all know, a poet, too, of no mean ability), if his remarks are satisfying his soul, why then, I shall not complain. But I would be pleased to know what relevancy all this had to the discussion that was brought upon this floor. I can see only one means of explaining it and that is this, the gentleman sought to break down the force of my argument, by making me appear contemptible. Well, sir, I am not very proud. I have no reason to be, and I am willing in this long list of comparisons, to take the humblest of them all; and in doing that I presume I shall please the gentleman, and at the same time I think I shall be able, even in the capacity of Balaam's ass, to still instruct our poet delegate. [Laughter and applause.]

The facts in the case in regard to Balaam's ass, if the gentlemen would but read the story, are decidedly instructive, especially, sir, as there are so many points of resemblance to this case. One Balak, the son of the king of Moab, discovered how merciless was the war that Israel waged upon the Amorites, and sent for this prophet, Balaam, to curse Israel, offering him high honors and rich rewards if he would do it. It seemed that the prophet, dazzled for the moment by the

glamor of the promises of the king, forgot his true office both to God and the people, and started out on this mission of cursing. It is said, sir, in the narrative, that an angel with a drawn sword stood in the way to head off the prophet, and the ass taking alarm at threatened danger, fled into a field near by. The prophet, if he did not use imprecations, at least did use blows, and finally brought the ass back to the road. Presently, when the road entered into a narrow lane, with a wall on either side, the ass was again confronted by the danger that threatened the prophet, and in his mad effort to get by the danger, he jammed the prophet's foot against the wall, and this again aroused the wrath of the misguided prophet and with blows he brought the poor ass back to the middle of the road. The next time the danger confronted, the prophet was in a still narrower way, where there was no escape whatsoever from the threatened danger, and the ass laid down and refused to go any further in the direction of the danger and the mad prophet beat him again, but at last the kind powers above, in pity of the dumb brute, spake through him, and the ass reasoned and said, "Have I not been thine ass these many years? Have you ever known me before to treat you after this manner?" As if he would say, "Know you not there is some danger in the way? You ought to know that an ass so docile, so faithful, so careful of you as I have been, would not have taken the course I have unless there was some obstacle of danger threatening?" [Applause.] And then, sir, the eyes of the prophet were opened and he at last saw what the ass had seen. He beheld the danger, and in humiliation, he said, "I have sinned." Now, sir, when this question was first brought upon the floor of this Convention, knowing, believing, aye, and I was not mistaken in the word that first came to my lips, knowing that there was danger for statehood for Utah, if this matter was pushed to an extreme, I sounded the note of warning in this Convention. Your ass ran away with you into the field, if you will. [Applause.] Beaten back into the narrow way, I again endeavored to shun the danger; and again was belabored and beaten. We have come now into the narrow pass and I lay down. I ask these gentlemen, who have known me, if I am an alarmist in my nature, or am I disposed to cry there is danger, when I really see none. And now in this third issue of the narrow pass, I would to God that some kind power would touch the eyes of my blind prophet friend, that he too might see the danger and say, "I am mistaken." [Applause.] That we might not see the humiliating spectacle of an ass instructing a prophet. [Laughter.]

The gentleman, as I remember, makes two complaints against me. One is, he thinks I have tried to absorb in myself all the virtues of noble motives in this Convention, and that I brand the rest of you with cowardice. I will explain, I hope to the gentleman's satisfaction, and also to the Convention's satisfaction, the meaning of my remarks in that particular line. With the gentleman from Salt Lake who has so earnestly declared that his convictions run parallel with his action in this issue, and with all gentlemen that are in the same condition as he, on that subject, I take no issue, and I give to them credit for all the noble sentiments and motives that belong to honorable men. But, sir, I am aware and so is this Convention, from positive declarations made upon the floor of this house by gentlemen, that their actions run one way and their convictions another. Whenever I see men occupying the equivocal position, I have some misgivings in my own mind as to the result of their action under such circumstances. And when men would come to me and speak their fears to me, and tell me of their convictions being against this,

and yet they were bound down by those ill-considered party pledges, and, were going to do something for the people which they believed would work an injury to the people and to the coming State, I brand all such with cowardice, and they may make the most of it. [Applause.]

The next complaint of the gentleman was that I was too harsh, too severe in the course of my argument in reference to the ladies. That, too, I think I shall be able to explain to the gentleman's satisfaction. The line of my argument was this, that public political life, mingling in political strife, partaking of the bitterness which is injected into politics, coming to primaries, struggling through the mass of men who surround the ballot boxes upon election days, that women expose themselves to gibes and jests, which if they could but hear would bring the blush of shame to their cheeks. In support of this proposition, I read what dispatches said of the meetings held by the board of lady managers of the Chicago World's Fair, and pointed out the fact that these women were among the first and most intelligent of all our land, and if coming together in a public hall to engage in the management of the affairs of an institution of that kind would bring about such shameful scenes as were there enacted, and if the dispatches relative to women in politics from Kansas and other parts that I read were true, the whole tendency of this public life was degrading to woman and that it was the part of wisdom for women to keep separate and apart from such places and such embroilments, that they might not become the subjects of jests and gibes of low-down characters whose mouths you cannot stop. That was the trend of my argument and I produced the evidence of it. The ladies frowned, their valiant supporters looked displeased. All I have to say is, that if I was unkind, it was the unkindness of the surgeon who cuts into human flesh, not to wound, but to heal. And, sir, I take it that it is time that someone should point out to woman, even if it does bring to her face the frown of displeasure, that she is in danger of sacrificing that which is dearer than the ballot to every sensitive woman—that she is in danger of sacrificing that sensitiveness of soul, in danger of sacrificing the high regard of men, which ever goes with true womanhood. [Applause.]

In answer to this, I think the gentleman from Utah (Mr. Thurman), asked, "Do not men fight and quarrel?" and instanced a scene in the Indiana legislature. I grant you that men often do this thing and it is degrading and disgraceful to them. Ten times more would we feel the disgrace had women been engaged in it. It is no answer to the argument to say that men do these things. I once saw a woman chewing tobacco. It was a vice, a hundred times more disgusting in her than in man; and because men indulge in these things, and because the spirit of political strife is rampant, when men's passions are aroused, and their interests and their ambitions are at stake—it is for this reason I would exclude women from participation in political life. They tell, however, that this evil will not run side by side with granting the franchise to women, and in evidence, they point me to Colorado, Kansas, and Wyoming. Why, gentlemen, it is as if two men stood by the side of a beautiful tree, in full leaf in the month of June, when the sap runs through the channels of the bark, and gives freshness and life to its verdure. One says to the other, "If you girdle that tree, cut off its bark, the leaves will wither and the tree will die." The other man immediately proceeds to girdle the tree. As soon as he does this, he steps back and says, "there is not a leaf that has changed its form. It is as beautiful and fresh as it ever was." And yet we know that only a few short

days shall pass and the leaves will wither and curl up, grow dry, and the winds will carry them away and the tree never bear a leaf again. So is it with the influence of political life upon women. Let it operate twenty years, let it operate fifty, a hundred years, we will have a womanhood from whom we will dispose to flee. [Applause.]

My friend then took the illustration I used in regard to the tumbling and mingling together of the waters of the Mississippi and the Missouri, and in a poetic flight which was one of the most sublime that I ever listened to, carried those streams muddy, and bearing filth in them, to the ocean, where purified by the elements operating there, the muddy stream was again converted into sparkling drops to bless the hill tops and make glad the valley with verdure again. Oh, sir, that was a poem in itself, and out of my respect and regard for the genius that could thus pick up this stream and make it pure, I joined with you heartily and sincerely in a tribute of honor to the genius of my friend by applauding him. But, sir, there is only one thing that injures the gentleman's work on that particular matter, and that is the stream of politics has no ocean in which to run. The only means of its purification are fountains and small rippling streams flowing from those fountains, bringing clear fresh water into the turbid stream of political life. Those fountains are the homes of the people; those streams the influence that glides out from those homes, and these fountains and these streams, my friend would corrupt until there is no purification left for the main stream of political life. [Applause.]

Imagine a man, after struggling in a primary for the success of that candidate whom he believes will serve the interest of the people, coming home from the sweat and heat of a campaign meeting, with the frown of displeasure on his face and bitterness doubtless in his heart, tired and weary of the world. In a short time, the prattles of his babes, the kind attentions of his wife, joining with her in some intellectual pursuit common to them both, or mingling in the social circle with friends, from which circle by a wise common assent political discussions are banished, the frown leaves the face, the hard lines are softened, his heart is filled with the song of gladness and he begins to feel that there is something in life worth living for after all. But suppose he came from his political struggle to his home, and was met at the door by a wife opposed to him in politics; and again he had to go over the fight on tariff or free trade; free silver, or a single gold standard; or else observe a sullen silence because of the impropriety of engaging in a discussion with his wife on these lines. Where then will the brow be cleared of the frown and the heart lose some of its bitterness, so that when the man leaves his home and again enters the arena with his foes, he may have some milk of human kindness running in his veins? Gentlemen, leave the home alone. Keep political strife out of it. Women of Utah, be content to reign over the empire of domestic life, and it will bring more joy to your hearts than all the success you could have in casting your ballots at the polls. [Applause.]

But all this is preliminary. The fight is still ahead. [Applause.] I come to the arguments of the gentleman. I understand him to announce in his first speech and he emphasized it here this morning, and I am particularly glad that he did emphasize it, because now it is fresh in your memories, and I shall not be under the necessity of repeating what he said upon these subjects, for you heard him, that woman's right to a voice in the selection of those who rule her, whether in the family, the state or the church, is a God given and inherent right. This he emphasized upon the floor of this committee this morning. I believe this gentleman to be a man who

has the courage of his convictions, and if he believed the elective franchise to be an inherent, indefeasible right, I wonder how it is that in writing the declaration of rights he did not say in emphatic language and submit it to this Convention, "The right to vote is an indefeasible, inherent right, the same as the right to enjoy and defend life, and liberty, to acquire and possess and protect property, and to worship according to the dictates of conscience." Gentlemen of the committee, in the bill of rights, did he introduce his doctrine? If he did, you smothered it in committee. Did he introduce it upon the floor of this Convention? Had he done so, members would have laughed it out of the door. Because it is not true. You know it is not true. The elective franchise is a privilege conferred by governments and may be hedged about by conditions prescribed, that natural and inherent rights are never hedged about by.

The gentleman, in illustration of this position of his, untenable as it is, and the fact that it is denied by the governments of all the American states, by the government of England and of Europe at large, would have been a sufficient answer to the claim had it been made in the emphasis that he ought to have put it in, insisted that the woman ought to have the same right in the state which is accorded to her in the church, and accorded to her in selecting her partner for life. I take it from the explanation that the gentleman made us this morning, that he has learned that he added nothing to his reputation for sound judgment and good taste by bringing in those comparisons upon this floor. I understood the gentleman in his first speech as I understand him in his second speech. All I shall do in taking note of his position and the character of his argument, is to simply ask him this one question: Can he see no difference between the exercise of the franchise in voting in the church and in the state? Are the offices of the church to which he has alluded the objects of ambition among the members? Are there primaries held, are there emoluments to be clutched, are there advantages to be gained for parties, or is it the theory of that church that the Divine wisdom make the selection to which the people merely give their consent? Can he see no difference in sitting quietly in a great congregation and assenting to what Divine wisdom has already pointed out, and the wrangling and struggling, the quarreling and bitterness and strife that pertain to political elections? When he can bring the state into such a high condition of perfection, that through the channels of its administration, there shall be no more friction than in the church he names, and when the offices of the state, as they are in the church, are above ambition, then, sir, the chief objections to woman's suffrage so far as I am concerned will have ceased. [Applause.] Next, I wish to ask the gentleman if he can see no difference between a woman engaging in the embroilment and strife, the bitterness and hate, which grow out of political life and a struggle to get to the polls to vote, and a woman, beneath the quiet stars under some friendly tree, whispering the sweet "yes" to the proposition of marriage, or under other circumstances giving a firm decisive "no" to the proposition? As I understand it, sir, those things are not preceded by any of the circumstances that make political life unfit for women to engage in. I know not what the experience of the gentleman has been upon this subject. [Laughter.] I remember that he singled out my friend from Sanpete County who was kind enough in this fight to stand by me and do yeoman service in the cause. I observe that he singled him out, since he is a single man, and told him with very great emphasis that he would discover that a woman could say "no." Considering the dogmatical air with which that was said, I must

needs come to the conclusion that the gentleman's positiveness is based upon a very wide experience in that line. [Laughter.]

I observe in the rest of the gentleman's argument the same confounding of th'ngs as to church and state; because the gentleman states than under other circumstances and in other places he had heard me discourse upon the individual responsibility of every soul to his God.

And for that reason, the gentleman seems to come to the conclusion that I have disregarded all secondary relations and that by urging this proposition to which he alluded, I would disrupt the secondary relationship between the child and the parent, between the citizen and the state, between the subject and the monarch, between the husband and the wife. I fear, sir, that the gentlemen, in taking this position, has most distinctly exhibited to us what I should characterize as the great fault in his great character. I accord to him high gifts; he is a man of learning and of parts; and when I say there are defects in his composition, it is not for the purpose of lessening him in the opinion of his fellows. To say that a man is not great in every point in character is not to deny him greatness. If any of you were to say of me that I am not a poet, while he is, I should take no exceptions to that, and I say that the gentleman in his argument has exhibited to us his inability to segregate things and accord to them their proper relationship, but he rolls all things into a mass and reasons upon premises that lead to diverse conclusions. If my friend from Utah County, Mr. Thurman, (who, by the way, as I understand it, was the one who was to enter into this debate with me,) will permit me to be critic long enough, and to use that criticism upon my friend whom I am answering I would say, that he lacked the logical sense, philosophical sense, which separates each thing to its proper place and eliminates sentiments and poetics from legislation, and recognizes the fact that you must deal with humanity as it is, and not as his poetic ideas would paint it. [Applause.]

There is one other argument that I ought to refer to, not advanced by the gentleman from the fourth precinct in Salt Lake City, but advanced by another gentleman on that side of this question, and I presume he would take it as a slight almost if I did not pay my respects to him in passing. [Laughter.] I believe also, this same argument was suggested by my esteemed friend from Utah County, and that was this, that the staple, reliable vote of this country came from its married men (an idea with which I am in strict accord. Of course all of us married men would be in accord with that sentiment, though my friend from Sanpete County might possibly take issue with us on that proposition.) And if you grant woman the suffrage, the result will be that you double the good vote. Well, sir, when I first had that argument hurled at me, for a moment I thought a point really had been made, but I happened to remember that our government is conducted by parties, and if I understood the gentleman's theory right, in the main man and wife would vote one ticket, standing side by side, as this gentleman and his estimable wife stand side by side, and you double the vote; but upon second thought, I happened to remember that on the republican side you do the same thing, so that the two votes would neutralize each other, and there was nothing gained in the gross, one family casting two votes, one on the republican side and one on the democratic side, when heretofore the same thing had been done by only one vote. Now, sir, I was somewhat astonished that the argument should come from a democrat. Had it been a republican who advanced it, I would have understood it, because they have been trained

in a school that holds that if you tax B in the interest of A and then turn around and tax A in the interest of B, both will get rich at it. [Laughter.]

But when the kind of reasoning introduced behind this point is made by a democrat, I say, "Oh, fie, upon it! we thought for better things."

I think, sir, that in all fairness I may say, I have passed through the arguments offered by gentlemen. There are no other arguments that occur to me that are worthy of consideration upon this floor, or that were joined in issue. And now I want to ask how has it affected the question as discussed upon this floor?

I laid down first, the proposition that the franchise ought to be confined to those who are capable of acting independently. Has that proposition been controverted by argument? I have failed to hear them if it has. Still further, I stated that such was the relationship of woman in the family that she was not capable of acting thus independently without the dictation or the suspicion of dictation from her husband—has that been controverted? Gentlemen will deny that there will be such dictation, but is that an argument? Do we not know from the great facts of human nature that it will be so? Do we not know from the difference of man's nature and woman's nature that it will be so?

Second, I laid down the proposition that the elective franchise was a privilege, not a right. Has it been proved to be an inherent right? On the contrary did I not show that this doctrine, first announced in the Declaration of Independence, that "governments derived their just powers from the consent of the governed," is subject to such modification as to lead our statesmen to exclude women from expressing their consent?

Third, have they proved that the great mass of women of voting age are not already sufficiently represented in politics by husbands, fathers, sons, or brothers?

Fourth, that in the case of unmarried property owners, have they proved that there is discrimination made against woman in the matter of taxation? And here let me refer to this great clamor of theirs about taxation without representation. The married women have without representation, those who are unmarried and are property owners. I went so far as to say that if gentlemen who intended to enfranchise these, I had no serious objection, because it would meet the demand for no taxation without representation, and the number would be so few as not to materially interfere with the welfare of society or domestic peace. But I argue that there was no real occasion for this, for the reason that women in taxation are not discriminated against, that there was no possible means by which they could reduce taxation, and therefore, even this much of a concession was not necessary,

Fifth, have my opponents proved that the principle upon which franchise has been hitherto extended, was for the purpose of protection, and has never been granted because of intellectual equality? That is the principle upon which franchise has ever been granted, for protection against oppression; and notwithstanding all the talk about oppression and tyranny, there has not been an instance of oppression and tyranny produced that would lead us to say that woman ought to have enfranchisement to protect her from man; in other words, men and women are not natural enemies, one needing protection against the other; but that they are on the very best of terms. The fact that they marry proves it.

Sixth, have my opponents proved that the steady refusal of statesmen to grant woman the elective franchise for the past two hundred years was unwise? All change is not progress. All the customs that have been bequeathed

to us by antiquity ought not to be stricken down, because some customs ought to be. Some of these customs, sir, are monuments, that bespeak the wisdom of our ancestors, and we ought to have a decent respect for them.

Seventh, have my opponents pointed out how women are to work the wonders and the reformation that they will when given the ballot? Have they told us what laws women would change, or what law is desirable to change? Have they explained to us in what manner they will be able to elect all good men to office to administer the laws?

I have heard nothing of all this. These, I take it, are the arguments that ought to have occupied the attention of my friend, and it would have been more effectual than to undertake to break their force, by an attempt to debase me. He gave us a beautiful reference to the forces of Wellington and Blucher. Why, sir, had Wellington and Blucher led the grand army of France alone, had they ceased to pursue the old guard and turn all their attention to capturing the "Little Corporal," it is quite possible that under Ney or some other mighty leader the broken army might have been gathered together through the night and hurled with renewed force upon the British and the Germans the next morning, and we would have had another history for Europe than that we have now. The gentleman made a mistake in pursuing his Napoleon and leaving the grand old guard of his arguments to live and meet him here again to-day. [Applause.]

I might, sir, before this discussion had proceeded so far, have had some timidity about the position I assumed and the arguments I advanced in support of it; but after throwing them out here for the inspection of this intelligent Convention, with champions arrayed against them, whose eloquence and power of analysis were sufficient to point out the fallacies in them if they exist; since, sir, I say, the attempted argument was abandoned and I was singled out for their pursuit, I stand here to-day more firmly convinced of the correctness of my position than ever before in all my life. [Applause.]

Next, I must pay a little more attention to my expediency argument, which I thought was sufficiently explained, having given reasons why I introduced the question of expediency; and yet it seems there is one member who spoke this morning on that subject that did not understand it, and this gives me a double justification for going into the matter again. Is my argument upon this branch of the subject answered when men get up here and mock my fears and tell me that my apprehensions are ill-founded? Are they ill-founded? Let us consider it. What means the interest that is suddenly awakened in this subject? Why are these halls crowded? Why are mass meetings called? Why is the press of this Territory warning you members of the Convention by giving voice to the fears that I have the honor to express on the floor of this house? I read, sir, from the Ogden Standard of March 29th, a few lines of its editorial:

> A few days ago the Standard warned the Constitutional Convention that it would be exceedingly dangerous for the acceptance of the Constitution if it had to run the gauntlet of high taxes, prohibition and woman's suffrage. In an impassionate though logical speech, Delegate Roberts took up the fight upon the lines marked out by the Standard, and opposed incorporating the equal suffrage clause in the Constitution. Mr. Roberts declared, as the Standard had already done, that equal suffrage in the Constitution would do much to defeat it with the people and would be the excuse why Cleveland would not accept it. Reference was also made to the lingering idea that some antediluvians still foster that the Mormons would act with bad faith. While we do not share this sentiment in the least, it is well to anticipate the effect it will have at Washington.

You will understand that this is only one editorial out of a number that have been written in the same line. Now, I call your attention to a publication

printed in this city under date of March 30th, in the paper known to you all, the Salt Lake Argus, from which I will read a few extracts:

The article relating to elections and rights of suffrage (the woman's suffrage plank) was received and debated with an energy and a vehemence that left no doubt as to the position of those who participated. The debate gave the politicians a glorious opportunity for scoring records, which will be of some benefit to them in the sweet bye and bye, but of the many known opponents of the measure conferring the elective franchise on women, only a few had the courage to express their honest convictions and sound the note of warning, which, if not heeded, will, it is predicted, result in a political strife beside which the contentions of the past will sink into insignificance. The minority in its report voiced the fears of over 30,000 of the people of Utah, that if the privilege of voting was restored to the women of Utah only a short time would elapse before the old political conditions would exist and of necessity the old contentions be revived. It called attention to the fact that it has only been a few years since Congress withdrew the privilege of voting from the women of Utah because in the friction between the nation and the ruling power in Utah the sympathies and devotion of the women all bending in one direction, in the judgment of Congress, made it necessary to take suffrage from them in order to begin to place this Territory in harmony with the Union under her laws. The hand of a politician did not write nor the brain of a schemer conceive those plain Anglo-Saxon sentiments. The fears expressed therein are held by men who acquiesced in the insertion of the woman's suffrage plank in the platforms of the two political parties; they are voiced every day by hundreds of men on the streets of Salt Lake, they are entertained by almost every Gentile in the Convention, and yet a Mormon led the fight against it.

Not more than four years ago, in a public political meeting, a prominent lawyer declared that if the scheme to disrupt the liberal party was successful, there were but three plans for the Gentile portions of Utah's population to pursue, submission, emigration or revolution. It is evident from the attitude of the Gentile members of the Constitutional Convention, and from the apathy shown by the opponents of the measure, that the plan of submission has been adopted. Men, during the years that have passed, have been the tutors of the masses in politics, in this Territory, men who, with pen and voice, have inflamed the Gentile mind against the dominant people; men who schemed, not at all times honorably, to disfranchise men voters, and who succeeded in depriving women of the right of suffrage; men who have stumped the Territory having for their principal ammunition the woman's suffrage issue, and in language lurid depicted the ruin that would be wought to Gentile industries if it again should prevail, and who even now in secret voice their distrust of Mormon sincerity, and at all times openly denounced their alleged duplicity in matters political, sit silent in that Convention and by their silence stultify what many of us have imagined heretofore were honest, patriotic, and unselfish records. None of the old time leaders have had the courage to express what are undoubtedly their convictions, but instead, like captives at the stake, sulk, and by their assumed fortitude expect to gain sympathy from their once blind followers, on the ground that no effort of theirs can ward off the threatened calamity. The Argus understands that a tacit agreement was entered into by many of the Gentile republicans, not to fight or vote against the measure, and in defense of their position they have raised the baby cry that not a single protest or remonstrance had reached the Convention in proper form. They forget that had they met the issue as honest men and not avoid it like scheming politicians, there would have been ten thousand men and twice that number of women and children wishing them godspeed. That even the pulpiteers would have stopped long enough in their mad race for the prohibition cup to have voiced their opposition; that a sentiment would undoubtedly have been created throughout the country that would have caused at least a temporary shelving of a measure, which, if successful, will undoubtedly be a bar to the State's progress, and an excuse for waging the old fight on the old lines; that they would have earned the plaudits of all respecters of manly courage and escaped the just sneers of men who have heretofore looked upon them as honest and sincere foes—as men who have battled for what they conceived to be the right and the achievement of that which would redound to the benefit of all and not to their personal political advantage.

This committee, in language that neither you nor I approve, pointed out this danger. This comes in confirmation of it. Read this morning's paper on them. The Salt Lake Tribune warns you of this danger. Even the Herald

has begun to move sufficiently to confess that a clique exists to prevent the attainment of statehood. These voices that you hear from all parts of the Territory warn you of the danger into which I believed from the first you were running, and it is idle to close your eyes or your ears to these circumstances. You may as well, like brave men, look them in the face and prepare against the evil day. I hold in my hand a bundle of letters and dispatches from all parts of this Territory, one from the chairman of the democratic meeting in Ogden, informing me that two-thirds of the people of Weber County are against this proposition. [Applause.]

Mr. KIMBALL (Weber). I believe he is right.

Mr. ROBERTS. They join, both democratic chairman and republican chairman, in asking you to delay action until the sentiments of the people may be voiced in Ogden City tonight. It is folly to tell me that there are no grounds for these fears. I wish to say further that it is not alone this fear that concerns me. I want statehood for Utah first of all. The gentleman from the fourth precinct, (Mr. Whitney) refused to accord to me the position of a Horatius at the bridge; I am not Leonidas in the pass of Thermopylæ. I am not a hero fighting for freedom. That sir, may be true. I only ask this, as my standing in this Convention, an honest man, who asks that statehood shall be worked for in behalf of the people of Utah, and secured, and I believe that that is the first essential to liberty for our people, and for that I mean to contend, and ask this Convention to remove even the pretext that men erect as an excuse for acting against it.

Gentlemen say that if we cannot have statehood with suffrage, they prefer territorial vassalage to a statehood that would not permit suffrage! Woman's suffrage is your only battle cry of freedom! Statehood must be relegated to the rear, and gentlemen, with eyes shut and teeth set, are determined that, statehood sink or swim, they are going to have suffrage. If it should come to a question in reality and in truth as to whether we should have suffrage or statehood, they demand suffrage in preference to statehood without it.

You will pardon me now and not take offense at what I am going to say; if you get excited, hold on to your chairs; it is only this—I am taught by my eloquent friend from Salt Lake, of the fourth precinct—that if, in spite of all the dangers that exist, you will rush on and have suffrage, whether or no, I want to tell you, that it would not be even bull sense, it would be bull folly! Pardon the coarseness of the remark, I learned it from my poet delegate. [Applause and laughter.]

There is another gentleman to whom I must pay my respects. I cannot accept the views expressed on the floor of this Convention in relation to duties of the representatives of the people. The remarks of the gentleman from Salt Lake (Mr. Varian) who laid down as the political law that a delegate had no choice but merely to voice the sentiments of the people who make him their representative, I think I were mistaken. I am not unmindful of the fact that his political experience is such, his wide practical knowledge of the affairs of government is so much greater than mine, that I ought to defer to what he said upon this subject, upon which he has special information, of course; but he will bear me out when I say that leaders of political thought and men who have been in representative life take different views upon that subject. There are some at least who do not believe a delegate becomes a stick, that he does not rise above the condition of an agent to carry out the wishes of his constituents. Among that line of statesmen who claim for themselves a wide margin for the operation of judgment upon which to act for the good of their constituents,

as circumstances arise—a man who stands at the head of that school of statesmen—is no other than Edmund Burke. Let me read to you what he has said upon the subject:

But authoritative instructions, mandates issued, which the member is bound blindly and implicitly to obey, to vote, and to argue for, though contrary to the clearest conviction of his judgment and conscience, these are things utterly unknown to the laws of this land, which arise from a fundamental mistake of the whole order and tenor of our constitution.

Parliament is not a congress of embassadors from different hostile interests; which interests each must maintain, as an agent and advocate, against other agents and advocates; but parliament is a deliberate assembly of one nation, with one interest, that of the whole; where no local purposes, no local prejudice ought to guide, but the general good, resulting from the general reason of the whole. You choose a member indeed; but when you have chosen him he is not a member of Bristol, but he is a member of parliament. If the local constituent should have an interest, or should form a hasty opinion, evidently opposite to the real good of the rest of the community, the member for that place ought to be as far as any other from any endeavor to give it effect. I beg pardon for saying so much on this subject. I have been unwillingly drawn into it. But I shall ever use a respectful frankness of communication with you. Your faithful friend, your devoted servant, I shall be to the end of my life, a flatterer you do not wish for.

The peculiar ideas pertaining to the duties of representatives of the people held by some have reduced our Congress, our legislative assemblies, to a most degraded condition. It is this idea advanced upon the floor by this gentleman that has brought into existence those hybrids in politics, bounty-paying, high-tariff democrats, and free-trade republicans, until, when Congress meets, you find men struggling for the advantage of their own particular district, and your representatives become mere politicians, fawning at the feet of their constituents, without the courage to look over the whole land and like statesmen declare what would be the general good and legislate in its interest. Statesmanship is being sunk into the pool of mere political clap-trap.

Mr. EVANS (Weber). You would not apply that to the gentleman from Ogden, I suppose?

Mr. ROBERTS. No, sir.

Mr. EVANS (Weber). There you say two-thirds of the people want woman suffrage?

Mr. ROBERTS. I am speaking upon the general principle in this connection and I have done so for the reason that I wish to call attention of members——

Mr. VARIAN. Will the gentleman permit me a question before he leaves that subject? With permission of the chair.

Mr. ROBERTS. Yes, sir.

Mr. VARIAN. Is it not true that in England candidates for parliament make their own platforms, and announce themselves to the electors of the respective districts as willing to stand on the platforms they have written, and is it not also true that our system of nominating candidates and directing party policies is entirely different?

Mr. ROBERTS. I grant the gentleman that the custom is largely as he has stated it; but in addition to that also, their exist political parties in England, which also have platforms, and if not written, are none the less real on that account; and both the individual platforms and the general platform of the party to which he belongs influences his conduct. Now, sir, upon this point it occurs to me to say that what we need is men who shall have the courage to stay the headlong force of their constituents if they see that it is running into danger. I grant you that members are elected to Congress upon well settled principles, not novelties, not fads, and when these fads and novelties find their way into political platforms, and members become convinced that it would work mischief to the constituency, we want men that shall have the courage even to offend

their constituents, if necessary, to arrest the progress of the evil.

I wish now, briefly to refer to the manner in which suffrage came into the platforms of the parties. In my first speech I charged that there had been no anterior agitation of this question of suffrage; it was based upon the idea that was supposed generally to prevail, that it was a pet subject universally accepted in this Territory when the republican party met in convention, it was confronted by this fact—and if I speak of Mormons or Gentiles I want it understood that there is nothing opprobrious either in the one name or the other to me; I use them simply for distinction; but the republicans were met with this condition, that the great majority of their members were also members of the old liberal party; it was anxious of course to increase its membership and gave a welcome to all their Mormon friends to come into their party, which of course, was strictly right and proper. One of the means to attain that end was the consideration and final adoption of that plank on suffrage.

There has not stood upon this floor, I think with the exception of one man, and he told us he was not present at the convention, who has said I was mistaken, and that suffrage was introduced into the party platform purely upon the love of the principle of it. On the contrary, members in private tell me that the one consideration was—how will it effect us practically? And it was decided that it was the only way of salvation for them. Thus they adopted it in language which technically is equivocal, not that they intended it to be so. I accept the statements of the gentlemen here that it meant woman's suffrage in its broadest sense, but you will observe that the language is, "we favor equal suffrage for women." That might mean that so far as suffrage should be granted all women should enjoy it alike, without saying that it meant equal suffrage with men. And then again it did not say how far it should be granted. Our democratic caterers, and caterers they were, because I believe what they say in regard to it—undertook to make themselves solid with the Mormons—because it is notorious that the great majority of the rank and file of that party are of the Mormon faith—they undertook to outbid you republicans and to stand solid with those who were supposed to be in their ranks. Nobody had contradicted these statements on this floor, or denied that it was in this manner and for political capital that this stand on suffrage was taken. Now, with these as the uncontradicted facts in this case, you come into this Convention, where you are laying the foundation of the new State, and undertake to tell me that no matter what dangers may look up, no matter what mighty crags may be thrown up in the sea over which we are sailing, you are going to stand by those platforms, as if they contained all of God's truths. Do you know why you are going to stand by them? I will tell why you are going to stand by them. The republican members of this Convention are going to stand by them to the last inch—and you will have the pleasure of voting me into silence this afternoon on this proposition—we will be through with it, and I know now well how your votes will go—you republicans who will vote in the affirmative for woman's suffrage will do so because you are afraid that if you shrink one poor hair's breadth from the position you have announced, you will put into the hands of your democratic opponents a club with which they will belabor you next fall in the campaign, worse than the prophet belabored Balaam's ass. [Applause.]

I will tell the democrats why they refuse to budge on the question of suffrage, and that is this: if they do not stand pat upon this proposition and

vote for it to its desperate conclusion, you republicans then will have the club and they expect no mercy at your hands. Those are the conditions, gentlemen, that are operating, and would you believe it, my friend who has inherited his opinions on woman's suffrage, and of course there is no use arguing against hereditary opinions, paid me the doubtful compliment that possibly I had been selected by the democrats as a decoy duck, for the purpose of leading you republicans astray and getting you to go back on your records on this proposition and then when done, the democrats could say, "Roberts did it; the democratic party didn't do it;" and hence they will belabor you.

Another thing has been said. A gentlemen whose honor could not be questioned and whose character would place his word beyond all suspicion of doubt, told me only last evening that a member upon the floor of this Convention said to him that it was his opinion that all I was doing was simply for a blind; that I had been by church authority ordained and set apart unto this work, that I was not sincere in my opposition to woman's suffrage. The studied assault of my friend from the fourth precinct, though his arrows were pointed, and though his comparisons were coarse and offensive, if one chose to look upon them so, said nothing that could so wound my feelings as the charge that I am not sincere in that which I have done upon the floor of this Convention. Of all the cowardly, of all the contemptible creatures on earth, that man is he who in such an assembly and on such an issue as this could consent to act such a part. Men ought to shun as the vilest and uncleanest thing on God's footstool, a man who could consent to do that. I am in earnest. My God! don't you see that I am terribly in earnest? It is a question of the liberties of my people among whom I have been reared. [Prolonged applause.]

I have but little more to say. I am about ready to be buried by your votes on this question. But if there is no appeal can be made to the members of this Convention, I will make one more appeal to the women of this Territory. It is within your powers to avert the dangers that threaten us; I care not if it does endanger statehood, it does endanger the future peace, it does endanger the stability of the coming State. Let in this large influx of women into the political arena, and the disgruntled party, whichever it may be, will assign ever and anon as the cause of their defeat, the interference of ecclesiastical authority with women. I know it will be the case and you know it. It means bitterness, intense strife, it means ebullitions of wrath, it means unsettled conditions in this Territory, whether it defeats statehood immediately or not. Why, we were doing famously before we began playing the tricks of politicians to gain power and votes. Men were getting together, the old struggle was being given up. Good feeling was being engendered, and now this must needs come in to disturb our peace and threaten the stability of the State whose foundations we are supposed to be laying. Therefore, in consequence of this, let me say to these women who are agitating the subject, I want to tell you and them now, in frankness, that from the great mass of women of this Territory there comes no spontaneous, heart-felt demand for woman's suffrage. I know what whips and spurs have been used to drag women into these woman's suffrage meetings in my own county. The demand is not spontaneous and widespread, notwithstanding your petitions. We all know how petitions may be brought in and piled up—such a thing is easy enough. When you bring in a petition signed by five hundred, two hundred, one hundred and fifty, the list looks long, but remember it does not to contain forty thousand names or scarcely a fraction of them. We want

to remember how numerous are the class we propose to enfranchise, some forty thousand. Now, to these ladies who are agitating this question, I say this: release these men from their obligations, since they, because of political effect, dare not do it, lest they should lose one of the tricks in the game of politics being played upon this floor. Release them, I say, and save us from this impending danger.

Oh, I thank you with all my heart for your kind attention. [Prolonged applause and cheers.]

Mr. RICHARDS. I desire before the delegate from Davis County takes his seat to ask him a question. I ask the delegate if it be true as he said that the apprehensions exist to the extent that he says they do, if there is the danger that he has stated of this great mass of people being influenced by improper motives—if all these things are true, is it not true that the people of Utah are not prepared for statehood, and is it not the course that we are taking, if it be, as he says, the course that will defeat statehood—is it not the only course that leads to honor on the part of the people of Utah, assuming that his premises are correct?

Mr. ROBERTS. Answering the question of the gentleman, I take advantage to say that perhaps in the rush of the discussion I neglected to say that the fear that there will be improper influences used in the future politics of this State is not my fear. Let that be distinctly understood. I do not for myself apprehend it. I only take this position that I do know that it exists. Not with me, but with a very large number. The fact that this gentleman on my right from Salt Lake can come here and say that by request of some 500 people he introduced a proposition that would submit the question of woman's suffrage as a separate proposition is another evidence that such fear does exist. I ask you to understand that I do not share that apprehension, but I cannot close my eyes to the fact that it does exist, and since it does exist, the gentleman must draw his own conclusions as to whether statehood ought to be obtained in the face of it. For my single self I say that we want statehood; I would remove this pretext, I would silence this outcry, I would seek to beget confidence by frankly saying, "we will remove this obstacle—the pretext." Gentlemen do not share that opinion with me, they call it cowardly, but it makes no difference how they may stigmatize it. I believe that it would be the proper thing to do, because, the first thing that the new State of Utah wants is confidence in all classes of the people, and we can well afford to defer final action upon this proposition of woman's suffrage until conditions at last are settled; and who knows but what if the gentlemen will do proper missionary work, and if not able to convince me themselves, will introduce me as a pupil to their aunts [laughter] that possibly I too might be converted and help work for the enfranchisement of woman.

Mr. RALEIGH. Mr. Chairman, I move that the committee rise and report.

Mr. RICHARDS. Mr. Chairman, I rise to a question of personal privilege.

Mr. CHIDESTER. Mr. Chairman, I arise to a point of order. The motion that was made to go into committee of the whole was amended to read so that we might remain there until we decide this by a vote.

Mr. EVANS (Weber). Until we dispose of section one.

The CHAIRMAN. The chair understands the point of order to be well taken. That motion was passed this morning.

Mr. RICKS. Mr. Chairman, I move that the house be cleared and that the members who are outside be allowed to come to their seats.

Mr. RICHARDS. Mr. Chairman, I desire a word as a matter of personal

privilege. Having asked the gentleman from Davis a question, and that question not having been answered, lest there be some misunderstanding as to my motive in asking the question, I desire to say that if the conditions exist that the gentleman portrayed, however much the people of Utah wanted statehood, they do not want it and they cannot afford to take it by a trick and it would be dishonoring on their part to take it in such way as that.

The CHAIRMAN. The chair understands that the gentleman answered the question.

Mr. EVANS (Weber). Mr. Chairman, I would desire to move an amendment to the motion. It would create a great deal of confusion to clear the house, and I would therefore move that the chair appoint three tellers to count and announce the vote to the chair.

The CHAIRMAN. There has been nothing shown to indicate that it is necessary to call in absent members. They are supposed to be in their seats until some information to the contrary is given.

Mr. EVANS (Weber). Mr. Chairman, I desire to withdraw the motion I made, and I believe we can have unanimous consent to call the ayes and nays.

Mr. KEARNS. Mr. Chairman, I move we take a recess until two o'clock.

Seconded.

Mr. CREER. Vote the motion down.

Mr. KEARNS. And the house can be cleared then and the sergeant-at-arms can get the members in and we will have a square deal.

Mr. CHIDESTER. Mr. Chairman, I arise to a point of order, for the reason that the motion was made when we went into committee of the whole that we remain until this question was disposed of by vote.

Mr. VARIAN. Mr. Chairman, the motion was certainly carried, but as I understand it, it does not have the scope given to it. The motion as carried, as I understand it, was that the committee should not rise until a vote was taken. A motion to take a recess does not conflict with that motion. We are not supposed in voting for that motion to contemplate the possibility of staying here all night or going without our dinners or lunch, as the case may be.

Mr. BUTTON. I ask that the motion be read. I took it just as Mr. Varian has explained it.

The CHAIRMAN. The ruling of the chair is that the session must be continuous until this question is voted on.

Mr. EICHNOR. I believe my amendment or substitute, whatever you may choose to call it, should be voted on first.

The CHAIRMAN. Yes, sir.

Mr. EICHNOR. I would ask unanimous consent of the house that after the amendment is read and the question is put we can vote on it by a rising vote.

Mr. BUTTON. Mr. Chairman, I voted to go into committee of the whole, and therefore, I move to reconsider that motion.

The CHAIRMAN. The motion to reconsider, the chair rules to be out of order at this time.

The question being taken on the substitute of Mr. Eichnor, the committee divided by a vote of 28 ayes (noes not counted.) The substitute was declared to be rejected.

Mr. RICHARDS. Mr. Chairman, I ask the result of the vote. Now one side has been given.

Mr. LAMBERT. Mr. Chairman, is another motion in order now?

Mr. RICHARDS. Mr. Chairman, I will withdraw my request.

The CHAIRMAN. The question will now recur upon the amendment offered by Mr. Kiesel to section one of the article on elections and rights of suffrage.

The substitute of Mr. Kiesel was rejected.

The CHAIRMAN. Section one, gentlemen, is now before you for further

consideration. If there are no further amendments to be offered to this section, it will pass under the rule to its third reading.

Mr. RICKS. Mr. Chairman, that disposes of the question. I move we now arise and report progress.

Mr. RICHARDS. To put it beyond doubt, I move that the first section be passed upon by this committee.

Seconded.

The CHAIRMAN. Under the rules that have been heretofore adopted by the committee, this motion is entirely unnecessary. I believe that no section in any of the articles considered has been thus voted upon separately. The chair rules that unless there are other amendments to be offered to this section, it will pass to its third reading.

Mr. LAMBERT. Mr. Chairman, I have an amendment here I want to offer for section one.

Mr. BUTTON. Mr. Chairman, I move we take a recess until two o'clock.

Mr. JAMES. Half past two, it is now almost one o'clock.

Mr. BUTTON. I accept that.

Mr. KIMBALL (Weber). Mr. Chairman, I now raise the point of order that you cannot take a recess until this article is passed on.

Mr. EVANS (Weber). That is right, we must pass upon that section before we——

The CHAIRMAN. The chair rules that unless there are other amendments to this section, it is passed to its third reading.

Mr. LAMBERT. Mr. Chairman, I have offered an amendment there. I would like to say a few words.

Mr. CANNON. Mr. Chairman, I arise to a point of order.

Mr. VARIAN. Is there a motion for a recess?

The CHAIRMAN. Yes.

Mr. VARIAN. Well, that takes precedence.

The CHAIRMAN. The gentleman rises to a point of order. The chair was on the point of putting it.

Mr. CANNON. I did not understand the chair was going to put a motion for a recess. I understood you were considering this amendment. My point of order is upon that subject.

The CHAIRMAN. This amendment was offered after the motion to take a recess until half past two o'clock had been made.

Mr. HART. Mr. Chairman, before you put that motion, the chair ruled that it was not necessary to put to vote the question on this section. I desire to call the chair's attention to the fact that we have only passed the section where there has been no objection to it. I say, Mr. Chairman, that the question should not come up on section 1. Further, in regard to this motion to take a recess, I arise to a point of order on that as not being in order in the committee of the whole. We went into committee of the whole, Mr. Chairman, with the express understanding of disposing of section 1 before we arose. A motion to take a recess has the effect of a motion to adjourn. If not, then it is not in order while another motion is pending. The motion of Mr. Lambert of Salt Lake was before this house.

Mr. BUTTON. Mr. Chairman, I arise to a point of order. My point of order is against the point of order he is making.

The CHAIRMAN. He has not concluded his point of order.

Mr. HART. I simply desire to say that there was a motion of Mr. Lambert to amend this section. In the first place, the section that we went into committee of the whole to consider has not been disposed of, and that has not been the practice of this committee as I understand it. It was only when there was a unanimous consent or acquiescence in the proposition that was considered to be passed. I say, Mr. Chairman, that this motion to take a recess is simply in the nature of a motion to

arise. It is in the nature of adjournment and is not in order in committee of the whole unless it be considered as a motion to arise.

Mr. RICHARDS. Mr. Chairman, I insist that my motion is——

Mr. BUTTON. Mr. Chairman.

The CHAIRMAN. Mr. Button has the floor.

Mr. BUTTON. My point of order is that the chairman of this committee decided this question before the gentleman raised his point of order, and the only way he can do it is to take an appeal from the chair.

Mr. CREER. Mr. Chairman, I move an appeal from the chair on that question.

The CHAIRMAN. The position the chair takes is, that during the debate of this whole question for nearly a week, the rules have not been strictly adhered to. The chair takes this view of the question, that the purpose which was sought to be accomplished in the motion which was made this morning to dispose of this question has practically been effected, and that the motion to adjourn or take a recess until half past two o'clock is now in order.

The committee then took a recess until half past two o'clock p. m.

AFTERNOON SESSION.

The CHAIRMAN. Gentlemen, section 1 of the article on elections and rights of suffrage is before you for consideration.

Mr. RICKS. Didn't I understand we had passed section 1 this morning?

The CHAIRMAN. No, sir; there is an amendment offered by Mr. Lambert.

Mr. LAMBERT. I withdraw that amendment.

The CHAIRMAN. The amendment being withdrawn, if there are no further amendments offered to section 1, it will pass to its third reading.

Section 2 was read.

Mr. RYAN. Mr. Chairman, I will move you to amend section 2 by striking out from the fifth and sixth lines, after the word "county" in the fifth line, the words, "and in the precinct sixty days," and insert in lieu thereof, the words, "and precinct," so that the section would read, "Every citizen of the United States of the age of twenty-one years and upwards, who shall have been a citizen for ninety days, has resided in the State or Territory one year and in the county and precinct four months preceding any election, shall be entitled to vote at such election, except as herein otherwise provided."

Seconded.

Mr. RYAN. I would explain my reasons for moving my amendment, that it has been my experience in elections that the bad influence or the dishonest and irregular matter that come up in elections are from the floating vote, and that establishes a longer probation before the right to vote; I think that that provision would provide against any colonization schemes or the dishonest use of the elective franchise. That is, it would avoid the nomadic tribes as you might say, and we would have a better and fairer election.

Mr. HART. Mr. Chairman, I trust this amendment will not prevail, because in many instances I believe it would work a disfranchisement of citizens. The operation of that amendment would be simply this, that a man living within one of the political precincts of Salt Lake City would not be permitted to change his residence during a period of four months of the year, upon the penalty of being disfranchised at the coming election. I am not in favor of colonization or anything looking in that direction. The laws we have had heretofore require a residence of thirty days. The proposition as it stands increases that to sixty days, and I think this is sufficient to prohibit a man from changing his residence during a period of sixty days, and if he desires to rent a house in this locality or if he has been boarding in one region and

happens to build himself a home in a certain portion of the city, he should not be compelled to either refrain from moving into his chosen habitation or lose his right of suffrage in the coming election. I believe, Mr. Chairman, that sixty days will be a sufficient safeguard to prevent any possible scheme of colonization, but I think when you come to extend it to four months that you are going altogether too far, and it would prevent men from living in a locality that they might choose during that period of time and it would be subserving no good purpose. I trust, Mr. Chairman, that the motion will be voted down.

Mr. BOWDLE. Mr. Chairman, our campaigns here do not last over sixty days. I don't take it there is very much colonization that will take place before the candidates have been nominated. I would not wish to disfranchise any honest voter, and I can see how this would do that thing, and I am not certain that it would be much more effectual for the purpose for which the gentleman offers it than the section as it stands. I favor the section, so far as that amendment is concerned, just as it stands.

The amendment was rejected.

Sections 3 and 4 were read and passed without amendment.

Section 5 was read.

Mr. PAGE. Mr. Chairman, I move to strike out section 5. It is covered by the first three or four lines of section 2.

The motion was agreed to.

Sections, 6, 7, 8, and 9 were read and passed without amendment.

Section 10 was read.

Mr. ALLEN. Mr. Chairman, I move to strike out all of section 10.

Seconded.

Mr. ALLEN. We have made considerable on this floor about taxing people without representation. Take a man that may have come into the Territory last year and because he happens to be one year ahead of another man to say that he may vote because he happens to be here a little before another one, and to say that a man shall not vote because he has not happened to be in the State quite soon enough. Now, we have plenty of honorable men—we can judge those that may come by those that are here. We have plenty of men that are honest and straightforward men and that pay a good tax, and to deprive men of that class from voting, it is not fair, it is not just. You take the men that will come after this Constitution is adopted from other states or territories, and if he is a man that will sell his vote for a glass of beer, he may vote simply because he can read the Constitution, and whereas a man that comes in after the adoption of the Constitution may be an honorable man—a man that pays a heavy tax——

Mr. BOYER. Mr. Chairman, I move you that Ex-mayor Gale of Springville be accorded the privilege of a seat on the floor of this house.

The CHAIRMAN. If there is no objection the gentleman will have the freedom of the house. I want to suggest that the gentleman might either be brought in quietly or else wait a few moments and not interrupt a speaker right in the midst of his debate for a question of privilege of this character.

Mr. ALLEN. As a rule I believe that the men who are educated are more apt to be men that are not living by the sweat of their brow; as a rule they are not men that linger around saloons or around cities, wishing to sell their vote. They are more apt to be out in the country at work, improving the country, making more taxable property in the country, therefore, I am in favor of striking out this section.

Mr. ENGBERG. Mr. Chairman, I am opposed to this section being a part of the Constitution for several reasons, and one is that the naturalization laws of the United States do not prescribe that condition for citizenship or for the

right to vote. It seems to me that it is good enough for the State of Utah to be as good as the general government and that it is not necessary that the State of Utah be any better to commence with. In other words, I believe that that stricture should not be imposed that will deprive many honest and worthy men from exercising the right of franchise in our State when we get that far. I do not consider that to be able to read the Constitution of the United States or to read anything is a qualification that amounts to much, although education is a worthy attainment; but we should remember that among rogues in the world, we find those the most dangerous who can read and write or who have received a very liberal education. There are many men to-day living with us who have taken out their first papers, and to that extent are citizens of the United States. At least, they may become inside of the first door. After this shall pass and we reach the point of elections in the State of Utah, those men will be shut out and disfranchised, as it were—deprived of voting upon any questions that affect or would affect their rights. Again, by adopting this section we would relegate white men below the negro, for though he can not read or write he is not denied the right to vote on that account, and I believe that it would be disgraceful for our State to be stingy and to be small in any respect. I believe that we should be liberal enough to grant many of these noble, worthy men that have labored and toiled for many years—allow them to have the right that those who have come from foreign countries and perhaps cannot read or write, but those under this section would not be deprived of the right to vote, but would retain it. Now, I claim that we should be on an equal footing. That there should not be one class of citizens humiliated below another in our State.

Mr. THURMAN. Mr. Chairman, I favored this section in the committee and am inclined to favor it now. When this bill was reported the Tribune made reference to it and stated that the object of this section was to wipe out the democratic vote. [Laughter.] Now, I will ask my colleague from Utah County if he is objecting to it on that ground. Of course, if I thought it would have that effect I would favor this amendment, but as I think that the section as it stands will not work a hardship in very many cases, and such cases as it will work a hardship in are cases where it ought to work it. Now, who is entitled to vote now or at the time of the adoption of this Constitution that will be deprived of the right of franchise by this section? It only requires them to be able to read the Constitution of the United States. It does not even require them to read it in the English language. If the person can read it in his own language that is sufficient.

Mr. EICHNOR. Is that the intent of it—that if a man can read the Constitution in his own language—Russian, for instance, it would be sufficient to give him the right to vote?

Mr. THURMAN. No; if he can read the Russian constitution, and the United States in addition to that admits him to citizenship, and he has resided here for one year, he would be admitted under this section, as it stands, but under the section as proposed, it would admit him even if he could not read the constitution of his native country or in his native language.

Mr. EICHNOR. If he could read the Constitution of the United States in his native language, which would be Russian in this case, that would be satisfactory?

Mr. THURMAN. I understand that is the way the section would be construed.

Mr. DRIVER. I would like to ask Mr. Thurman a question. Now, I am acquainted with a very eminent man who

formerly lived in Davis County, we may say the founder of a city there. He has left the Territory for a number of years, and that gentleman cannot read or write, and yet he is one of the most progressive business men that we ever had in this Territory. A man possibly that has no equal on this floor or in this whole Territory. Now, he has left Utah for a certain number of years and resided possibly in Arizona and New Mexico; he desires to change his residence, he goes back to the city that he has established, to the country he has improved and built up, and because he cannot read or write the Constitution, would he be deprived of his vote under this section?

Mr. THURMAN. That is a pretty long question. It comes very nearly partaking of the qualities of a speech right in the middle of my remarks. I wish to say this, however, that this Convention cannot possibly legislate for the friend of the gentleman from Weber County or any isolated case. Now, if there is a remarkably large class of people, such as he speaks of, or quite large, there is a foundation for it, but I maintain, Mr. Chairman, that it will affect but very few and the tendency will be to teach our boys that before they can exercise the privileges of citizens of the Territory of Utah and become voters, that they must at least learn to read sufficiently to read the Constitution of the United States. Here we propose to establish an elaborate school system to educate these young men and at the public expense, and I am looking to them more than I am to the foreigner, and the effect upon them will be good for the new State. It is intended to save every right that exists at the time of the adoption of this Constitution—impair the right of no man, but the future must take care of itself, and I think that the section ought to remain.

Mr. GOODWIN. Mr. Chairman, has not the thought crossed your mind during the last five days that there are too many that can read now? I approve this section, except that I would give a little grace. There are a great many men in the United States who have moved here that cannot read or write. Still they have clearer heads and they have better hearts than a great many gentlemen who can read and write. The right of suffrage ought to be guided by some intelligence. But the men that make the best voters are the best judges. Patriotism has more to do in the wise judgment of the voter than all the knowledge he can get, and for the sake of worthy men who through the misfortunes of their ignorance could not obtain an education, I would like to put this off, to read that after a certain term of years, say fifteen years, no person shall have a right to vote who shall not be able to read the Constitution of the United States. A great many states are like this Territory, they are just preparing for a great educational system. There are tens of thousands of men in the United States between the ages of forty and sixty who cannot read and cannot write, and under this law if they would move here they could not vote. At the same time they can vote more intelligently than thousands of people in many of the states who can read and write. The people of this country do not understand that anything is needed to make a competent voter except an education. Education has spoiled many a good voter. That is, it has enabled him to learn to be a scholar, to learn to deride all governments, to learn to lose faith in his own government. The man whose heart is educated with his brain, the man who when his brain is in doubt is governed by his heart, and governed right, because he loves his country, makes the best voter. At the same time all the children of this country ought learn to read and write, and there ought to be a penalty held over them that they cannot exercise the right of suffrage unless they do learn to read and write, and if the com-

mittee that has this in charge will put these three words in front of the word "no," "after fifteen years from this date no person shall," I shall be glad to support it. As it is I shall have to vote against it.

Mr. CREER. Mr. Chairman, I am in favor of striking out this section for the reason that it appears to me upon its face to conflict with section 8.

(Reads section 8.)

It seems to me that if this was left in there, it would make that more or less nugatory. But upon the principle of fairness and right and justice—the gentleman says there are but very few—I think there are quite a respectable number of citizens who are unable to read and write. I have in mind one or two—one especially in our own town, of our own inhabitants, who is one of the most wealthy men of our city, most exemplary perhaps so far as morality is concerned, and not only that, but charitable; he has no children and has to pay taxes to support the children of those who have to be educated. I think it would be unfair. This is in line with the case the gentleman referred to from Weber County—there are scores of that class of people who are liable to come into our Territory and make very good citizens, who were unfortunate in their early days not to get a good education and have become more or less stereotyped in their habits. They would have to pay taxes and would be in every way qualified as voters, and yet not be allowed to vote. I am opposed to this on principle. I know it is very well to have something to encourage education. I have seen cases that were perfectly ridiculous going through the courts and getting naturalization papers. A man was asked to name some of the states, "Well," he says, "there is Idaho, Montana and Chicago," and he was admitted to citizenship. There are some things that will work an injury, but on the other hand, I think greater injury would be done if we allowed this section to prevail. I am opposed to it because in the first place there are many good citizens who would be able to come in, and there are a great many now who would be held off by this section. I am in favor of striking it out.

Mr. RICHARDS. Mr. Chairman, I am in favor of this motion to strike out. I do not believe that this section should remain in here at all. I am a firm believer in the intelligence and patriotism of the citizens and that the welfare of the State depends upon them, but the intelligence of the citizen or the patriotism of the citizen does not always depend upon the ability of the individual to read even as much as the Constitution of the United States, and for the very reasons assigned by the gentleman from Salt Lake who favors this section with an amendment, I favor it being stricken out because I say as he says, that we are not now ready for it. It ought not to take operation and effect at the present time. I agree with him there, and I say that if the time ever comes when such a provision should be inserted the Legislature will be competent to arrive at that conclusion and provide for it. But on principle I am opposed to it. I think it is not right. I know in my own experience of men who stand at the very head of communities other than those who have been mentioned here in this presence to-day—men who stand as high in the order of intelligence, who have acquired as much wealth and who are respected in every way as much as any citizen in the commonwealth in which they live, who could not comply with this requirement and could not register and vote if they were required to read even the Constitution of the United States. I do not think it right. I do not think it right on principle. I think as I said before that human intelligence is the thing that ought to govern and control, and integrity, and not necessarily this qualification. Now one other

word. One of the gentlemen from Utah who spoke suggested that this would be a stimulus to our youth to become educated; I say that with the school system that we are inaugurating, they will need no such stimulus, they will become educated and qualified, and these cases will be very rare and very exceptional, and they certainly, it seems to me, ought not to be included.

Mr. THURMAN. You say the Legislature can provide for this in the future as it now stands?

Mr. RICHARDS. I say no, if we strike it out.

Mr. THURMAN. Well, if we strike it out, unless we put something else in the Legislature cannot under this Constitution provide for any educational qualification.

Mr. RICHARDS. Well, then, I am all the more in favor of having it stricken out, because I do not think any such thing ever should be provided.

Mr. THURMAN. You do not think it ever should be?

Mr. RICHARDS. No, I do not. As I said before under the school system we have the intelligence of the voter will be provided for.

Mr. SMITH. May I ask Mr. Thurman a question? From what states did this idea come? I was just looking over two constitutions here and I do not see any reference to it.

Mr. THURMAN. My recollection is that that is copied from the state of Wyoming. We got stuck on Wyoming on account of the first section, and we could not get away from it. Only there it is the state constitution instead of the Constitution of the United States.

Mr. HAMMOND. Mr. Chairman, being a tail end member of that important committee on suffrage and elections, I was in hopes when this first section went through that we would surely get along with the rest, for we had considered them all as I thought and given them great attention in the committee. Now, this particular section ten, there was a number of the committee that talked harder for this clause being inserted than a naturalized citizen from Europe. Now, while I agree with Judge Goodwin, I would be tenacious about striking it off so suddenly—to give them a little probation, but I would not want it to extend to fifteen years. This friend, that my worthy friend from Weber County mentions, I know him as well as he does, and if he had spent fifteen minutes a day for a year to improve his mind in reading and writing as diligently as he has in hunting dollars, he would have been an eminent scholar. Mr. Perry once told me his brain was made that way. He said, "My head is made for financiering," and he was a success. Now, I believe I may safely take this position, that I am as old a member in this Territory or a citizen of this Territory nearly as any gentleman on this floor. I have had a vast experience in the class of emigrants that come to this country. I have labored among a large population of Scandinavians for twenty years, and I never knew one of them that could not read and write—not one of them. If I found a deadhead that could not read and write, why it was one among my own nationality; that is my experience. Therefore, I am not in favor of this amendment, unless it should be to put them on probation, say for a couple of years or such a matter, and I believe it would act as a stimulant—as an impetus, to school them in some "book larnin," as the Yankee calls it.

Mr. SQUIRES. Mr. Chairman, the gentlemen seem to have lost sight of the fact that this morning, after several days—pretty nearly a week of debate, we passed section 1, which provides that the rights of citizens of the State of Utah to vote and hold office shall not be denied or abridged on account of sex; both male and female citizens of this State shall equally enjoy all civil, political and religious rights and privileges. We

come here now to the consideration of a section which provides that this section shall not deprive any person of the right to vote who has such right at the time of the adoption of the Constitution? In other words, every ignorant or uneducated man in the Territory who has to-day the right of suffrage will have that right continued to him, but every female who comes in under our proposed Constitution will have to submit to the intelligence clause—to the educational test. Where are the eloquent advocates of equal rights to woman in regard to suffrage this afternoon? We have had plenty of them on the floor here for the last week. Why not provide that they shall be treated in this matter just exactly the same as the men of this Territory are treated? And if we are going to allow ignorant and uneducated men to vote, why shall we not allow the same privilege to women as we have guaranteed to them in the first section of the article. For my part, I come from a state where the educational test is absolutely required, and where no man can vote unless he is able not only to read, but to write, and so far as I am concerned this section would please me if it stopped in the middle of the third line—if only the first clause of that section should remain in the organic law of this State, "No person shall have the right to vote who shall not be able to read the Constitution of the United States," and I would be willing to go a step farther and require that in addition to that he should be able to write also. I do not quite agree with the gentleman from Salt Lake, Mr. Richards, on that question of intelligence. I do agree with the gentleman from San Juan, who says that if this one particular man in whose interest it is proposed to amend the constitution of a state, had given sufficient time to that subject he could probably have been a well educated citizen. A man who has the ability to acquire wealth, as this gentleman has, and found cities, as he has, certainly has sufficient inherent power to enable him to secure an education sufficient to be able to read the Constitution of the United States at least. And besides, Mr. Chairman, just because these men that have been referred to have been able to acquire wealth is no reason why I want to waive any particular section of this Constitution in their favor. We are not legislating especially in the interests of the rich man nor of the poor man, but for all the people, and if we are going to establish, as we have started in to, such a system of public schools as have been provided for in our article that has been referred back to the committee, so that all the children of this Territory shall come up to their manhood thoroughly qualified for citizenship and for the right of suffrage to which they will be entitled, I believe we should make that test upon every citizen who is going to vote in this State hereafter. I take that broader ground that we should stop this section right in the middle of the third line and require every man who is going to vote and every woman who is going to vote in this Territory to have at least that much education that they are able to read the Constitution of the United States. I am not in favor of striking this out, but I would be in favor of striking out all but the first clause.

Mr. EVANS (Weber). Mr. Chairman, I am going to try to be consistent with myself at least on this question of suffrage, and I still say that I believe in broadening the channel and permitting as many citizens to register their votes at the polls as we consistently can. The sixth section of the article provides that all idiots, insane persons, and persons convicted of treason or crimes against the elective franchise, unless restored to civil rights, shall not be permitted to vote at any election or be eligible to hold office in this State. That is quite liberal. A person might be convicted of treason and if his rights

had been restored by a pardon he would have a right to cast his vote at the ballot box upon any election. A person may be convicted of any felony, he may be convicted of murder, burglary, or the whole list of crimes, and still be entitled to cast his vote at any election. There is another class of persons. Those who are guilty of crimes against the elective franchise, who are not entitled to vote unless they shall have been restored by pardon. All these classes of people have the right to vote at all elections under those circumstances, yet we say that if a man happens to be guilty of the crime of ignorance, he shall be excluded from voting at the polls. It has been very wisely remarked by some gentlemen upon the floor that we are more apt to find crime existing among intelligent men—those who are given to reading and writing—than we find among the more ignorant classes. I see no good reason why any man should be excluded from voting simply because he is not able to read the Constitution. How are we to ascertain that fact? I presume the registrar would have to get out a copy of the Constitution of the United States every time any person presented himself for registration and ask him to read it through. If we have any educational qualification at all, I should say that any person who is not able to read should not be permitted to vote, but I should not even favor that. I agree with my friend from Weber County (Mr. Driver), and I will answer the question of the gentleman from Utah, that Mr. Layton would not be entitled to vote in this Territory, should he return, notwithstanding the fact that he founded a city here. I know several people in our section of the country who are ignorant, who are not able to read or write, who own large property interests; they are as good and loyal citizens as those who can read and write. I would not narrow the channel of the franchise. I would broaden it, if anything, as we have done—as the sense of this Convention has shown we have done, and in respect to this class of people, I would say if they could not read or write, I would permit them nevertheless to cast their ballots at the polls. We should rather put limitations and restrictions upon men who violate the penal law, those men who are enemies to the government, those men who secure and receive the attentions of the courts, who require the State to put its hand into its public treasury to pay for the prosecution, than to say to a man simply because he is guilty of the crime of ignorance, he should not vote, when he is a peaceable, quiet, patriotic citizen. My vote will be cast in favor of striking out section 10 in its entirety.

Mr. CHIDESTER. Mr. Chairman, personally I would be in favor of an amendment to this similar to that suggested by Mr. Goodwin, lengthening the probationary period to five years, but the majority did not agree with me on that proposition and consequently it was reported as it is. Outside of that, I see no consistency in the section, except that should the right be given to the ladies of this Territory to vote, any lady who could not read would not be allowed to vote, but the majority of the committee did not agree with me on that proposition. I believe that there should be some encouragement for an educational qualification. I believe that citizenship of the United States means something, and I believe it should mean something to be a citizen of a state and that some restrictions of that kind should be placed upon it, and outside of that, why I should be in favor of the section. I would not question the propriety of putting in a probationary period as Mr. Goodwin suggested.

Mr. KIMBALL (Salt Lake). Mr. Chairman, I was about to motion to strike out this section when the other

gentleman had the floor. I was acquainted with a little child about five or six years of age that could take a book with a picture on one side and the reading on the other, and that child could read that book through, first having the story repeated to it by its mother. Now, it seems to me that any person that has the intelligence to acquire means without the education sufficient to read, could learn or commit this to memory, that is, the Constitution of the United States, by some person repeating it to them and in this way the uneducated could fool us, and I think the whole section superfluous and entirely unnecessary in this place, and while we seek to encourage education by such a means, it seems to me we are going to put the officers of the law in a position of being laughed at by some person that can commit it to memory and recite it.

Mr. CREER. Mr. Chairman, I would like to ask the gentleman a question. Of course I took it for granted the gentleman can read the Constitution. I would like to ask if he can repeat now one section of the Constitution of the United States?

Mr. THURMAN. I object, I object to that. I do not like to see a member put in an embarrassing situation here. You do not want to expose any man.

Mr. MAUGHAN. Mr. Chairman, I will tell you why I am in favor of this section being stricken out entirely. I propose to be as liberal with the citizens of this Territory and those that may assemble here, as the general government has been with us upon this floor. They simply say that all male citizens of the United States, over the age of twenty-one years, who have resided in the Territory for one year next prior to such election, are authorized to vote for and choose delegates to form a Convention in said Territory. I do not feel that I want it to return—have not put up any bars, but to be as liberal with the citizens of this Territory as my constituency has been with me, and I hope the section will be stricken out.

Mr. THORESON. Mr. Chairman, I am in favor of striking out this section. I can imagine if this is placed in the Constitution that the ground for challenge at the polls at elections—and I just imagine one man after another being called upon to read the Constitution of the United States. Some men perhaps are able to read, but more of them are not. I think, gentlemen, as has been remarked, if we deal with each other as the general government has dealt with us, it will be good enough.

Mr. ROBINSON (Kane). Mr. Chairman, whilst I am aware of the effect that this is legislating against a certain class, the idea that I have upon it is this. The idea that confronted my colleagues in that committee was, is a person that cannot read able to use intelligently the ballot? That was the question that confronted us, and I give it here just as a suggestion that if a person cannot read they have to depend upon some one else, to tell them who they are voting for, and what they are voting for. It is a question that I think should be considered.

Mr. JAMES. Mr. Chairman, I was going to rise and make the same remarks that the gentleman has just brought before this Convention. I anticipated that was the secret of this section going into this article. Now, gentlemen of this Convention, stop and think of the proposition. We have throughout the United States, to some extent, adopted the Australian system of voting. Now, what is the result? We find that the Australian system of voting requires that a man shall read his ticket and he shall prepare his ballot. That system has given the most satisfaction probably, so far as I can learn, or the greatest amount of satisfaction of any system that has been tried in the United States. Now, in case where a man cannot read his ballot, what does he have to do? He has to

depend upon some man being put into the booth with him to prepare his ballot for him. Well, now, I submit, gentlemen, is it a proper thing that a man should exercise a right of franchise when he has to depend upon some other individual to fix his ticket and tell him what to vote?

Mr. THURMAN. Yes, and then imagine a man being put into a booth with a woman, too.

Mr. JAMES. Well, I had not thought of that, Mr. Thurman, but it is well suggested. Now, there is something else to be added to the idea of the committee in requiring of a gentleman the qualification of being able to read, and that is that he should understand the principles of the government under which he lives to intelligently cast a vote in the interests of the government which he is being supported by and living under. I suppose that is some of the other reasons why this qualification is put into this article. Now, the argument of some gentlemen on the floor that you might do some injustice, may have been well said, but it won't do any injustice to those that have acquired the right to vote at the present time. But they say he might go away from the Territory and come back and then he could not register and vote, etc. Well, now, gentlemen, I have had some experience in my life. As my friend, Mr. Hammond from San Juan County, has said, I have worked a good many men, I have had them under my employ all my lifetime by the dozens, even the hundreds, and I never have had a man under my employ that showed a disposition to acquire the knowledge of reading and writing, but that did it, and has done it, and it goes even farther than that. Mr. President, we make a good deal of sport of our Chinese laborers that have been so badly treated by the Japanese lately. I have had in my employ in the last twenty or thirty years, on this western slope, a great many Chinamen; they are the cooks in the mines, as you all well know. We have to depend upon them. We cannot get white labor to do that cooking; I never have had a Chinaman in my employ in all that long period of time that remained in my employ a year that has not been able to make his own letters and write his orders to me when he wanted provisions for his kitchen. Now, it seems a little strange if, as Mr. Hammond has said, any gentleman cannot give a few minutes now and then to study the English or any other language and learn how to read and write, so that he can cast his vote without depending upon some one else to cast it for him. I am in favor of the article just as it stands.

Mr. HEYBOURNE. Mr. Chairman, I am disposed to favor the article as it stands. In relation to the statement, made I think by the gentleman from Cache Valley, in regard to the liberality of our government, and admitting those to citizenship—I have a faint recollection of having to pass through somewhat of a catechism before I had the right and privilege of enjoying American citizenship, and as the gentleman from Kane, Mr. Robinson, remarked, I hold that a gentleman who is so unfortunate or a lady who cannot read, they are simply machines in the hands of some person else and are liable to be swayed in their ideas in casting their ballots at an election. And if it would be in order, Mr. Chairman, I would offer an amendment to the amendment, something like this, "No person shall have the right to vote who shall not be able to read," striking out the words, "the Constitution of the United States." I think that would fix it.

Mr. SQUIRES. Mr. Chairman, I just want to call attention to one of the arguments made by the distinguished gentleman from Davis County upon the subject of woman's suffrage, as applied to this question. He laid down here the broad proposition that no class of society should be entrusted with the bal-

lot that were not independent. I ask you what independence there is of a voter who cannot read his ballot, and I am curious to know which way my friend from Davis County is going to vote on this proposition.

Mr. VARIAN. Was that amendment seconded?

Mr. ROBERTS. I second the amendment.

Mr. EICHNOR. Mr. Chairman, I wish to ask this question, and submit it particularly to the attorneys in this committee. Mr. Thurman explained a little while ago that if a person was able to read the Constitution of the United States, no matter in what language it was printed, he could vote. Now, after a little reflection, I must say that I differ with the distinguished gentleman. If you insert this clause, or insert this amendment, that no person shall have the right to vote unless he shall be able to read, I think the courts would construe that to mean the English language—the language we use in the United States?

Mr. WELLS. Why not say so, then?

Mr. EICHNOR. I am not saying on which side of the fence or on which side of the question I am.

The CHAIRMAN. The gentleman from Iron, Mr. Heybourne, moves as an amendment to the original motion, that the words in the second and third line, after the word "read," be stricken out.

Mr. VARIAN. Is not all the rest of this section stricken out by that amendment also?

Mr. HEYBOURNE. That is not the intention. Strike out all after the word "read" and up to the word "states," in the third line.

Mr. THURMAN. I desire to ask the gentleman a question. In speaking of the construction of this language by a court, would a court, where it was ambiguous or open to two or more constructions, construe the language in favor of extending the privilege or depriving a person of the privileges?

Mr. EICHNOR. The courts are generally in favor of putting a liberal construction upon it, but would not the courts hold as a general rule, that it must be the language in which we conduct our business?

Mr. THURMAN. Well, I think not; of course if there is any doubt about that, I would prefer it to be amended.

Mr. JOLLEY. Mr. Chairman, I cannot for the life of me see where that section will benefit us in the least, as people in Utah. If we knew when the last one of those that cannot read or write would die or leave the Territory, probably then I would feel like sustaining Mr. Goodwin's motion or amendment, but I cannot see and I cannot understand where it would work a great injury to individuals, if it goes through. It will deprive them of being able to vote. Now, in my acquaintance there is one lady that comes under my observation at the present time, and she is a lady that would be called such among the ladies that was with us here to-day, as an entertainer, or associate in high society, and yet her life has been a practical one, and not of reading and writing, but she has been one that has a practical life, is one that has come to this country some twenty years ago and has raised a large family, and it would be a stroke that I fear she would never get over in her feelings individually if that right was taken from her and given to all the rest of her sisters. Now, this is one instance, and there are other instances that have been referred to here, and if you can do one individual good I think we ought to do it, for I cannot see where we can do any good to parties with that section as it now reads. Therefore, I am opposed to it, and am in favor fully of the first amendment to that section.

Mr. HAMMOND. Mr. Chairman, I would simply like to ask the gentleman last on the floor if that lady that he

has in his mind's eye now is living in this Territory?

Mr. JOLLEY. Yes, sir.

Mr. HAMMOND. It does not affect her at all, as I understand it.

Mr. JOLLEY. I understand it does.

Mr. HAMMOND. Why, no, as I understand this article it does not affect the present citizens of this Territory; is not that the understanding?

Mr. EVANS (Weber). It does not affect the voters.

Mr. HAMMOND. I will take it all back. I want to call attention to the seeming cruelty of the section if it should prevail. Away back in 1843, I became acquainted with a people called the Sandwich Islanders, Hawaiians, where Queen Lil has been acting so nicely, and that nation then could not read or write. There was not a man that could, and they went to work and passed a law that no citizen should have the right to vote or to exercise the franchise unless they could both read and write, and in less than twelve years there was a nation that I had never found one after twelve years but what could read and write. I spent years of my life there among the people. [Applause.] That does not seem to me such a great hardship. If we Yankees cannot learn, and this bright Caucasian race that comes from all the world around to help us build up a State, it seems to me no great hardship for them to turn in and learn as well as the Kanakas.

Mr. WELLS. Mr. Chairman, I am surprised at the gentlemen who have stood up here and argued in favor of woman suffrage, because it would restore the franchise to a large class of people and were in favor of it, because it was a step in the direction of progress, enlightenment and intelligence, will now stand up here and oppose an educational qualification for voters. I think that if there are any citizens in this Territory who cannot read that they ought not to be allowed to vote until they learn to read, and if an election comes around which shall deprive them of the franchise, that is, if they are not privileged to vote at the first election, or the second election, I say let them go to school and learn to read and then they will be allowed to vote.

Mr. L. LARSON. Mr. Chairman, this is a question which is of some importance. I am ready to vote on it, and I would be ready to sit down if I knew the house would vote the right way—that is, the way I want them to. Then I would not say a word, but I am certainly opposed to that section. I do not think that it affects us so far as our boys are concerned—I do not believe our friend, the gentleman from Utah County—he is raising boys to-day that will not be able to read when they are twenty-one years of age. I hope that none of us will raise boys that cannot read when they are twenty-one years of age; but it does affect a great many men that come from the old world.

And I will bring an instance to your mind that I just got to think of last Sunday. Here in this town, right in the streets, I met a man who came from Denmark. He is a very intelligent man, and can read and write in his own language and has held positions in that country, but to-day he could not read the Constitution of the United States nor anything in English, and I would certainly hope that the Convention will or the committee on this floor will consider these matters carefully, because I think you will exclude a large number of people that came to this Territory, from year to year, that are good citizens, just as honorable, just as advanced in civilization as you or I that have been here for years, and when they have come to the age of forty or fifty or sixty years, they will never learn to read the Constitution of the United States, and they will be here as it were in vassalage or in bond-

age to some extent, because they can not have the franchise. Now, I think that this would be wrong. Now, if the amendment or the amendment to the amendment—I hardly know how the question stands, if it was put in this manner to read, that the reading would include any language, then I would not care. Then I would be willing to vote on that, but for my part, I see no need of the article or of the section whatever.

Mr. GOODWIN. Mr. Chairman, would an amendment be in order now?

The CHAIRMAN. The chair understands that an amendment at the present stage would not be in order.

Mr. FARR. Mr. Chairman, I had deferred saying anything on this, but I have been unable to discern from what I have heard which way the majority will vote. I am certainly in favor of striking out that section. I am opposed and always was opposed to putting the shackles on anybody, on any person that lives, and I say if we leave that section in we are bound to place shackles on good honorable honest people. There is no person in this Territory that is more in favor of education or has done more to educate people than I have, but I am opposed to putting shackles on anybody. I want to be free and to give people freedom, and now at the close or last end to curtail and deprive some good honest man or woman of their vote—their right to the franchise, because they cannot read, I do not think it is right, and I am opposed to it. I have not any fears of anybody being deprived of their rights if we strike that out.

Mr. THOMPSON. Mr. Chairman, my ideas in regard to this matter are, that no difference if a man can read the Constitution of the United States—he is no more qualified after he reads the Constitution of the United States—that is, he is very little better prepared than if he could not read it at all, but there are plenty of educators as a rule around about the time that there is voting done, and there are plenty of men that will inform them and tell them how to vote, and they are not on one side altogether, they are on both sides, and if they have read the Constitution of the United States, and a great deal besides, they may be puzzled then to know just exactly how to vote, and I think that many a man is converted that is a good sensible man by hearing members of each party advocate their cause and then obtain a knowledge of the candidates that are up to be elected, then I think they are prepared to vote intelligently, and I think as far as that is concerned, you can very well dispose of that section entirely, and I am opposed to the amendments as well as the original.

Mr. HEYBOURNE. Mr. Chairman, I should judge that some of the gentlemen are laboring under a misapprehension with regard to this matter. It has been inferred here by some of the gentlemen that it would deprive the older portions of the community of this right of franchise. By looking at the latter part of the section, commencing on line six, it plainly states there, "Nor to deprive any person of the right to vote who has had such right at the time of the adoption of this Constitution," etc.

Now, as I understand the provisions of this section, and the amendment that is now pending, it is simply the operations of the future, and I believe if adopted would be an incentive to those who may come on after us, that they may qualify themselves thereby, voting understandingly and making of themselves good and proper citizens.

Mr. ALLEN. Mr. Chairman, it is all very nice for men—the young men who have had fathers with money to put up for them while they went to school to sit here and talk how nice it would be to disfranchise men that have not had that privilege and have had to work all their lives. There are many men in the United States that have had to be

on the frontier and work hard to make a living from daylight to dark and put in sixteen hours out of twenty-four, and have not had an opportunity to go to school—could not go to school, and as for their taking a few minutes time as stated here and learning how to read and write, some have done it. A great many have, but others have been compelled to work continually, their fathers compelled them to work, and after they got home they were obliged to continue the work, and they have not had an opportunity to go to school, or an opportunity even to learn at home, and I do not know that we have to copy after Wyoming in everything, it looks like we will in one thing. Take some of our men that have sat at home around the fire while others have been handling a gun in defense of their country, and there are lots of them of that kind that could not read or write, and for us to deprive them of the privileges of voting equal, that is, when they are just as honorable, and in many instances are more honorable, I do not see anything just about the matter.

Mr. HEYBOURNE. May I ask the gentleman a question; would the provisions of this amendment deprive those men now of exercising the franchise?

Mr. ALLEN. Those that come in after the adoption, it would.

Mr. HEYBOURNE. I thought you were referring to men that had been unfortunate in their education in the Territory.

Mr. ALLEN. That may come here. It is bad enough to be ignorant without being punished for it.

Mr. MURDOCK (Wasatch). Mr. Chairman, I hope the motion to strike out will prevail. I think that in a few years we will have no use for a section of this kind in our Constitution. And if we have men who are not able to read and write, I should hate to hand it down to future generations to consider and to know that was the condition that our fathers and mothers were in. Let us make as good an appearance as possible before the future generations that shall come after us, and, as the gentleman has stated, ladies will probably be granted the franchise, and if there should be any among them that are not able to read I should hate to disappoint them at all. They think they are going to have their franchise, and let us be generous. We were very generous this morning. We were willing to increase the elective franchise nearly double and we are now waging a war against a few men and possibly women that are not able to read the Constitution or the English language. I think, gentlemen, that we cannot afford to do that. We can afford to be generous with those men, and I think we have but little to fear from them, and if you will make a qualification that any man whose breath smells of liquor on election day shall not vote—or lady either, I think then, we will be making a suitable and proper qualification, because I think the man who drinks on election day is more dangerous than the man who cannot read, and for that reason I would be in favor of legislation against him, rather than against the poor man who has not had the opportunity possibly of learning to read. Undoubtedly he realizes the situation he is in more keenly than anyone, and the fact that he cannot read is more apparent and he senses it more keenly than anyone else. And I say those men will not last much longer with the ample opportunities we have for education. We will have little use for such a section. Let us say nothing about it, and do not let anyone know that such a condition ever existed in our midst.

The CHAIRMAN. The question will first come up on the amendment to the amendment offered by the gentleman from Iron County, to strike out from lines two and three the words "the Constitution of the United States."

The amendment was rejected.

The CHAIRMAN, The question now recurs on the amendment offered by the gentleman from Piute (Mr. Allen), which provides for the striking out of the whole section.

Mr. HART. Mr. Chairman, while I am in favor of striking this section out, for fear that the vote might be in the negative, and it might be that the proposition as it now stands would be agreed to, I move as an amendment, that the word "shall" and also the word "the" in the second line be stricken out, and that in lieu of the word "shall" the word "is" be inserted.

The CHAIRMAN. The chair rules that this proposed amendment would not be in order until the vote is taken.

Mr. HART. I would suggest to you that it would be well to make it as perfect as possible before striking it out, or if a proposition is to be agreed to in a certain form, it should be amended before it is agreed to in that form. I know, Mr. Chairman, that proposition was brought up the other day.

Mr. EVANS (Weber). Mr. Chairman, I arise to a point of order. I understand that the chair ruled that the amendment was not in order. If the gentleman desires to make an argument he ought to appeal from the decision of the chair.

The CHAIRMAN. The point of order is well taken.

The question being taken on the motion of Mr. Allen to strike out the section, the committee divided by a vote of 57 ayes (noes not counted); the motion was agreed to.

Mr. EVANS (Utah). Mr. Chairman, I would like to ask to be excused indefinitely on account of news that I have just received of my mother not being expected to live.

The request was granted.

Section 11 was read.

Mr. SQUIRES. Mr. Chairman, I move to strike out in line 5 of this section the words, "unless the failure to register is caused by sickness or absence for such provision shall be made by law."

Seconded.

Mr. EVANS (Weber). Mr. Chairman, I move to strike out the entire section.

The motion of Mr. Evans was agreed to.

Section 12 was read.

Mr. EVANS (Weber). Mr. Chairman, I move to strike out section 12.

Mr. SQUIRES. Mr. Chairman, I would like to ask the gentleman from Weber the object of that motion—whether he is opposed to pure elections?

Mr. EVANS (Weber). No, sir; I am not. The gentleman from Salt Lake knows that I am in favor of the purity of elections, and I have never made an expression in my life that indicated anything to the contrary.

Mr. SQUIRES. Except this?

Mr. EVANS (Weber). The reason I ask that section 12 be stricken out is this, (reads section 12) does the gentleman from Salt Lake claim that the Legislature has not the power to do that without the Constitution providing that it may do it? We might just as well say that the Legislature has power to pass laws punishing crime. We might just as well say that the Legislature has power to do any other act. As every man knows who has read the first element of constitutional law, unless the Constitution prohibits or restricts the Legislature, that the Legislature is sovereign in itself. It is just as sovereign as this body and has just as much power as this body has, unless there is a restriction upon it, so that I say it is useless and there is no use in saying that the Legislature shall have the power to do a thing or shall do a thing which it has the power to do without saying it in the Constitution.

The motion was agreed to.

Section 13 was read.

Mr. CANNON. Mr. Chairman, I move that section 13 be stricken out.

The motion was agreed to.

Section 14 was read.

Mr. GOODWIN. Mr. Chairman, I would like to ask the chairman of the committee that prepared this section if there was any particular thought devoted in the committee to municipal elections?

Mr. CHIDESTER. I believe not.

Mr. GOODWIN. Then, I wish to move an amendment to strike out after the word "elections" in the second line, down to the word "except" in the third line, and also to add the word municipal after the word "election" in the tenth line. I want to separate the school and the municipal elections from the general elections. This is a subject that the citizens of this town feel very sensitive over, and the more they consider it the worse they feel, and they have begged me to separate the city elections from the general elections. I believe that is the rule in places where the experiment has been tried both ways. The city election and the city and county elections ought not to come together, and I hope, gentlemen, you will vote for my amendment.

Mr. VARIAN. Mr. Chairman, I quite agree with the proposition that the elections should be separated, but it seems to me that action on this whole section ought to be deferred until the Constitution is practically agreed on and then division could naturally be made in the schedule, or at least it should be delayed until we determine just when we are going to start with the elections. For instance, it has got to be considered whether there will be an election at the time this Constitution is submitted to the people. Perhaps it does not make so much difference.

Mr. GOODWIN. I believe my amendment was not seconded and I think the suggestion just made is the proper one.

Mr. EVANS (Weber). It was seconded.

Mr. VARIAN. In order to test the sense of the house, not for the purpose of killing it, but in order that it may come up again, I move to strike out that section.

Seconded.

Mr. CHIDESTER. Is this to strike it out for good?

The CHAIRMAN. No, sir.

Mr. CHIDESTER. It can come up again?

The CHAIRMAN. I think so.

Mr. VARIAN. I will say that is my idea. After we get through with the main body of the Constitution and come to the schedule.

Mr. THURMAN. Mr. Chairman, I do not think that ought to be stricken out; it will have the effect of killing the proposition entirely. Judge Goodwin was entirely mistaken about his amendment not being seconded. It was seconded. I think the amendment ought to have prevailed here, and if, after awhile, in the compilation we want to place this provision somewhere else we can do it, but the principle contained in this section ought to be adopted, it seems to me.

Mr. VARIAN. I agree with my friend. I want to see it adopted. I will withdraw the motion to strike out temporarily.

Mr. RICHARDS. Mr. Chairman, I am in favor of Judge Goodwin's motion. I think, if after we have gone into this matter, it should be discovered from any subsequent action that any change should be made in regard to this section after we have passed it, the committee on compilation and arrangement have full authority on that measure, and therefore I am in favor of it.

Mr. EICHNOR. Mr. Chairman, I am not a politician in the true sense of the word. I have heard so much about economy, how much expense will be entailed on the people of Utah Territory by having separate elections, probably twenty-five or thirty or forty thousand dollars, just as to elect judges of the supreme court or judges of districts and school officers——

Mr. GOODWIN. May I interrupt the gentleman? The expense of the election is in the registration, chiefly, and this does not say this shall not come in the same year or within two weeks.

Mr. EICHNOR. Is not it a fact that you must have judges of these elections?

Mr. GOODWIN. Certainly, but they do not always count.

Mr. EICHNOR. The expense of judges of elections and making returns—if I am not wrong in my calculations it entails a special expense on the people of the State of Utah of about twenty thousand dollars. Now, gentlemen, there is very little in this amendment. It is mere sentiment. When it comes down to a question of that kind, if we want to scratch a ticket we are going to scratch, and if we are going to vote politically, we will vote politically.

Mr. THURMAN. Is not it a fact that we have separate school elections now?

Mr. EICHNOR. Yes, and every time in Salt Lake City we have a partisan fight.

Mr. THURMAN. Will it take any more expense to have municipal elections at the same time?

Mr. EICHNOR. I am in favor of having them all at the same time.

Mr. GOODWIN. Changing the municipal elections does not change the expense at all. And I know, Mr. Chairman, that the taxpayers of this town as a rule do not want the general elections to come at the same time as the city elections. I believe it is so in every city that has tried the experiment.

The amendment of Mr. Goodwin was agreed to.

Section 15 was read.

The CHAIRMAN. Are there any amendments to section 15? If not, it will be passed to its third reading.

Mr. WHITNEY. Mr. Chairman, if it is not too late, I would like to suggest an amendment to section 6.

The CHAIRMAN. If there is no objection, we will hear the suggestion of the gentleman.

Mr. WHITNEY. Section 6 as it stands would seem to imply that some idiots, some insane persons, some persons convicted of treason, or crimes, might vote. I would amend it so that it would read: "No idiots, insane persons, or persons convicted of treason or crime against the elective franchise, unless restored to civil rights, shall be permitted to vote," etc.

The amendment was agreed to.

Mr. THURMAN. Mr. Chairman, I desire to ask for information. At the time section 5 was struck out I was engaged at something else. I did not understand the reasons for striking it out, and it seems to me that it was done without consideration.

Mr. SQUIRES. Read the first part of section 2.

Mr. THURMAN. Let me call your attention, however, to the way that will be construed. The question is, do you want to empower the Legislature to confer the right to vote upon anybody but citizens of the United States? Section 2 does not say that anybody but citizens of the United States may vote, but it says that every citizen of the United States of certain age and qualifications shall vote or shall be entitled to vote. It does not say that the Legislature may not qualify others to vote who are not citizens, and the reason I ask for information is to find out whether this Convention intended to leave the power with the Legislature to permit others than citizens of the United States to vote. I know when we inserted that we not only copied the constitution that had already been duly considered and passed, but that very question was considered, that if we do not put in section 5 we would leave that in the power of the Legislature, if they want to confer it upon any person that they pleased, whether they were citizens or not.

Mr. RICKS. Mr. Chairman, is there anything before the house?

The CHAIRMAN. The chair under-

stands that there is nothing before the house.

Mr. HART. Mr. Chairman, I would like to move a reconsideratian of the motion to strike out section 5.

The motion was agreed to.

The CHAIRMAN. Section 5 is now before you as though no action had been taken on it.

Mr. VARIAN. Mr. Chairman, I move when the committee arise it report the article as amended to the Convention with the recommendation that it be placed upon the calendar.

Mr. RICHARDS. Mr. Chairman, I desire to offer an amendment as an additional section to this article.

Mr. VARIAN. If Mr. Richards wants to offer an amendment I will withdraw the motion.

Mr. Richards offered the following amendment:

All citizens of the United States, over the age of twenty-one years, who have resided in Utah Territory for one year next prior to such election, are hereby authorized to vote on the ratification or rejection of this Constitution.

Mr. RICHARDS. Mr. Chairman, I find in the Enabling Act this provision:

Persons possessing the qualification entitling them to vote for delegates under this act, shall be entitled to vote on the ratification or rejection of the Constitution, under such rules or regulations as the said Convention may prescribe, not in conflict with this act.

The qualification prescribed for electors at the election for choosing delegatesis as follows:

All male citizens of the United States over the age of twenty-one years who have resided in said Territory for one year next prior to such elections, are hereby authorized to vote for and choose delegates to form a Convention in said Territory.

Now, it will be seen that a person who has resided in the Territory one year, without regard to the length of time that he may have resided in the county or precinct, is entitled to vote at this first election. Section 2 of this article provides:

Every citizen of the United States of the age of twenty-one years and upwards, who shall have been a citizen for ninety days, who has resided in the State or Territory one year, in the county four months, and in the precinct sixty days, next preceding an election, shall be entitled to vote at such election, except as herein otherwise provided.

Now, that evidently contemplates some other provision. I submit this section to comply with the requirements of the Enabling Act as to the qualifications of the electors to vote upon the Constitution——

Mr. SQUIRES. I would like to ask the gentleman from Salt Lake a question, whether that would contemplate the use of the franchise in this first election by the women of this Territory?

Mr. RICHARDS. I think that amendment contemplates that, yes, sir. It says all citizens of the United States who have resided one year, etc.

Mr. VARIAN. Mr. Chairman, it strikes me that this is a most remarkable proposition. It is remarkable in this interpretation of the Enabling Act. It is remarkable on general principles. I undertake to say that by all ordinary and known rules of interpretation and construction this Enabling Act clearly defines not only the qualifications of those who shall be entitled to vote for delegates to the Constitutional Convention, but the qualification of those who shall be permitted to vote upon, for or against the Constitution itself. The Congress has in terms described those qualifications, and nowhere in the Enabling Act, in the light of all the rules of construction and interpretation that are familiar to all lawyers, has it manifested any other intention. In section 2, Congress is dealing with the question of qualifications, that is the question before it. They are prescribed thus, "All male citizens over the age of twenty-one years," with a specified residence, are qualified electors to vote for

delegates to the Constitutional Convention. It further provides:

Persons possessing the qualifications entitling them to vote for delegates under this act shall be entitled to vote on the ratification or rejection of the Constitution, under such rules or regulations as said Convention may prescribe, not in conflict with this act.

There the whole question is disposed of, and you may formulate any qualification you please in this Constitution, and I undertake to tell you, gentlemen, that a hundred votes cast by persons not authorized under this Enabling Act at the election for this Constitution will cause your labors to come to naught. There can be no question about this. Congress described qualifications of electors who shall be permitted to vote upon this question, and, passing from it and dealing with another question entirely, it is sought to distort the language into the meaning as presented by this resolution. In section 4, where they are providing for the action of the executive and the counting of the votes, Congress used this language:

The qualified voters of said proposed State shall vote directly for or against the proposed Constitution.

What does that mean? Why, gentlemen, shall we propose to have a State and the voters, when the State shall come into the Union, who shall then be qualified under the provisions of the Constitution, are entitled to pass upon the question of the adoption of the Constitution? That is not what Congress meant at all. It means the qualified voters of the proposed State, using it in the sense of territory—area of land and population—the qualified voters of that body of persons, living within those defined boundaries as prescribed by the preceding section. That is what it means. The proposed State, gentlemen, is a certain area of land or territory, defined by specified boundaries, together with the population living or resident within those particular boundaries. That is the proposed State and that is the sense in which that language is used. Now this entire act simply means that those persons living within that described territory, that is within the proposed State, possessing the qualifications prescribed in section 1—namely, male citizens over the age of twenty-one years, with a specified residence—if a majority of those persons shall determine in the affirmative this question, then further proceedings are to be had, otherwise, not. It strikes me very forcibly that the gentlemen who seem to be the most anxious—more anxious than anybody for the carrying through this State Constitution and the bringing of this Territory into the Union at the beginning of next year, are blindly now attempting to throw an obstacle in the way which will be insuperable, because the President of the United States, of course, under this act of Congress is not going to issue his proclamation and admit this people into the Union as a State, unless the provisions of this act of Congress have been complied with, and they will not have been complied with if you permit persons not qualified by the act and under it to pass upon this question.

Mr. MURDOCK (Beaver). Mr. Chairman and gentlemen of the committee. It looks very absurd to me to think of bringing in another class of electors other than is provided by the Enabling Act, which provides that male citizens shall vote upon this question, and I think at once it would cut off all others. While we may feel very liberal towards any others that may have the privilege hereafter of voting, yet I think we are certainly prohibited by this act that we cannot allow any others only those that are citizens when this act is enacted.

Mr. KERR. Mr. Chairman, I move an amendment to the amendment of the gentleman from Salt Lake, by inserting the word "male" after the word "all" in the first line.

Seconded.

The CHAIRMAN. Does the gentleman think there is a necessity for any such thing?

Mr. BUTTON. I want to arise to a point of order.

Mr SMITH. Mr. Chairman, it seems to me that this whole proposition is simply nonsense. There is the Enabling Act. It governs us in this matter, and any conditions are simply a waste of time and a waste of words.

Mr. KERR. Mr. Chairman, I do not object to the adoption of the article as amended, in order that there may be no doubt as to who shall be allowed to vote on the question of adopting or rejecting the Constitution; I am in full accord with the remarks made by the gentleman from Salt Lake (Mr. Varian). I do not believe that any except those persons as named in section 2 are qualified to vote under the provisions of the Enabling Act.

Mr. SQUIRES. Mr. Chairman, I am not in favor of this proposition of the gentleman from Salt Lake, for the reason already given. I think we should vote it down and let the committee on schedule provide an article in regard to who shall vote at the coming election. I believe it should be voted down.

Mr. THURMAN. There is where it belongs, in the schedule.

Mr. THORESON. Mr. Chairman, I just wish to make the same statement that Mr. Squires did. I do not think it belongs to this part of the Constitution at all.

Mr. ROBINSON (Kane). Mr. Chairman, I was only going to suggest that matter and add that in the nineteenth section of the Enabling Act, it provides the Constitution may by ordinance provide for the election of the State officers and for the election—for the ratification or rejection of the Constitution. That the committee on schedule has this under advisement at the present time. And there should be a separate ordinance on that.

Mr. RICHARDS. Mr. Chairman, I desire to say in relation to this section, that the reason I had for presenting it at the present time was to call the attention of the Convention to this important matter. We have here in this second section a definition as to the qualifications of voters with an exception at the end of the section. Now, the Enabling Act prescribed certain qualifications for the electors at the first election, and it seems to me that that ought not to be lost sight of. Whether it be incorporated in this article or whether it go into the schedule it makes no difference to me. I care nothing about that, but as to whether the citizens or whether only male citizens are going to vote on this proposition, is a matter that I want this Convention to discuss. Perhaps we may have something to say upon it later. I do not know if the position is so absurd as some gentlemen think. I am not so clear that the language of this Enabling Act is so conclusive upon this question as has been suggested by the gentleman. It may be that whatever the language of the Enabling Act is or however much authority we may have, it may be wise to restrict the power to vote on this Constitution, to make citizens of the United States, who have been residents of the Territory one year. I do not say that is not so. I do not say at the present time that it is so, but I do say that it is not so clear that this convention, has not the power to make other citizens beside male citizens electors at the first election. Now, with the understanding that this matter shall be considered in the schedule, with the consent of my second, I withdraw the section, in order that this article may be reported. I will also move that this section be referred to the committee on schedule.

Mr. SQUIRES. That is not in order for this committee to refer anything.

The committee then rose and reported as follows:

Your committee of the whole having had under consideration the article on elections and rights of suffrage, beg leave to report that they have passed the said article and ask that it be placed as amended on the file for third reading.

Mr. Cannon offered the following:

Resolved, that beginning on Thursday of this week, we hold session each evening at 7:30 o'clock.

Referred to committee on rules.

The Convention then at 4:50 o'clock p. m. adjourned.

THIRTY-FIRST DAY.

WEDNESDAY, April 3, 1895.

The Convention was called to order pursuant to adjournment.

President Smith in the chair.

Prayer was offered by Chaplain Cobbs, U. S. A.

Journal of thirtieth day's session was read and approved.

Petitions and memorials.

Mr. Miller presented a petition, signed by Helen Adkin and a hundred and ninety-nine other women of Salina, Utah, in favor of prohibition. Referred to committee on schedule, future amendments and miscellaneous.

Mr. L. Larsen presented petition for submission of article on prohibition as a separate article, signed by C. N. Lund and others.

Mr. DRIVER. Mr. President, after listening to certain remarks that have been made by certain gentlemen upon this floor for the last two days, reflecting upon the courage——

The PRESIDENT. Mr. Driver, I think that would be out of order. Those questions are considered and gone by.

Mr. DRIVER. I consider that this is a personal privilege. It seems to me that the remarks that have been made is a reflection upon my character and reputation as a man.

Mr. RICKS. Mr. President, I arise to a point of order. I think the gentleman is out of order.

Mr. DRIVER. If I am out of order, it is all right, but I want it understood that I resent these imputations; that I am here and propose to vote just as my conscience dictates to me. I feel sorry when I look around this hall——

The PRESIDENT. There is no subject——

Mr. DRIVER. ——and know that there are eleven delegates from Weber County and only see one who has been willing to stand by my side.

The PRESIDENT. There is no question before the house.

Mr. EVANS (Weber). Mr. President, the gentleman has arisen to a question of personal privilege, and I maintain he has the right to state his question.

Mr. DRIVER. Mr. Chairman, I am placed in a very peculiar position. I came down here one of eleven gentlemen from Weber County to represent the people from that section of country. I find to-day that I stand alone, with the exception of one other delegate, who dared upon this floor defend the rights of his wife and mother, of my wife and mother. That gentleman cannot go back to his home, attending a meeting there, as I read in the paper, without being insulted by men who claim to represent the people of Weber County—three or four hundred men meeting together, claiming the right to represent in mass meeting twenty thousand citizens of Weber, pass resolutions that reflect on the integrity and honor of at least two members of the delegation from Weber County. Passing beyond that, the scene enacted there has no parallel in the history of political gatherings in this country, except what we witnessed here in the lobbies yesterday; and I say, gentlemen, if I have to stand alone in this

connection, I feel that there are men enough in this house who have known William Driver for the last twenty-eight or forty years to know that he is no fanatic, that while defending his own rights, he has always been ready to defend the rights of his fellow-man, and to-day he will stand and defend the rights of the women of Weber County, if he stands alone. Now, Mr. President, I want to read the effect that has been produced in Weber County by words that have been spoken upon this floor. When I left Ogden to come to attend this Convention no such spirit existed; the people there were almost unanimous as far as I had any conversation with them, in favor of what has been discussed here. Now, a change has come over them, it appears; men meet and discuss this matter, not as gentlemen, but as a mob, and I want to read one or two passages from the report of the meeting last night.

Mr. EICHNOR. Mr. President, I rise to a point of order. I want to ask the gentleman a question. Mr. Driver, do you think any delegate on this floor, no matter how he feels on this question, doubts your sincerity or honesty?

Mr. DRIVER. I want you to understand the feeling aroused in the county from which I came by words which have been uttered here, and I would be recreant to my duty if I did not resent the imputation on my courage, my integrity, and my honor, and I want to show you the kind of people that are opposing this principle in the city from whence I came. I do not recognize that a mass meeting of the citizens of Weber County has been held, and I want to show you the class of people that were there assembled, and that come here, passing a resolution condemning this whole Convention. (Reads.) I want to say that I cannot accept that. I cannot accept the interpretation of my conscience from any source, only from my own conscience, and I want it understood that I am of the same mind to-day as I have ever been, since I came to this Convention, with regard to this matter, and I trust that I will be so, so long as I am here.

Mr. EVANS (Weber). Mr. President, I do not think the gentleman from Weber need to be disturbed about the action of the meeting on yesterday evening, because there was undoubtedly a majority of the people in that meeting who favored woman suffrage, and the friends of woman suffrage voted an adjournment of the meeting and it was only those who opposed it who remained after the meeting had been adjourned and passed these resolutions.

The third reading of the preamble and declaration of rights was proceeded with as follows:

The PRESIDENT. As I understood it, the 10th section was on the table, reported back by the committee on judiciary. The business in order is the consideration of section 10.

Mr. Evans, of Weber, offered the following substitute for section 10:

In capital cases the right of trial by jury shall remain inviolate. In courts of general jurisdiction, except in capital cases, the jury shall consist of eight jurors. In courts of inferior jurisdiction a jury shall consist of four jurors. In criminal cases the verdict shall be unanimous. In civil cases three-fourths of the jurors may find a verdict. A jury in civil cases shall be waived unless demanded.

Mr. SQUIRES. Mr. President, I understand that this section as reported back now from the judiciary committee voices its sentiment and is the action of that committee upon this proposition, and for that reason I am in favor of the substitute.

Mr. EVANS (Weber). Mr. President, I will just say to the Convention that the committee on judiciary unanimously agreed upon this section. It is not one of my making at all, but one which the judiciary committee agreed upon after reference of this section to that committee.

The substitute was adopted.

Section 22 was read.

Mr. RICHARDS. Mr. President, I move as an amendment to that section that the words, "or secured to be made to the owner thereof," be inserted in line three, between the words "made" and "and." I desire to say in support of this amendment that I have examined the constitutions of all the states of this Union and I find that this proposition only appears in a very few of them. It appears in a modified form in eight constitutions out of forty-four, and in almost everyone of those it is modified to some extent. All the other thirty-six either provide that just compensation shall be made and then stop at that declaration, or if anything further is said they put the alternative "or secured to the owner thereof or paid into court." Now, a very great hardship may be occasioned by leaving this section as it now stands, and no possible hardship, it seems to me, can result from the amendment that I propose. It would be in the power of an individual owning property on the line of a railroad or a canal, that might be in course of construction to supply a whole settlement of people with water, to demand an exorbitant price for the right of way and refuse to be reasonable. Now, you may say that it is not fair to assume that anybody will do this, but I am telling you what they may do, and that such things have been done is within the knowledge of many of us. And as was testified to before the committee of the whole when this matter was under consideration, such instances have occurred. It would be in the power of one individual to say, "I will not settle without exorbitant compensation," something that would be entirely unreasonable and the whole progress of the enterprise would have to be stopped until an adjudication could be heard in regard to that matter, and the damages assessed in court. Now, my proposition is that the words "or secured to the owner thereof," be inserted so that if a person will not agree—if they cannot agree or do not agree upon the compensation, then under the laws that will be enacted by the Legislature proceedings for condemnation will be commenced, but before anybody can enter upon the property a bond will have to be given or the money will have to be paid into court, which will secure the owner amply as to whatever amount may be adjudged. Now, I think this is fair, and I think it is just. The suggestion was made the other day that this provision, the way it now stands, will be in the interests of the poor man. Now, it might be and it might not be. For example, suppose a settlement of poor farmers desired to obtain water from a distant source, and suppose, in order to get a right of way they had to pass over a large tract of land owned by some wealthy corporation. Suppose that corporation were to say, "You cannot have my land nor the right of way over it unless you pay an exorbitant price." A whole settlement of people could be deprived of the use of this water, could be deprived of the right to construct this canal and perhaps prevented for a whole year from getting any benefit from it or else they would have to accede to the exorbitant demand that would be made upon them. A man might charge a thousand dollars for property that was only worth a hundred and compel them by extortion to pay this money or to lose the whole season. Now, it seems to me that no possible harm or injury can come to the owners of property, if the compensation is secured to them in advance, and that is what my amendment proposes, and as I say it is in harmony with the constitutions of thirty-six states in this Union, and the eight which have provided that compensation shall be first made have modified the effect of that by prescribing summary proceedings by which these damages may be determined; and I submit, Mr. President, that this amendment ought to prevail.

Mr. EVANS (Weber). Mr. President, I desire to offer another amendment, by striking out all in section 22 after the word "compensation," in the second line, "providing property shall not be taken for public use without just compensation."

Mr. RICHARDS. I second the amendment.

Mr. EVANS (Weber.) Now, I want to give a reason for that. That is the usual method of constitution making throughout the country. I do not know of any instance where any hardship has ever accrued by reason of the fact that the additional clause has not been inserted in the constitution. There is no gentleman upon this floor who has studied the law who will deny that the Legislature has a perfect right under the section as it now stands if these words were stricken out, to make such regulations and such conditions that the property might be taken by the individual or corporation or might not be taken, without first having paid compensation for it, or the Legislature would have the right to require a bond, would have the right to require security as our legislatures have already done in this Territory.

It seems to be wholly a matter of legislation that we are inserting in the Constitution. The principle is what we want. The two lines, "providing private property shall not be taken for public use without just compensation," declare the principle. That is, that no man's property shall be taken even for public use without just compensation. Could we say any more? Do we want to go into detail in this bill of rights and determine the particular manner in which it shall be done—the particular manner in which it shall be paid for? Now, gentlemen, I am not a corporation lawyer; the fact is, all my business has been against corporations. That is, in the main, and I would do nothing at all to favor a corporation as against the individual, or anything which would oppress the individual, but I say that through my experience in this Territory I do not know of any instances wherein the individual has been oppressed by reason of our present laws or provisions of this character. If any gentleman does, I would like to have him point it out. The reasons given by my esteemed friend from Utah County the other day were that it would compel corporations to settle with individuals by paying a fair price rather than go into court and have the expense and trouble of litigation. Now, in one sense, that might be a very admirable thought, but I say to you, gentlemen, is it right that even a corporation should be held up? I say that a corporation and an individual ought to stand upon equal footing before the law, and I say, too, that if this section passes in this way, its tendency will be to retard business enterprises in this Territory, and I say that if it passes as I suggest, it would not retard business enterprises, neither could it possibly injure the individual. Corporations would rather settle with the individual, and they usually pay a fair price, rather than to have litigation. They are not seeking litigation any more than the individual. They desire to avoid it. If they are unable to contract between themselves they resort to a court for the purpose of determining the just value of the land. But, why say in this Constitution that they shall first pay before they take possession? It might be that even a preliminary survey could not be made by a corporation, because they would not have the right to take possession, although I think the weight of authority is against that, but the law would permit individuals or corporations to make the preliminary survey over the land of others, although they would have no right to do anything at all with the land without first having made payment for it. It might be that the enterprise was not fully developed. It might be that it would require cer-

tain manipulations and negotiations in order to secure the money for the enterprise, but if men who desire to engage in business enterprises see this provision in our Constitution and see that they can not go upon an individual's land without first paying for it, would not it have a tendency to retard this progress which we all so much desire? I say that the corporation ought to secure the individual for the value of his land, but I say the Legislature has already done that and it always will do it, and if in the good judgment of the people who compose the next Legislature, they deem it necessary and proper to require payment first to be made, let them do it, but let us not put a rigid, unyielding thing of this kind in our Constitution, which is so hard to amend. Leave it as it has been left by other states. Leave it as it is left by the Constitution of the United States. That is a good model with respect to a matter of this kind, and I do not believe that any injury would result from it.

Mr. SQUIRES. Mr. President, I would like to ask that this section and the following section, 23, pass over without action for the present, and for this reason. Mr. Varian informed me on yesterday that he had been making a careful examination of this subject and he is satisfied that the action already taken on section 23 is in violation of the law of eminent domain.

The PRESIDENT. No question about it.

Mr. SQUIRES. And the proposition which he has, I presume would be to strike out one of these sections and have the two sections consolidated, and for that reason and in his absence, I would like to have the Convention pass over these two sections, or further consideration of them, for the present.

Mr. EVANS (Weber). Mr. President, I desire to say that Mr. Varian desires to be heard on the other section in regard to private property being taken for private use. I understand he is preparing an argument on it.

Mr. SQUIRES. He might want to strike out one and amend the other.

Mr. EVANS (Weber). No; he talked to me about it.

The proposed amendment of Mr. Evans was read.

Mr. PIERCE. Are you going to put in the words, "or damaged?"

Mr. EVANS (Weber). I am willing to as far as I am concerned.

Mr. PIERCE. Well, I am in favor of the motion with those words in.

Mr. ELDREDGE. With the consent of the gentleman I would suggest it read as follows: "Private property shall not be taken or damaged for public or private use without just compensation," and leave all the balance to the Legislature.

Mr. EVANS (Weber). Section 23 provides that it shall not be taken or damaged.

Mr. KIMBALL (Weber). Mr. President, I offer this as a substitute for section 22:

Private property shall not be taken for public use, or damaged, without just compensation as determined by a jury, which shall be paid as soon as it can be ascertained and before possession is taken. No benefit which may accrue to the owner as a result of an improvement made by any private corporation shall be considered in fixing the compensation for property taken or damaged.

Mr. THURMAN. Mr. President, if any of these proposed amendments prevail, I hope it will be the last one proposed. There is something in that that has the true ring. I cannot say that I am exactly in full sympathy with it to the extent to which it goes, but, gentlemen, this is a serious question we are dealing with. There is nothing more sacred than the right of property, unless it be the right to live and enjoy your liberty. These amendments, except the last proposed by the gentleman from Weber, simply propose to thresh

over the straw again that was threshed in committee of the whole. That is right. These men have a right to do that, but in the committee of the whole the vote was, very emphatic and it was overwhelming that if this principle of the right of the public by the strong arm of the law was to be exercised to the extent of taking a man's property away from him, it is as little as the public could be expected to do to pay the owner of the property in advance. Now, to show that I do not wish enterprises to be obstructed or stubborn men to have the chance to annoy, harass, or prevent them, I do not care how summary the proceedings may be provided by law as long as it is an impartial method by which the compensation may be ascertained, but I say let it be ascertained and the party who proposes to take the property be compelled to pay for it before possession is taken. If the ordinary course of the law is too tedious and too slow and may retard private enterprises, I do not care if you make a summary method by which a jury of three men may be picked up from the neighborhood of the owner—men acquainted with the property, and let them appraise the value, and when they have appraised the value, demand that payment be made in advance or hands off. No matter who it is, no matter how grand and how mighty and how all pervading the power may be that proposes to lay its hands upon the property of the individual, I say compel it to pay for the privilege, or hands off. Has it come to pass that here in free America we attach less importance to this than they did in old England a hundred years ago? Why, if I were an eloquent man, I might repeat to you the words of Lord Chatham, spoken upon the floor of the house of commons when he says, "The poorest man in his cottage may bid defiance to all the armed forces, the wind may blow through it, the rain may enter, but the king of England cannot enter." But here we propose to give a railroad corporation, and I speak of that, because the trouble always is with those——

Mr. JAMES. May I ask Mr. Thurman a question? Do you know in the last fifteen years in Utah Territory where the railroads have taken a piece of property from any individual and not paid for it?

Mr. THURMAN. Yes, sir.

Mr. JAMES. Would you name a case?

Mr. THURMAN. I will name the instance.

Mr. JAMES. Will you name the company and the case?

Mr. THURMAN. Yes, I will name the company; I do not suppose it will be giving away secrets.

Mr. EVANS (Weber). Without the consent of the owner, Mr. Thurman?

Mr. THURMAN. Why, of course it was without the consent of the owner. I will name an instance under the law which exists in the Territory of Utah to-day, in which a man was cited to appear in court and have the question of the necessity of taking the property determined and also appraise the value of it. That corporation had offered the man $300 for his property. They were willing to pay him $300 and rather than go to law he offered to take $800 for his property, though protesting all the time that it was worth more than that. At last when we reached a jury the jury gave the man $1500 for his property. There was this righteous corporation that my friend from Utah County referred to the other day, and this same question, when the committee of the whole overwhelmingly voted to place this measure in the article as we find it here. There was the righteous corporation exercising a power under a constitutional law. In that case it was unconstitutional.

Mr. RICHARDS. Will the gentleman from Utah permit me to ask him a question?

Mr. THURMAN. Yes, sir.

Mr. RICHARDS. If the money had been secured by a bond or the money paid into court, how would this individual have suffered, except by not having the use of the money during the pendency of the suit?

Mr. THURMAN. The exception answers the question.

Mr. RICHARDS. That is the only injury he could have suffered, is it not?

Mr. THURMAN. The exception answers the question. I may say to the gentleman, if he needs money and if he is deprived of his home he needs money to buy another. I might ask him the question which is the better, a bond or promissory note or gilt edge note payable at some indefinite time in the future, or the hard cash? We passed through a crisis in the last two or three years in which we found that there is just a little bit of difference in actual money and anybody's bond. Now, it is the principle that I protest against. Taking a man's property without his consent is bad enough. Take it without paying him in advance before the taking is an outrage and it ought not to be permitted. Now, I come back to the question to show that I am not here fighting corporations just because they are corporations. I say if you will make the principle of payment in advance before the taking, I do not care how summary the method may be if it is an impartial one by which the property may be taken. That is the point. We may provide right here that the Legislature may provide a speedy remedy so that the question will not be raised that you have got to take it in the ordinary course of law. Anything, gentlemen, but do not take men's property away from them against their consent by the strong arm of the law without paying them for it. A man may even have to litigate the bond. The men on the bond may fail. The bond may prove worthless. There are a thousand and one contingencies that may happen that would show you in this proceeding proposed even by my friend from Salt Lake that it is not adequate in a question of this kind.

Mr. EVANS (Weber). Don't you recognize the fact that the property itself is always held as security for the payment of the land?

Mr. THURMAN. Well, let us see. Suppose it is.

Mr. EVANS (Weber). No title passes until he gets paid.

Mr. THURMAN. Mr. President, we will fall back now on railroads. Men understand railroads, and understand what they mean. We all understand it, and we comprehend about how they sometimes do business. A railroad starts in a line. It is a tangent. They do not propose to swerve to the right hand or to the left to avoid running through a little house if need be, worth four or five hundred dollars, they go right through a man's house—a thing that is liable to happen any time where a railroad is built, and always happens through a thickly settled country at some point or another. They tear this house down. They spoil the ground that it stands on for any other purpose. He is secured. The bond is not worth anything, how about the land being still security for the loss that man has sustained?

Mr. EVANS (Weber). Now, do you know of any such case as that that ever happened?

Mr. THURMAN. I say it is a case that is liable to happen at any time and in any country wherever a railroad may be built. I will ask the gentleman a question now. If a railroad starts upon a tangent in a certain direction and there is a little house—a home where a man lives, worth two or three hundred dollars, right upon the line of it, will the railroad swerve around it? If not, then it will go through it. It spoils it, it destroys it. Gentlemen, unless we can provide a summary remedy by which the compensation

may be ascertained and payment made in advance, let us pass this proposition just as it stands. Just one word as to how this has been construed. The federal Constitution has been construed to mean all that I contend for, but state constitutions in exactly the same language have been construed by some courts to mean that the legislature may do what the Utah Legislature has done. Provide a bond. Other state supreme courts have construed the same language to mean as the federal language has been construed. Just how our Constitution would be construed—if I thought it would follow the construction of the federal Constitution, then I would favor the proposition of my esteemed friend from Weber, simply leave it just as it was first written, but we know not whether it will be construed that way or not, and whether or not the precedents in those states that hold to the contrary may no tbe followed. For that reason, Mr. President, I favor fixing this in the Constitution so that it willbe unequivocal and unambiguous, and that the right of the citizen to his property may be protected against any power whatever.

Mr. EVANS (Weber.) I want to ask Mr. Thurman a question. Under the provision, as I propose it, "private property shall not be taken or damaged for public use without just compensation," has any court anywhere in the land ever decided that the corporation can take possession of it before payment is made?

Mr. THURMAN. Yes, sir.

Mr. EVANS (Weber.) In the absence of a statute?

Mr. THURMAN. Yes, sir—no, not in the absence of a statute, but courts have held in some of the states that under that kind of a constitution the legislature may provide the very procedure that my friend from Salt Lake desires, and that is just exactly what I want to prevent if possible.

Mr. EVANS (Weber). That is true, but under this constitutional provision private property cannot be taken can it, until paid for, unless the legislature comes to its aid?

Mr. THURMAN. I think not, but there is nothing to prevent the legislature in one view of the authorities coming to its aid and we are here to prevent the legislature from aiding such things. That is just what the bill of rights means.

Mr. MALONEY. Mr. President, I am in favor of the substitute offered by my friend from Weber County. It strikes me it meets the objections raised by Mr. Richards from Salt Lake. It does not stop the enterprises, it does not prevent progress, and I do not care how summary the proceeding may be, as soon as the compensation is determined by a jury, then let them pay for the land they take before possession is taken. "Which shall be paid as soon as it can be ascertained and before possession is taken." I maintain that that meets all the objections. And above all things in this world, I say protect the owner of this property and do not take his property and turn him out of his house and home to litigate with a railroad or any other corporation for a great number of years. It has been tried in South Dakota and it has been found to be acceptable to the people and at the same time it is sufficient protection to the railroad companies.

Mr. CREER. Mr. President, I do not think property ought to be taken until paid for. I know of instances where it has worked great injury to the citizens. Now, those of you who are aware of the location of the railroads in Utah County know that after the railroad leaves Springville, it runs diagonally across the country pretty much to the south end of the county. When the first railroad was located through there the probate court at that time assumed the whole jurisdiction and appointed a commission to value the lands; and this commission, I believe,

was a standing commission. However, they persuaded the people that it would be of great benefit to them if they would only consent to accept of the propositions that were made, and quite a number did so, but others did not, and it went into court. Subsequently there was another railroad located and they also went diagonally through a great tract of country—valuable land, and now there is another contemplated railroad going diagonally through this same country, and some individuals upon a single farm have now a contemplated third railroad cutting right through their land diagonally. Now, while it may seem that it would be wrong to obstruct enterprise, at the same time, you can see that the farm would be useless almost after it was cut and divided up into pieces of that kind by three railroads, and perhaps more might follow. And furthermore, I have in mind another condition over and above that. I had a near relative that was near and dear to me that was killed by a railroad. There was no particular wrong, however, at the time, but still she lost her life because of the close vicinity of a railroad to the domicile—to the house—she did not contemplate it and did not see the disadvantages of having a railroad so near to the house. That was a little south of American Fork.

Mr. EVANS (Weber). How would it do to require the railroad company to make compensation for the lives of the people before killing them?

Mr. CREER. I am speaking about this fact that when the matter is left to the court, in fact, that is invariably the case, they take into consideration the benefit that might accrue. Now, all the benefit that might accrue would not restore that party's life again, and all the benefits that might accrue would not justify cutting up a person's home or domicile or even their farm, and just as remarked by my colleague from Utah County, when a railroad starts out they are going to go, no matter where it is. Supposing, now, in Salt Lake City, these railroads that run diagonally through some valuable blocks for instance—of course they have the power to do so, if they so desire, but it seems to me that there should be some check upon this matter, and I believe a greater justice would be done if they were required to pay for the land before the possession was taken. And I know of instances where they were kept out of possession for a great length of time in our neighborhood. It seems to me nothing but just and right that they should at least pay for the land before they took possession of it, therefore, I am in favor of the gentleman's substitute from Weber County.

Mr. CANNON. Mr. President, I am in favor of the motion of Mr. Evans, of Weber County, to strike out all after the word "compensation" in the second line. Mr. President and gentlemen, I have noticed this fact, that while men are opposed to railroads when they come to a consideration of this kind, every man is anxious enough to have a railroad built to his particular village or town or locality. You take the people of any county in this Territory and those people are particularly anxious that the railroad should be built to their town, but after the line is fixed, after the survey has been made, after a man finds that it is going to cut right through his land, then we always find a certain class of men who rise and want to exact an exorbitant amount. There is nothing in this section as left by Mr. Evans that does not provide for compensation. It leaves to the Legislature the matter of fixing details as to how that compensation shall be arrived at, when it shall be paid and all other matters connected therewith. It may be true, and it doubtless is true, that sometimes people have been inconvenienced by railroads, but where one man has been inconvenienced in this way hundreds of others have been ben-

efitted. There is a certain amount of benefit to any community and to any locality to have a railroad brought to it, and I think we should not hamper railroads, and as stated by the gentleman from Salt Lake, Mr. Richards, this does not apply to railroads alone. It applies to all kinds of enterprises of a public nature, and in many cases poor people have combined their efforts in order that they may accomplish something, and it is just as well that they should have this matter left to the Legislature who will be able to fix the matter properly.

Another thing is this, if we leave it to the Legislature and if they find by practical experience that the law which they enacted does not operate for the protection of the people, they can change it at any subsequent Legislature. But if we fix it here, we are then fixing it so that it requires a large vote and a great change in public sentiment before it can be changed. I am in favor of the motion of the gentleman from Weber.

Mr. HART. Mr. President, I trust that the amendment of the gentleman from Weber County to the original section will not prevail, and while I have little choice between the proposition of the gentleman from Weber County, Mr. Kimball, and the original section, yet I do prefer the proposition that the gentleman has offered in preference to section 2, for the reason that a proposition which he offers is one that has been incorporated in the constitution of another state and I believe has already been adjudicated upon, and for the further reason that section 22 is a production that was produced right here in committee of the whole by amendments from various quarters of this house, and as it now stands it is somewhat uncertain in my opinion and poorly constructed. For instance, the provision that where private property is damaged for public use the compensation is to be determined by a competent tribunal would almost give rise to the inference that where private property is simply taken for public use that a public tribunal is not to pass upon it. I think, Mr. President, as that section stands, that there is an opportunity for the misconstruction of the true purpose that we want to reach in bringing forward this section. I do not think that it is injustice to a railroad corporation, or to any other corporation if they are taking private property, to require of them that they shall make compensation for it. I do not think that there can be much of anything in the suggestion—and I make the remarks with all due deference to the opinion of the gentleman from Salt Lake, Mr. Richards, when he claims that a provision which requires compensation to be made in advance would stop the business enterprise of the construction of a railroad or of some other enterprise. I see no reason, Mr. President, where a railroad company is being taken through a county or district of country, why compensation should not be made, and the matter of what is adequate compensation arrived at within the short period for instance of thirty days. I do not believe that this would be an injustice to any railroad company or to any corporation to require that they shall pay in advance before they take the property. Iowa, Indiana, and a number of other states have provisions that are equally as strong as the provisions that the gentleman from Weber brings forward.

Mr. RICHARDS. Did I understand you to say the state of Iowa?

Mr. HART. Yes, sir.

Mr. RICHARDS. The amendment that I offered is in the language of the state of Iowa.

Mr. HART. I did not know that the gentleman had an amendment before this house. I thought the one of Mr. Evans of Weber was the only one pending.

Mr. RICHARDS. I offered an amendment in the very language of the con-

stitution of Iowa and Mr. Evans offered as an amendment, striking out all after the word compensation, which I accepted.

Mr. HART. The constitution of Indiana on this subject—the portion of the section which refers to this matter is, "No man's property shall be taken by law without just compensation, nor except in case of the state without just compensation first assessed and tendered." And the provision of Iowa constitution on the same subject is, "Private property shall not be taken for public use without just compensation first being made or secured to be made to the owner thereof, as soon as the damages shall be assessed by a jury, who shall not take into consideration any advantages," etc., being the same provision that the gentleman from Weber produces; the only difference between the Iowa constitution and the provision which the gentleman from Weber offers, is the matter of securing compensation to be given, but I take it that the provision of the Indiana constitution and of the others is a better provision in this: that it requires the money to be paid in advance without the danger of a worthless bond, and it absolutely does no injustice to any man to require him to pay the money before he takes the property.

Mr. CANNON. I want to ask Mr. Hart a question. I understood that in the case of Indiana it requires the money to be tendered, but not paid.

Mr. HART. Well, that is equal to a payment; if the man won't take his money when you offer it to him, why every good purpose is subserved.

Mr. CANNON. He may not agree on the price. There is a great difference between allowing a man to make a tender of a fair price and making a payment.

Mr. HART. Well, it says it must be assessed or tendered in advance.

(The President here called Mr. Anderson to the chair.)

Mr. SMITH. Mr. President, I have been thinking considerably over this matter and to me it is a matter of very grave concern. The other day in committee of the whole, I remember that some of the constitutions had sections in like section 23. I became a little concerned that possibly we might do a wrong if we did not put the 23d section in, but in the consideration of this section it seems to me if we tie this up too completely and too perfectly it is going to strike back in a way that it will not only plague us but will do extreme hurt. I trust that the spirit of this Convention is that so far as it is possible we will declare in our Constitution what we want and that the legislative power shall be left with power to do some things where questions may arise of the character that present themselves here. This section to my mind as proposed to be amended by Mr. Evans is less liable in my judgment so far as I can weigh this matter, not being an attorney, the safest for all concerned. "Private property shall not be taken or damaged for public use without just compensation." It seems to me that if we were to work a month to shape that language and to change it and fix it in every form possible we could not more perfectly shape it so that the Legislature in the exercise of its powers would deal rightly and properly with this proposition, and so far as I, myself, can weigh this language it strikes me that the safest thing for us to do in this matter is to adopt the amendment proposed by the gentleman from Weber County. We may add to it and merely insert words—we may change it to follow the various ideas and views, but we simply strike the ground of legislation when we, do it and when this has once become law, established in this bill of rights, it seems to me that it may place us in a position that it will work extreme hardship possibly to men who are in the condition that Mr. Richards mentioned, unable to meet the responsibilities that

might be required of them by wealthy people. So far as the wealthy are concerned in these matters, we recognize this fact, that they can usually take care of themselves, and these wealthy corporations can do this, but in a country such as ours where any day of the week almost there are occurring little combinations of interest—a half a dozen men perhaps to take out a water site or enter into some little business enterprise, it would be in the power of a strong corporation or of men possessed with wealth to so tie them up that it would be impossible for them to act and the reverse might be the case, so far as that is concerned, for I am not here myself upon the basis of trying to curry favor with the poor or with the wealthy. That is not the proposition. The proposition is to secure in this law a law that will be sufficiently broad and at the same time will protect the rights of all men so far as possible, and give them their day in court when the Legislature, under the enactment under this Constitution as it shall be provided, shall determine what are the rights of those individuals.

It seems to me that any attempt to reach the interests of this friend or to guard the interests of the other friend on some idea that may be engendered in our minds as affecting the other interests or this interest, will simply plague us in the future and that it will hurt the very ones that in our judgment we are seeking to guard. I trust that when the vote shall be taken upon this proposition and this section shall have been passed, it will provide that property shall not be taken for public use without just compensation, and in my judgment when that is done it amply covers the ground and our people are in less danger than they otherwise would be.

Mr. VAN HORNE. Mr. President, I am in favor of the amendment of the gentleman from Weber. It is exactly in the language of the original draft presented to us by the committee on declaration of rights, and it seems to me it covers every possible plea that has been made on this subject. It is admitted by the gentlemen who oppose this amendment that no court has construed such language without statute passed by the Legislature in such a way that could be a hardship upon persons whose property is to be taken. Are we to say on the very beginning of the new State of Utah that we are afraid of our legislatures and the laws that they will pass, that we will presume that they will pass such laws that the court will have to construe them as doing injury to the people? It seems to me that we can safely trust the legislatures of Utah to pass only such laws on the question of eminent domain as shall be just and fair to the citizen. I am opposed as far as it is possible to avoid it, to putting legislation details and specialties into the Constitution. I believe that the language of the committee on that section now incorporated in the amendment of the gentleman from Weber is all that is necessary. It is all that is needed to protect the rights of the citizen against public use, and I am in favor of that amendment.

Mr. THORESON. Mr. President, I am in favor of this section as we have received it from the committee of the whole, or if amended at all as amended by the gentleman from Weber, Mr. Kimball. We are sent here as I take it to defend the rights of the citizen of the proposed State. We have provided for the preservation of certain rights. We have now arrived at their property rights and I am in favor of providing here that before property is taken from the private citizen for any use that be be paid a just compensation for that property. You say, "Leave it to the Legislature." This is something that we ought to fear when the rights of the citizen are set in opposition to those of corporations. Why, corporations wield a better influence and a greater influ-

ence with a smaller body than with the present one. I am in favor and I believe the citizens of the Territory of Utah demand of us that we guard their interests, guard their lives, their liberty and their property, and that we restrict the Legislature upon this very point and upon all such points. If I understand it right, that is what we are here for, and I say that a corporation or an individual—if I want anyone's property, I look upon it as honorable to first negotiate with the person and pay him a just compensation, if we can agree upon it, or submit it here to a tribunal that will decide it and then tender him his money before I take possession, and I say, gentlemen, it was our almost unanimous conviction upon this subject as expressed in committee of the whole, we then concluded, and I think we were guided by the spirit of our constituency when we almost unanimously voted that compensation must first be paid.

Mr. FARR. Mr. President, I have yielded the floor to different ones in hopes that this subject would come to a close without detaining this assemblage so long, but I am opposed to this amendment. That is, that the Legislature has full power to enact. Of course, we want to limit them and tell them how far they shall go. This section seems to be all that is necessary, "Private property shall not be taken or damaged for public use." And I see in the next section it has got private use. If that is the wish of the Convention to have that in, why not insert it here—"shall not be taken or damaged for public or private use without just compensation?" Who is going to take private property for private use without first making reparation? The man has access to the law, that will be made in the Legislature, right straight, and if we put that in it does seem to me it covers everything without lumbering up our constitutional laws with legislative matters. Why not leave it to the Legislature? They have full powers to do it. They know what they should and should not do, and why not leave it there? What is the use of spending our time here day after day trying to legislate things that the Legislature is paid for to make laws, and then if they find that it don't work and they want to change it at the next session, they can change it; but to go to work and tie it up here, we put shackles on them and they cannot amend it. I do not want to find fault with members. I like to see them get up and express their views and knowledge upon things and give vent to their understanding, and so on; but to my mind it does not interest me at all. I want to see the Constitution broad and comprehensive and give the people all their rights they need instead of depriving them of rights as this section will do. I leave it to the Legislature.

Mr. HEYBOURNE. Mr. President, I am not here, if I understand my duty, to legislate against railroads or other corporations, nor am I here to retard any enterprise that may be established in our midst for the development of our country, yet at the same time, I think that we should have due consideration for the rights and privileges of the people and seek to protect them in every way that is possible. I understand that we are living in a country that is not thoroughly developed. That there will be great improvements made in regard to railroading and in reclaiming many hundreds of acres of land that are now lying waste, and that in this latter matter canals and reservoirs will of necessity have to be constructed that will be of vital importance to the people at large, and I have not in my mind at the present time any of these enterprises that are under way that have not got at least some pecuniary object in view, and in carrying out their projects they will of necessity have to cross over tracts of land, they will of necessity have secure places for reservoirs. In the advent of railroads

into the Territory or coming State, rights of way will have to be secured, and I think, Mr. Chairman, that the section as reported upon in the committee of the whole is that that is necessary, and that that we require. That it has a due regard and consideration for those who may invest in this enterprise, and it will reasonably recompense and protect those whose property may be taken and used for the consummation of these purposes that I have referred to. Therefore, I am in favor of the section as it now stands. That we in taking this course do not detract from the enterprises that may be introduced in the midst of the citizens here, and we offer reasonable protection to those whose lands may be taken for these enterprises.

Mr. IVINS. Mr. President, I just want to say a word in the same line of argument used by my colleague from Iron County. This section was elaborately discussed in committee of the whole. All of the ground was gone over and we concluded that as it passed that committee it was a good section, and I have seen nothing nor heard nothing here this morning that would lead me to change the opinion in regard to it. I do not regard it as legislation at all. It simply provides that compensation must first be made. It removes that question from any further discussion. It removes it from the province of the Legislature, so far as the enactment of a law by which it might be made possible for corporations to take advantage of individuals by the filing of bonds and promised compensation that would result in long drawn out lawsuits. I have instances that I recollect that have come under my own observation where railroad companies have built grades through private property. Compensation for damage done has been deferred and shortly after the railroad has become insolvent, and the man has been left with a grade through his farm, and the privilege of levelling it down again at his own expense. All we ask is that it be plainly defined that before private property can be taken for public use compensation shall first be made, and I believe this section is a good one just as it was reported from the committee of the whole, and it seems to me that it ought not to be changed.

Mr. HOWARD. Mr. President, I think that the section as it stands now will give satisfaction, for the reason given in argument made here to-day. It has been said by some of those who are opposed to it or who are in favor of some of the amendments, that a man would have the power to ask a thousand dollars or ten thousand dollars for a piece of property that is not perhaps worth over one hundred. This does not give him the power to do that. The first part of the section reads: "Private property shall not be taken for public use without just compensation first made." Now, that does not say the man who owns this property, be he a poor man or whatever he may be, can demand just what he pleases, and the party that wants the property has got to pay the price that he asks for it. It leaves it with the Legislature to determine that. It leaves it with the Legislature to provide how and in what way this property might be assessed. And the latter part of the section reads, "And no private property shall be damaged for public use without just compensation to be determined by a competent tribunal." It looks to me, Mr. Chairman, as though that was fair. To change this section and leave it as some of these amendments suggest, it would throw this question into the courts and perhaps leave it there for years to the detriment of the poor man that owns this property that might want to be taken, whether it be by a railroad corporation or any other corporation. The amendment offered by

Mr. Kimball, from Weber, covers some of the ground that this section already reported covers; but it provides that the compensation is determined by a jury. If that should prevail, it would compel the man to go into the court. He may go to a court to get a jury, he cannot arbitrate it, he cannot settle it in any other way provided there is any trouble over it, only by going into court to get a jury. Some of the gentlemen who want this changed admit in their argument that it is good enough but they want to leave it to the Legislature. Let the Legislature provide for these things, that this section now asks for. This body of men here to-day is a larger representation of the people of the Territory than you can get in the Legislature, and if they conclude that this is good enough why let them put it in the Constitution. If it must go and it is left to the Legislature to fix how this shall be done, there is a possibility that it might be changed or left in a way that corporations would have the advantage. It is possible—we have heard of such things being done—that corporations have influenced legislation, and if this is such an important article to be considered in the interests of corporations, they certainly would take an interest in this matter when it came before a Legislature and would do all that they possibly could in their own interests to keep the Legislature from protecting the rights of the citizens, and I think that it should be left as this section now provides, that this should be determined by a competent tribunal. Let the parties when they disagree in regard to the value of a piece of property choose arbitrators if they want to, or let the court appoint a commissioner to take testimony and to present in the case if they want to, or let it go to a jury if they like; let them choose the mode, but do not compel them to go into court and take a jury. I think we should leave it the way it is.

Mr. LAMBERT. Will you allow me a question? You are living in a sparsely settled country. There are canals to be taken out in your region. Who are taking out those canals?

Mr. HOWARD. The people as a rule are taking them out.

Mr. LAMBERT. Are they not composed, as a rule, of poor men, and would not it make it a hardship if they had to put up cash for a right of way?

Mr. HOWARD. I think not.

Mr. THURMAN. How about the other fellow, is not he a poor man, too?

Mr. HART. I would ask if a private canal company has anything to do with this section? This is for public purposes, as I understand it. That would come under the following section.

Mr. LAMBERT. You can incorporate canal companies, can't you?

Mr. RICHARDS. I desire to ask the gentleman from Cache a question. I understand you to say that the taking out of water might not be a public use—the construction of a canal?

Mr. HART. I say that that probably comes under the consideration of the succeeding section—section 23, I think it is—taking private property for private uses.

Mr. RICHARDS. I ask the gentleman from Cache this question. Suppose the inhabitants of a town were to construct a canal to convey water from any source, would not that be a public use?

Mr. HART. Well, it would probably be so construed, but we have not considered it as such in framing the provision of this Constitution. We have public uses and private uses and we have placed as private use rights of way for the construction of ditches and canals. There is a doubt as to what the construction would be.

Mr. RICHARDS. I desire to ask the gentleman another question. Is it not a fact that this section 23 does not relate to that kind of a case? Is it not a fact that section 23 does not apply to the case that I suggested? Would not the

case that I speak of be a public use and would not the case where an individual or two or three individuals desired to use the property of another—would not that be the kind of a case that is reached by section 23?

Mr. HART. Well, it is possible, as I stated, that the case stated by the gentleman would come under section 22, but the restriction given by the gentleman here of three or four men taking out a ditch and going across another's land is certainly in contemplation of section 23.

Mr. LAMBERT. If they would incorporate it would come right under that section.

Mr. BOYER. Mr. President, I only arise especially to place myself straight before this Convention. The worthy gentleman from Utah County in his remarks referred to his colleague from Utah County taking opposite ground to him on the particular question before the house a few days ago. Now, when this question was up, I remember distinctly objecting to placing in this Constitution any provision that should subject any corporation to consequential damages, and that those damages should first be paid before gaining possession of the property that would be necessary for their use. That objection having been thoroughly overcome in this section, as now provided—in section 22 upon this subject. I then voted fairly and squarely for the provision in my mind as it now stands, for the amendment; and I hope that every amendment that has been offered to the substitute, as it has been offered, will not prevail, but that section 22 as it now reads may stand in this Constitution; and I desire, while on my feet, to make reference to one particular case that I now have in my mind, in furtherance of answer to the question of the gentleman from Weber County, and that is whether—I think, however, if I mistake not, it was Mr. James that asked the question—whether within the last fifteen years any property had been taken and confiscated without first being paid for by any corporation. Now, I have in my mind one special instance that transpired in Utah County——

Mr. JAMES. May I correct the gentleman?

Mr. BOYER. Yes, sir.

Mr. JAMES. You have not quoted my question exactly right. I asked the question of Mr. Thurman, did he know of any property having been taken within the last 15 years where compensation had not been had and owners of the property had not been paid for it, and to name the property and name the corporation. I wanted to ask it for information. I wanted to know if it had been done under the law which provides that property can be taken and a bond given for the payment of the property.

Mr. BOYER. I will confine my answer to that question or endeavor to. The case that I have in mind is something like this: a corporation desired a certain piece of property and running in front of a gentleman's land in the construction of a railroad, and this individual gave a certain piece of his land, very meager though, in quantity, yet to him somewhat valuable—gave to this corporation certain property and then there was a difference still existing between the corporation and the individual. The private individual wanted a thousand dollars for his property and the railway declined to make any concession and then went away. Before taking forcible possession of this property the railway agent, conversing with the individual owner of the property asked him whether he would take five hundred dollars for his claim. The gentleman replied, "I want one hour to consider," inferring to him that he would accept of the proposition. In the meantime, the same agency came before me and desired to enter proceeding by way of obtaining a warrant to suppress the individual from doing

damage in the event that the company should take possession of his property forcibly. I declined to issue him a warrant on any information or belief of that kind, that would so deprive the individual of his personal liberty. Consequently—I will not say consequently of that action, I will say, right along here, before the individual and the agent got together, the company itself took forcible possession, and with a score of men with ax in hand took possession of the property of the individual, chopped his forest trees, etc., down, held possession of it, and it was months afterwards before the individual got his pay and that was by the award of a jury in the district court of the first judicial district of the Territory of Utah.

Mr. EVANS (Weber). Mr. President, I desire to ask the gentleman a question. Could not a corporation do the same thing under this section as you desire to have it passed?

Mr. BOYER. Certainly not.

Mr. EVANS (Weber). That is simply a lawless act?

Mr. BOYER. I should say so.

Mr. EVANS (Weber), I could go upon anybody's property and lawlessly do the same thing.

Mr. BOYER. I have no fear of anything of this kind when we have the law emphatic. When we provide that no property shall be taken without compensation first made therefor, then we have no question about it, and he subjects himself to a double prosecution.

Mr. BOWDLE. Mr. President, in all these cases there will be individual hardships, and it is a well settled principle that the general good must first be subserved, even if an individual occasionally does have to suffer. I do not believe in taking any man's property without just compensation, but as we stand here to-day, we cannot see exactly what will be the future in all its bearings on this subject, and all that I have heard said with reference to this section and urging against the amendment of the gentleman from Weber (Mr. Evans), is casting a doubt upon the wisdom and the ability of the future Legislatures to take care of this matter. Under the amendment as offered by Mr. Evans, and which I most certainly favor, the Legislature can take ample care of this whole subject. They will have the power to pass any law that they may see fit regarding the manner in which the compensation shall be made. They can say it shall be made before the property is taken. They will come up from the people; they will be persons that will be representing the people, and I take it, not the corporations, and it seems to me that we can safely leave that to them when we say that no property can be taken or damaged without just compensation. That covers the whole ground. The only difference is that some say it must be paid in advance or there must be a bond given. That is all. Those are the only things upon which they differ. We must not lose sight of the fact that we want this Territory developed, and while we must take care of our citizens and protect them in their property rights and in their homes and all that, we must not at the same time make such a Constitution here as will discourage private enterprise and proper development of this country. Now, if we put this in as the gentleman has by the substitute offered, that fixes it for all time to come. The Legislature at its first session may do that very same thing that is here proposed by this substitute. There might come up such a circumstance or such a complication of circumstances that the Legislature in its wisdom would say that it was not a good thing. The Legislature could remove that, but as we fix it here the Legislature can do nothing at all in the matter. They are compelled to leave it just as we fix it here, and I am in favor of leaving it with the Legislature

when we say that you shall not take the property without you make compensation for it—I believe we can safely leave to the Legislature the question of how and when that compensation shall be made, and I am in favor of the substitute and leaving it just as that will leave it, and then the Legislature can adopt the ways and the means which will be eminently within their province by which this can be done.

Mr. MURDOCK (Beaver). Mr. President, as I regard it, we are in the interests of all parties. That is not only those that may constitute a corporation, but individuals and all there is of a corporation, they are just simply a little larger "feller" than the individual. That is all there is of a corporation. They represent a company, and they should be treated as an individual, and if it is right to take the property of individuals for a public purpose, which all corporations is more or less regarded as a public enterprise, that is instituted to what? To develop the country, making roads, railroads, to make canals, or reservoirs, and all these things, and it is very possible that directly an individual may be injured but indirectly he may be greatly benefitted by that enterprise whatever it may be. He may be greatly benefitted and we are here to not only look after the individual, but we are here to look after what? Men who are enterprising, men of means, men who are desirous to make perhaps money for themselves. That is their main object, is to make money for themselves, and while they are making money for themselves, they are making money for the individual. We are dependent upon enterprising men, we are dependent upon men who will bring their means into the country, and we do not wish in any wise to hedge up and hinder their progress. We have only commenced——

Mr. THORESON. Will the gentleman allow me a question?

Mr. MURDOCK (Beaver). Yes, sir.

Mr. THORESON. Would that hedge up the way of any citizen or corporation by just saying, "if you want private property you must pay for it."

Mr. MURDOCK (Beaver). I am not arguing against a man's private property being properly——

Mr. EVANS (Weber). That is what the section does say, "If you want private property you must pay for it."

Mr. MURDOCK (Beaver). Yes, sir, I fully endorse the section and the very most I think is necessary is the amendment of Mr. Evans from Weber County. We do not want to make the matter so stringent that men of enterprise will feel discouraged. I believe in giving them a chance to bring forward any enterprise that will be beneficial to the public. I do not believe in being so particular. While I desire to have individual interests guarded and well guarded, and we are not here to legislate, gentlemen, I believe that we are here simply to make a boundary that will surround and protect future legislation, and we do not want to legislate in all these particulars in a detailed condition, which I see are many, if it is in bills that are brought here, that to my mind is a great deal too much legislation. I think we should leave these matters. I have confidence in the men that will represent the people here in the future in the Legislature. Let them have as much at stake as we will here.

Mr. HAMMOND. Mr. President——

The PRESIDENT. Mr. Hammond.

Mr. RICKS. Mr. President, I move the previous question.

Mr. VARIAN. I hope that won't prevail. I protest against it.

Mr. ROBERTS. I sincerely hope it will not prevail.

The PRESIDENT. I had already acknowledged Mr. Hammond before Mr. Ricks had presented his motion.

Mr. HAMMOND. I am now getting tired. I do not purpose to detain you, gentlemen. It has been well said that this is a very important question that

we are debating. I have had some experience; I am not a lawyer nor the son of a lawyer, but I have my thoughts and convictions. A long resident of this Territory, saw a great many acts of corporations, I am utterly opposed and ever have been for any individual or corporation of any character jumping down onto my land without my having a voice in saying—at least preventing me from having any voice in the act. The government which I love, our great and good government, with Grover Cleveland at the head—I am not good on dates, but I think in the year 1888 there was a commission sent out to make a trade with the Southern Ute Indians, and it placed them over into San Juan County. The secretary, a very able gentleman—a clergyman of great repute and high standing, was the secretary, and they rode about our country up and down for four months until they expended every last cent of the appropriation, I think it was ten thousand dollars, before ever they returned a report at all, and finally by paying the chiefs over two hundred and fifty dollars—five hundred dollars possibly, they got their names to a treaty to give up their present reservation and placed them over in Utah, and this secretary wrote to me afterwards asking me to follow with a report or an estimate of the settlers' claims—the value of our claims there? $30,000 was embodied in the bill to pay settlers for their thirteen years of hard labor there. In connection with some other gentlemen we got together and submitted an appraisement of the valuation of our claims there exceeding $100,000, and afterwards, I went to Washington on that very thing to keep every—inasmuch as we were bound to be ousted, and I submitted it to the committee, that they embody in the bill $200,000 more or less, to pay the settlers for their labor and claims there. Why we had one canal that cost the people $96,000, that this high toned commission was going to allow us $30,000 for all our land, land claims and water rights. Now, I am opposed to this, whether it is the government, or whether it is corporations, private or municipal, to squat down onto me or on my people without giving us a chance to have some voice in the bargain—two sides to a bargain, hence, as I seconded this amendment, I am heartily in favor of it.

Mr. VARIAN. Mr. President, I want to suggest to my friends on the right that they must not be impatient; the discussion of these matters is long sometimes and some of us have not the opportunities of being in at the beginning when the work is done and hearing the discussion and the talk before the committee. I must talk on this question, and particularly the matter concerned in the 23rd section. It may be that if the views I entertain shall meet with consideration at the hands of the Convention, the Convention may desire to add something more to section 22, the one under consideration now. In the view I take of it, it does not make very much difference whether you put in the Constitution a provision that compensation shall be paid for private property taken for public uses, because otherwise you could not take it. That is a fundamental proposition. I lay it down now. You cannot take private property for a public use without paying for it. The second proposition is you cannot take private property for private uses at all, whether you put it in your Constitution or not. The section as it stands perhaps is not objectionable unless it be in the provision regarding compensation to be first made. We went over all that ground the other day and I had supposed that the Convention had finally and definitely concluded upon that subject. So far as I am concerned, I do not care to discuss that question. I find in my mind at least serious objection, however, to a portion of the amendment, offered I believe

by the gentleman from Weber, Mr. Kimball, which. as I remember it, expressly provides that benefits accruing to the owner of the condemned property shall not be taken into consideration in the award of compensation. I do not believe that is right. I have serious doubts whether it could be maintained. Perhaps, however, that being for the benefit of the citizen, might not present a serious question. It is wrong in principle anyhow. Under such a provision as that any municipality in opening a street in a city, increasing the value of the property immensely perhaps—for the sake of illustration, we will say, a hundred per cent—why should the city be compelled to pay the price for the land taken for this great public purpose, which not only results beneficially for the general community at large—the entire city, but absolutely puts money into the adjoining property owners' pockets? It does seem to me that such a proposition as that ought not to be considered. It is not alone a question of railroads or quasi public corporations. This great question of eminent domain includes a vast variety of matters. It is founded on fundamental principles, underlying which, all the time, as it is the corner stone, is the right of private property. I object, therefore, so far as I am concerned, to that amendment, and I understand that there is another amendment by the gentleman from Weber, which, if adopted, would simply leave the first two or three lines, I believe, in the section.

The amendment offered by Mr. Evans, of Weber, was read.

Mr. VARIAN. It leaves it "first being made."

Mr. EVANS (Weber). Yes, sir.

Mr. VARIAN. Now, gentlemen, this is a matter of popular—a matter which you will decide without reference to law, because it is a matter that can be determined. It is a legislative question. I do not care to discuss that. I do want, however, to discuss matters arising particularly because of the 23rd section, and while we have not reached that yet, still as I said before, it is intimately connected with the 22nd section, and with the general subject, and it may be that you will want to make some further declaration as to what public uses are. If I shall be able to convince you as I have convinced myself since this matter was before the committee of the whole, that all these matters and declarations in the 23rd section are absolutely in violation of the 14th amendment to the Constitution of the United States——

Mr. BUTTON. Would not you prefer to take a recess and argue that afterwards?

Mr. VARIAN. I very much perfer it. I wanted to bring a volume or two here to illustrate.

Mr. EVANS (Weber). Mr. Varian, I desire to ask you a question. Would it not be better for you to make your argument on that subject when we reach it? We are simply determining this question now of taking private property for public uses.

Mr. VARIAN. Well, I have concluded to pitch right in here.

Mr. EVANS (Weber). I thought that might confuse both sections. I simply want to settle this question about what we will do, that is all. I simply want to ask you whether it would not be a better order if you had no amendment of this section to dispose of section 22 and then go to section 23.

Mr. VARIAN. No, Mr. President, the view I take of it, the two sections should properly be considered together. And as I am advised, it might be necessary to present some additional amendment to section 22, which cannot be done without considering at least by way of argument the effect of section 23.

The Convention then took a recess until 2 o'clock p. m.

AFTERNOON SESSION.

Mr. KIMBALL (Weber). Mr. President, I do not desire to make a speech at this time on my substitute for the section that is now under consideration and all the amendments, but I do desire this, as the gentleman from Salt Lake, Mr. Varian, has the floor, to correct him in one thing that he mentioned this morning. If you read my substitute, it obviates the objection the gentleman raised. I do not refer in that clause of the substitute that refers to the non-allowance of benefits to public corporations, and I simply want to call his attention to that matter now, so that he may not be misled in his argument that he may make hereafter in regard to that matter, and if the gentleman reads it himself, he will observe that it is restricted to private corporations, not municipal corporations, or any other public corporations.

Mr. VARIAN. Mr. President, as intimated before the recess, the matters embraced in section 23 are intimately connected with the subject matter of section 22. It is impossible, I think, to intelligently discuss the whole underlying principle which ought to be and must be, I submit to you gentlemen here, discussed and understood before you can afford to pass on either one of these propositions. The matter has been considered, Mr. President, at some length in the committee of the whole. I believed then as I believe now that in the general desire to accomplish an admitted good for the people of the new State and to enable them to develop its resources, the great fundamental principle underlying this entire doctrine was overlooked, or if not, was passed by too hastily. It was assumed that the people in this Constitutional Convention assembled had complete and full power to even disturb vested rights, to invade the sanctity of the private ownership of property, and by a simple ipse dixit—a declaration to make of a private use a public use. Now, I submit in the beginning that that theory is in violation of the principles upon which this government rests; it is the right of eminent domain which we are considering and it is well to pause a moment and understand and admit what that right and power are. It is the power inherent in all governments, whether you declare it in your Constitution or leave it out, based upon the principle that the public safety is the supreme law, predicated upon a law of necessity, which authorizes the entire people, through the medium of their common government, to reach out the hand and take the property of the citizen, because it is deemed necessary to advance the interests of the state. That is the principle underlying it. It is well expressed by the supreme court of the United States, speaking through Mr. Justice Field, in the following language:

> The power to take private property for public uses, generally termed the right of eminent domain, belongs to every independent government. It is an incident of sovereignty, and as said in Boone versus Patterson, requires no constitutional recognition. The provision found in the fifth amendment to the federal Constitution, and in the constitutions of the several states, for just compensation for the property taken, is merely a limitation upon the use of the power.

I start with the proposition then (and it is necessary to consider this from the beginning in order to emphasize and point what I have hereafter to say), that it needs no declaration in your Constitution to give your Legislature this right. While I will admit it is usual to put it there, and it is found in all the constitutions (generally for the purpose, however, of connecting with the declaration a limitation upon the right relative to the compensation to be awarded when it is exercised), if it is not there it still exists in the government of the new State as a very part and parcel of its sovereignty. You will observe that you do not have to declare the fact, which of necessity belongs to all gov-

ernments, that you may take private property for a public use. If you do declare it, it is well to limit it and modify it to this extent, that when you shall do so, you must make just compensation. It is possible we may admit, in the absence, at least without reference now to the higher law as embodied in the 14th amendment to the Constitution of the United States, that the whole people in constitutional convention assembled might enact an act of confiscation, which that would be, if compensation was not provided; but we must also admit that it would be so foreign to the entire temper and disposition of the people of the United States, that it could not be maintained; public sentiment would not maintain it, and it is at least questionable at this time whether the courts themselves would not override the constitutional enactment, upon the ground that it was contrary to all natural law and an interference with vested rights that the present age would not permit.

The second proposition, intimately connected with this, is that after all, under your system, however you may curtail it and modify and express it, in your constitutional enactment, it is upon the judiciary that the weight of determination must fall. It is impossible for any American citizen to admit for a moment that the power lies anywhere in a legislative body or in the people themselves to invade the ownership of private property to the extent that it may be taken, even for public use, without compensation; and of course that principle is always accompanied with another, that in cases of supreme necessity, when the laws are silent, when the necessities of the entire community require different action, it is not applicable then. As an instance it may be illustrated in cases of great conflagrations and calamities of that kind, which have overtaken and may be expected to overtake large communities; when a great fire eats away and destroys cities, the government may step in on such occasions and may arrest the progress of the flames, or attempt to do so, by destroying private property, for the benefit of the public, and unless there is a statute providing for it, no man is liable and no compensation need be made. But, we are not dealing with exceptional cases, we are dealing with the general principles, and I want to start right from that broad foundation, upon which I stand, and I affirm these propositions: First, that the right of eminent domain is inherent in all governments and needs no constitutional declaration. Second, that since the 14th amendment to this Constitution of the United States was adopted, no state can take the property of the citizen for a public use, without compensation. Third, that no state can take the property of the private citizen for a private use under any circumstances or at all. Fourth, that of necessity the question of public use must finally be determined by the courts; that the simple declaration in your Constitution or in your legislative enactment, that the use of property in a certain way shall be deemed a public use, is not conclusive. This is a question of necessity, a shifting one. It depends upon different conditions, different circumstances, which overtake a people from time to time as the years go by. What may be deemed a public use in one locality, under certain conditions, with certain circumstances surrounding its people, would absolutely be deemed the contrary under other circumstances and under other conditions. So that, of necessity it is always a question, as we term it, not alone of law, but a mixed question of law and facts. The facts must be ascertained, the conditions must be ascertained, the circumstances must be known, the purpose and objects of the proposed act must be defined, in order that the ap-

plication of the law to such conditions and such facts may be made by the proper tribunal.

Now, if I have made no mistake in that (and I don't think I have), we are ready to proceed in the line to the consideration of the next matter. We start, you will remember, with the understanding that we do not need, first, to make any declaration in this Constitution at all. We are all agreed that as it is usual and customary to do so, it is better to do so, perhaps. We are all agreed that we ought, in accordance with the times, with our system of government and with our ideas concerning the protection of property and the rights of the individual, also couple with the declaration a limitation, as it were, upon its exercise; that is to say whether we shall put in there that it shall not be taken without just compensation. But, now we are confronted with the further proposition, that we are to declare here, not alone what shall be public uses, if we come to condemn, but we have gone further and attempted to say what shall be deemed private uses; or, to reverse the statement, we have attempted to declare that in certain classes of cases, for some certain specific purposes, the property of the private citizen may be transferred from him to his neighbor; and I undertake to say that it is in violation of the Constitution of the United States, as it is in violation of all our understanding of vested rights; that it is confiscation and spoliation, in principle and in fact, as it is presented here in this declaration. Why, the very object of this government, the primary object, is the protection of life, liberty, and property. Property stands upon the same plane with life and liberty. It is simply, as it is affirmed in the opening statement of this very preamble and declaration of rights, a reaffirmation of what has always been in this country and in England since the days of magna charta. The language is changed a little, but the equivalent is there, and the meaning is the same, and none other.

It will take no longer, as a part of what I have to say, to incorporate in my language what is said by others upon this question, law writers, and judges. Following this, of course, it is apparent, Mr. President, that a constitution is not beginning of government. Government existed before the constitution. It is not the origin of all these rights, or privileges if you please, that are affirmed and declared in it and are protected in it or by it. Mr. Cooley says:

In considering state constitutions, we must not commit the mistake of supposing that because individual rights are guarded and protected by them, they must also be considered as owing their origin to them. These instruments measure the power of the rulers, but they do not measure the rights of the government. What is a constitution and what are its objects? It is easier to tell what it is not than what it is. It is not the beginning of a community nor the origin of private rights. It is not the fountain of law nor the incipient state of government. It is not the cause, but consequence, of personal and political freedom. It grants no rights to the people, but is the creature of their power, the instrument of their convenience, designed for their protection, in the acknowledgment of the rights and powers which they possessed before the constitution was made. It is but the framework of the political government and necessarily based upon the pre-existing conditions of laws, rights, habits, and modes of thought. There is nothing primitive in it. It is all derived from a known source. It pre-supposes an organized society, law, order, property, personal freedom and love of political liberty, and enough of cultivated intelligence to know how to guard it against the encroachments of tyranny.

Mr. Justice Storey, speaking for the supreme court of the United States, has said:

Fundamental maxims of a free government seem to require that the rights of personal liberty and private property should be held sacred. The language of magna charta in substance was, no freeman shall be taken or im-

prisoned or be disseized of his freehold, etc., but by the lawful judgment of his peers or by the law of the land.

By "the law of the land" is meant the due course and process of law, and that has been affirmed of necessity, as it appears by the people of the United States when they adopted the 14th amendment to the Constitution. The 5th amendment covered the same subjects but it only applied to Congress. It never applied to the state, and it was not until in latter days that the people of the United States engrafted upon their organic law that prohibition reaffirming the prohibition of the 5th amendment, making it specially applicable to the states in this Union. Let me read you the language particularly applicable here:

No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any state deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the law.

That provision until of late has been substantially the constitutional provision of every state; but within the last few years, notably in those states that have just come into the Union, Washington, Wyoming, and one or two others, they have gone outside of that and have adopted provisions which we find embraced within section 22 of this proposed preamble and declaration of rights for the State of Utah. The construction and interpretation of this language of this constitutional guaranty everywhere have been that you cannot, under it, take private property for private uses. By no specious reasoning has it ever been permitted to any legislature to evade that guaranty where it existed, and the fact that that is so is made apparent by the action of these constitutional conventions of late years. They have sought to limit, to modify, to get outside of this constitutional guaranty, and they have overlooked the fact that behind that and above that there is a higher law, organic as to these states, before which they must all yield and to which they must all concede—the Constitution of the United States, as amended by the 14th amendment. To that extent the construction put upon those several constitutions by the state courts is applicable to this same language which is incorporated in the Constitution of the United States. It all turns and depends upon what "due process of law" means—what "the law of the land" means, to be interpreted and understood in the light of the general principles affecting human liberty and the rights of property in this American republic. A great judge, speaking for the supreme court of New York, says:

Due process of law undoubtedly means, in the due course of legal proceedings according to those rules and forms which have been established for the protection of private right.

And Mr. Justice Johnson, speaking for the supreme court of the United States, at an early day, said:

As to the words from magna charta, incorporated in the constitution of Maryland, after volumes spoken and written with a view to their exposition, the good sense of mankind has at length settled down to this, that they were intended to secure the individuals from the arbitrary exercise of the power of government, unrestrained by the established principles of private rights and distributive justice.

And Mr. Justice Sharswood, one of those great justices of the olden time, whose judicial life and history shine out and emblazon the pages of jurisprudence in this country, speaking for the supreme court of Pennsylvania, said:

If, however, an act of assembly, whether general or special, public or private, operates retrospectively to take what is by existing law the property of one man and without his consent transfer it to another, with or without compensation, it is in violation of that clause in the bill of rights which declares that no man can be deprived

of his life, liberty, or property, unless by the judgment of his peers, or the law of the land. By "the law of the land" is meant, not the arbitrary edict of any body of men, not an act of assembly, though it may have all the outward forms of a law, but due process of law by which either what one alleges to be his property is adjudged not to be his, or it is forfeited upon his conviction by his peers of some crime for which by law it was subject to forfeiture, when the crime was committed. If this be not so, every restriction upon legislative authority would be a vain formula of words without life or force. For what more can the citizen suffer than to be taken, imprisoned, disseized of his freehold, etc., and be deprived of his property without crime?

And in the sinking fund cases, Chief Justice Waite, speaking for the supreme court of the United States, uses this language:

The United States cannot any more than a state interfere with private rights except for legitimate governmental purposes.

And Mr. Cooley again says:

But there is no rule or principle known to our system under which private property can be taken from one person and transferred to another for the private use and benefit of such other person, whether by general law or by special enactment. The purpose must be public, and must have reference to the needs or conveniences of the public. No reason of general public policy will be sufficient, it seems, to validate such transfers when they operate upon existing vested rights.

And again, the supreme court of New York on the same subject say:

An act to take private property for a purpose not of a public nature, is to take the property of one and give it or sell it, which is the same thing in principle, to another, would be a gross abuse and fraudulent attack upon private rights.

Justice Nelson, in that great state, sitting as a member of the court, when it was a great court, as it is now, perhaps:

It is now considered a universal and fundamental proposition in every well regulated and properly administered government, whether embodied in constitutional form or not, that private property cannot be taken for strictly private purposes at all.

Mr. CREER. I would like to ask the gentleman a question upon this point he is on now. May I ask you if that authority, taken from New York—why is it then it makes no provision by general laws that private property may be taken for private use?

Mr. VARIAN. I am endeavoring to show and I have shown that the same principle which has hitherto prevailed in all the constitutions has latterly been incorporated in the same language in the Constitution of the United States. I am simply alluding now to the interpretation of that language by the state courts as to what it means in the Constitution of the United States.

In a late case in the supreme court of the United States, Mr. Justice Brown, speaking for the court, says:

Upon the other hand, it is probably true that it is beyond the competency of the state to appropriate to itself the property of individuals for the sole purpose of creating a water power to be leased for manufacturing purposes. This would be a case of taking the property of one man for the benefit of another, which is not a constitutional exercise of the right of eminent domain.

Mr. THURMAN. I would like to ask the gentleman one question. I am in sympathy with the gentleman on this question entirely, but the query in my mind is, how this discussion comes in to this matter as it now stands?

Mr. VARIAN. If the gentleman will allow me to lay my premises, I will endeavor to explain how it affects the discussion of section 22. I was going to read from the report of the supreme court of Illinois. I will not pause for that purpose now.

Now, these are the premises that I lay down, if I can make myself clear. Of course it is a lawyer's argument, and it would not be justified in a body like this under other circumstances. It is a matter, as I shall suggest hereafter,

which ought to be discussed and settled or at least investigated by a committee. The proper committee here would be the committee on federal relations, but without any disrespect to those gentlemen, they are not lawyers, any of them, I believe, and this is peculiarly a matter for lawyers, as is quite apparent. Now, these are the premises: First, that it does not lie within the power of our government, whether acting through the medium of a constitutional convention or a legislature, to take the property of one citizen and transfer it to another for a purely private use. It is within the power of our government, in cases of public necessity, and those alone, to take the private property of the citizen, for the uses of the state, making just compensation therefor. We are also bound by the prohibition in the Constitution of the United States just as if we were sitting here as a legislative body, with an organic law of the state controlling and restricting our action with the same kind of language. Do not the gentlemen see that? Do not you see that it is just exactly the same, since this amendment has been adopted, as if we were dealing with a like clause in a state constitution and were attempting to make an enactment under that? Imagine for a moment now that this was a Legislature of the State, and that this provision of the 14th amendment were incorporated in the organic law of the State, and we were discussing a bill containing these clauses. Take that section 23 for instance; the entire question would be disposed of as this must be disposed of. We would look into the history and origin of the power. We would review it in the light of the interpretation and construction it had received. We would review it in the light of the necessities of our people with reference to these constitutional guaranties and protection, and it would be determined there, as it must be determined here, that you have no power, no right, to enact anything at all like that in section 23.

Now, gentlemen say, what has that got to do with section 22? This: If the Convention shall be convinced that the position I am taking is the correct one, and that it will not do to leave section 23 in there, they may consider, "well, there are some matters embraced within section 23 that might properly be declared public uses." That being so, we want to consider section 22, which refers to public uses, is dealing with that subject in the light of these objections to section 23, and ascertain, if we can, whether we can take some of these uses for which we have attempted to provide in section 23 and make them public uses, and incorporate them by amendment or addenda to section 22. It is in that sense and in that view that I consider that the argument came on properly at this time, because in dealing simply with these amendments to section 22 in the light of just the matters embraced within it, the Convention not having its attention called to what was coming in section 23, might undertake some action that subsequently they would want to reform and do away with.

Now, I submit, that we ought to take those two sections, pass this question for the time; the matter ought to be recommitted with directions to the committee to investigate and ascertain whether my position here is correct. I do not ask nor expect that my ipse dixit shall be taken by this Convention on a question of this kind. It is a matter of grave and serious moment. It involves one of the gravest questions of constitutional law. It is not only serious as to the effect upon the people if the Constitution should be adopted, but you will observe it is serious in this particular if my position is correct: The President of the United States cannot, under his oath and under the Enabling Act, issue his proclamation upon this Constitution. The language of that act is, "if it shall appear that the provisions

of this act have been complied with, that the Constitution as adopted is republican in form and is not in conflict with the provisions of the Constitution of the United States, then the President shall issue his proclamation, whereupon the State shall be admitted."

So, it is in no captious spirit, and certainly with no desire to be heard or to make a speech (I have plenty of opportunities to do that in my profession), that I have intruded myself at this length at this time. It is in the honest and earnest and sincere conviction that you are just now upon the eve of making a great mistake—and I will go further and say that I do not believe that many of these matters that are contained in section 23 could be made public uses simply by a declaration; and after all, in every case the matter will have to be determined by the court; that under the guise of a public legislative declaration, whether in the Constitution, or in the act of the Legislature, a fact is not changed, a merely private use is not made a public use simply because a body of men representing a government say so. I think that ought to be borne in mind. This matter ought to be investigated patiently and learnedly, if you please, through the medium of a committee, so that we will feel assured that no mistake has been made.

One word with reference to the suggestion made by my friend Mr. Kimball. It seems that I misapprehended the full force of his amendment, and to that extent I withdraw whatever criticism I made upon it. I should still be opposed to it upon principle, however, because I believe that the best and safest way to do is simply to put in your declaration in this Constitution, that private property shall not be taken for public use, except upon just compensation, and put in, "first made" if you please, and "taken or damaged," and let it rest there. There is no necessity of lumbering up the Constitution with enactments as to what shall be public uses, because whatever you say or do, as I said before, in the end you can do no more than the Legislature could do, and can no more take my property and turn it over to my neighbor, compelling me to sell it for a purely private use, by constitutional enactment, than you can do it by legislative enactment. And I say right here that I would hesitate long before I would vote to establish over me as a citizen of this republic such a law. I believe that it invades the sacred private rights of the citizen. I believe that it is wrong in principle. It is in violation of all that we have understood concerning those things, and it ought not to be, particularly in this Territory. It ought not to go into this Constitution if it is going to jeopardize it in the least; and I simply ask you gentlemen to consider now—I have made no further suggestion. I am not going to make any motion—whether it would be better to take those two sections on that subject and send them to a committee and let the committee report back after investigation what ought to be done in the matter,

Mr. HOWARD. I would like to ask Mr. Varian a question. You say you have no objections to the words "private property shall not be taken for public use without just compensation first made?"

Mr. VARIAN. I said I had none.

Mr. HOWARD. What particular objection have you got to the balance of that section 22?

Mr. VARIAN. None in particular—none at all. I am not criticising section 22. I concurred in the judgment of the committee the other day. I am not attacking that section, but I think the two sections are intimately connected, because it is one subject matter and ought to be disposed of all at once.

Mr. HOWARD. Section 23 is not before the house, as I understand. I am opposed to that.

Mr. FARR. Mr. Chairman, I do not

know—I would like to inquire in regard to the length of time a person can occupy in the debate.

The PRESIDENT. There is no rule in the Convention. The rule applies only to committee of the whole.

Mr. FARR. I do not wish the Convention to understand by this question that I got up for a long speech or anything of the kind. I do not consider if I was to stand here for two hours and quote you authorities it would have any bearing on this matter. The question is, what is right in the matter? That is what I want to know, and what law shall we enact for the benefit of the future State of Utah? (Reads sections 22 and 23.) Well, now, I maintain that the Legislature should provide for all of these. I have a substitute that I wish to introduce here that embraces only a few words, that I think will cover the ground of these two sections.

The PRESIDENT. We already have an amendment to section 22, and a substitute, and another section, until we take some action on this, would not be proper.

Mr. FARR. Mr. President, I just want to say this, for the consideration of the house, while I may vote for the other, this section I think will cover the ground of both of these sections and nearly all the amendments. There are a great deal of exceptions taken to this section, and they have provided a number of amendments to cover that. I will introduce this and read it and I will leave it for the gentlemen of this Convention to act upon it as they see fit:

Section 22. The Legislature shall provide by law that private property shall not be taken or damaged for public or private use without due compensation first being made.

I have noticed all the amendments of the different gentlemen. I have tried to embody their amendments as much as possible in this so that it will provide for all the objections, and the section will cover the whole in as few words as possible. I do not believe in going into all this rigamarole of law when it can be simmered down to a few words. I maintain the Legislature can provide all that there is in this twenty-third section. This Convention requires the Legislature by this section to provide a law for the whole of this. And I leave this section now for your consideration.

Mr. SQUIRES. Mr. President, in view of the remarks of the gentleman from Salt Lake, who has just taken his seat, and in view of the great importance of this subject as to the constitutionalty of our own Constitution, when it is to be adopted, I move that sections 22 and 23 be referred to the committee on judiciary with instructions to make an early report on that subject.

Mr. KIMBALL (Weber). I second that motion.

Mr. ROBERTS. Mr. President, I hope that motion will not prevail, for the reason that I believe that this house is prepared to settle this question now. We have been making slow progress and I think it is time that we made haste as much as we possibly can. Not that I am in favor of endangering any great principle by hurrying it over, but after the doctrines that have been expounded here on this question, and the rights and powers that the Legislature will have in the matter, and the questions also apparently having been pretty well settled in the courts of the country, I think we can at this time adopt section 22, and when we come to consider section 23, either declare such uses public uses as will grant the privileges desired to be obtained, or else leave it to the Legislature and to the future action of the courts, and we can do so with perfect safety. For one, I am prepared to accept section 22 as it is, and then accept such amendments of section 23 as will remove the objections that are made here to it.

Mr. CANNON. I would like to ask

Mr. Varian a question with his consent. I was not present at the time the gentleman commenced his address, but from what he said in closing I understand that section 22 as proposed to be amended by Mr. Evans, of Weber, provides that private property shall not be taken or damaged for public use without compensation, and that that would be agreeable to Mr. Varian?

Mr. VARIAN. Mr. President, I would say that I have no objections to section 22, but as coupled with section 23 there is a still further question in connection with it. If section 22 is allowed to stand, the question of public uses is complicated by the declaration in 23 as to private uses. For instance, take mining and milling, etc., that might be construed as a prohibition against the Legislature declaring certain public uses under section 22. If it were certain that 23 were to be stricken out, I would not have a word to say about section 22, and am perfectly content with it.

Mr. CANNON. Then, I am opposed to the motion to commit and in favor of voting on this motion as proposed. One reason is that section 10 was referred to the committee on judiciary several days ago.

Mr. SQUIRES. Mr. President, I will withdraw my motion with the consent of the gentleman from Weber.

Mr. KIMBALL (Weber). I withdraw my second. I now call for the previous question on the adoption of my substitute for section 22.

Mr. EVANS (Weber). Mr. President, I want to make a remark or two before this vote is taken, and I will be very brief.

The PRESIDENT. The previous question is called for.

Mr. KIMBALL (Weber). I submit the previous question has precedence of everything else. I object to the gentleman's speaking until that is disposed of.

The previous question was ordered.

The PRESIDENT. The question is on the substitute offered by Mr. Kimball of Weber.

The substitute was rejected.

The PRESIDENT. The question now recurs on the amendment of Mr. Evans.

Mr. KIMBALL (Weber). Mr. President, I raise the point of order, the previous question was on my substitute and not on any other matter foreign to that section. I now move to amend section——

Mr. IVINS. Mr. President, I rise to a point of order.

Mr. PRESIDENT. The gentleman was right; he moved the previous question simply on his substitute.

Mr. IVINS. The gentleman from Weber (Mr. Evans) moved an amendment to this section. The other gentleman from Weber moved as an amendment to the motion a substitute. If a substitute is in the form of an amendment, the question having been put upon the substitute of the gentleman from Weber, my point of order is that the question should immediately follow upon the amendment of the other gentleman from Weber, without any further debate.

Mr. KIMBALL (Weber). Mr. President, my motion was the previous question on my own substitute. I believe that the chair sustained me in that.

The PRESIDENT. I sustained it. The question before the house is the amendment.

Mr. KIMBALL (Weber). I move now to amend section 22 by adding at the end thereof the following words:

That among other public uses shall be included all lands for necessary reservoirs, drains, flumes, sewers, conduits, pipes, or ditches, for agricultural, mining, milling, domestic, or sanitary purposes.

Mr. EVANS (Weber). Mr. President, I arise to a point of order, that the amendment of the gentleman from Weber is not in order. I made a motion to strike out a portion of that section and now he offers to amend by

adding to the section. We have got to pass certainly upon that matter which I moved to strike out. I have no particular objection to the gentleman's amendment, but I think we ought first to dispose of that matter which I moved to strike out. The amendment which he offers is in the right direction,

Mr. KIMBALL (Weber.) Mr. President, I maintain that the gentleman's point of order is not well taken. It is true that he moved to strike out certain matter of that section, but my motion was to add to the end of that section, and it does not make any difference whether his amendment is adopted or whether it is not adopted. My amendment comes to the end of the section.

Mr. EVANS (Weber). We can not tell what the end of the section is now until we vote——

The PRESIDENT. The chair is of opinion that the gentleman's amendment is in order.

Mr. CANNON. Mr. President, would an amendment to the amendment be in order?

The PRESIDENT. No; there are two now before the house.

Mr. THURMAN. Mr. President, I move the previous question on the whole subject.

Seconded.

The PRESIDENT. The question now recurs upon the proposed amendment of Mr. Kimball.

The amendment was rejected.

The PRESIDENT. The question is now on the adoption of this section as proposed by Mr. Evans and accepted by Mr. Richards.

Mr. HILL. Mr. President, it is some time since we heard that amendment read. I would like to have it read before the motion is put.

The PRESIDENT. It is the striking out after the word compensation—all after that in that section be stricken out.

Mr. VARIAN. Did Mr. Evans accept the suggestion over here, "or damaged?"

Mr. EVANS (Weber). I did.

The amendment was agreed to.

The PRESIDENT. Section 23 is now before the house.

Mr. VARIAN. Mr. President, I move to strike it out.

Seconded.

Mr. KEARNS. Mr. President, I have a substitute here which I wish to offer for section 23, taken from the 14th section of the Idaho declaration of rights, which I think will cover all the grounds.

Mr. VARIAN. I move to strike out section 23.

The motion was agreed to.

The PRESIDENT. The secretary will read section 24.

Sections 24, 25, 26 were read.

Mr. HART. Mr. President, I move to strike out "a" as it stands in the second line of section 26, so that it will read, "all laws of general nature shall have uniform operation."

The motion was agreed to.

Mr. VAN HORNE. Mr. President, I move to strike out section 26.

The motion was rejected.

Sections 28 and 29 were read and passed without amendment.

Mr. SQUIRES. Mr. President, I now move the previous question on the whole proposition.

The previous question was ordered.

Mr. CREER. Mr. President, I move that we adopt the preamble as reported by the committee.

The motion was agreed to.

Mr. WELLS. Mr. President, before action is taken——

Mr. KIMBALL (Weber). Mr. President, I rise to a point of order. The previous question was sustained.

The PRESIDENT. Only on the bill of rights, not on the preamble.

Mr. WELLS. Before final action is taken on this article I move that the subject matter——

The PRESIDENT. The previous question has been called for and ordered.

Mr. EVANS (Weber.) Mr. President, I move that he have unanimous consent to speak.

Mr. KIMBALL (Weber). I object; I ask for the roll call.

Mr. HART. Mr. President, I arise to a point of order on the previous question on this whole article. Thus far we have arrived at no understanding as to the scope of Rule 23——

The PRESIDENT. It is stricken out.

Mr. HART. Rule 23. (Reads rule 23). Now, Mr. President, while I think a great many of us would not wish the ayes and noes—I think in fact we can unanimously agree that the ayes and noes should not be called separately on all these propositions, because I believe that there are a number of these propositions that there is no objection to from any person. But there are certain propositions here that individuals should have the right to record their votes on. There are some of these that I shall vote on separately. My objection is to the previous question on this whole proposition that it is out of order under these rules, and that the proper thing to do is to vote on each proposition separately.

The PRESIDENT. Not each section—upon the proposition—this is a proposition. The ayes and noes are called for under it.

Mr. HART. I think each one of these sections is a proposition.

The PRESIDENT. Oh, no, it is a bill of rights.

Mr. HART. And a man would have a right to cast a vote against any one section.

The roll was then called on the adoption of the article entitled declaration of rights, and the vote was as follows:

AYES—96.

Allen	Lemmon
Anderson	Lewis
Barnes	Lowe, Wm.
Bowdle	Lowe, Peter
Boyer	Low, Cache
Brandley	Lund
Button	Maeser
Buys	Mackintosh
Call	Maloney
Cannon	Maughan
Chidester	McFarland
Christiansen	Miller
Clark	Morris
Coray	Moritz
Corfman	Murdock, Beaver
Creer	Murdock, Wasatch
Cunningham	Murdock, Summit
Cushing	Page
Driver	Partridge
Eichnor	Peters
Eldredge	Peterson, Grand
Emery	Peterson, Sanpete
Engberg	Pierce
Evans, Weber	Preston
Farr	Raleigh
Francis	Richards
Gibbs	Ricks
Goodwin	Roberts
Green	Robertson
Hammond	Robinson, Kane
Hart	Robison, Wayne
Haynes	Ryan
Halliday	Shurtliff
Hill	Spencer
Howard	Squires
Hughes	Stover
Hyde	Symons
Ivins	Thompson
James	Thoreson
Johnson	Thorne
Jolley	Thurman
Kearns	Van Horne
Kerr	Varian
Kimball, Salt Lake	Warrum
Kimball, Weber	Wells
Lambert	Whitney
Larsen, L.	Williams
Larsen, C. P.	Mr. President.

NOES—0.

During the roll call members explained their votes as follows:

Mr. BOYER. Mr. President, I do not fully comprehend what we are voting on.

The PRESIDENT. You are voting on the bill of rights as amended.

Mr. ROBERTS. Does that include the preamble also?

The PRESIDENT. No, sir; the preamble will be voted on separately afterwards.

Mr. ROBERTS. And the ayes and nays called on the preamble?

The PRESIDENT. Yes, sir.

Mr. BOYER. No further amendment allowed?

Mr. ROBERTS. Gentlemen, I would ask——

The PRESIDENT. Gentlemen, you are out of order. The roll is being called.

Mr. HART. Mr. President, I wish to explain my vote. I can only vote yea, in favor of this proposition as a whole, but there are certain propositions in there that I wish to have my vote recorded on, and as I understood it I had the right under rule 23 to so record my vote. I, therefore, desire to be recorded against the striking out of section 23 and also against the adoption of section 10 as it now stands.

The PRESIDENT. The gentleman has the privilege.

Mr. VARIAN. Let it go on the minutes.

Mr. PARTRIDGE. Mr. President, I am willing to vote yea on that article, except the amendment of section 22. I wish to be recorded as voting no on that section.

Mr. THURMAN. Mr. President, I would like to vote upon the entire bill with the exception of the amendment to section 22, by which the Convention refused to require that private property should not be taken for public use without just compensation first made. As to that, I wish to be recorded in the negative.

Mr. VARIAN. Mr. President, in voting yea upon the article, I simply want to state that I have not changed my views as to the article. I am opposed to section 10, but I don't understand we can vote yea on one proposition and nay on another. Therefore, I vote yea upon the whole proposition.

Mr. FARR. Put down the same for me.

Mr. WELLS. Mr. President, I vote yea and announce now that I do so with the understanding that I may move hereafter to reconsider, because I am not satisfied to strike out section 23.

The PRESIDENT. The chair declares article 1, the declaration of rights, adopted.

Mr. KIMBALL (Weber). Mr. President, I have stood up here so long in order to get the floor, because I knew that if I kept my seat my friend Dave Evans, from Weber County, would be ahead of me, and therefore I stood up while you were announcing the vote. I now move, Mr. President, that the preamble——

Mr. EVANS (Weber). Mr. President. I arise to a point of order, that when a vote is commenced on any proposition it must be continued.

Mr. KIMBALL (Weber). The president had announced the vote.

The PRESIDENT. The gentleman is not in order. I had announced the vote on the bill of rights.

Mr. EVANS (Weber). The question is on the adoption of the preamble; nothing is in order but the roll call on that.

Mr. KIMBALL (Weber). That has been added to the many times my friend has been wrong. He is wrong again. My motion now is that we adopt the preamble as reported by the committee and as it appears in the printed article, and that we take the vote on it now. I move the previous question now.

The previous question was ordered.

The roll was then called on the question to adopt the preamble, with the following result:

AYES—95.

Allen	Lemmon
Anderson	Lewis
Barnes	Lowe, Wm.

Boyer	Lowe, Peter
Brandley	Low, Cache
Bowdle	Lund
Button	Maeser
Buys	Mackintosh
Call	Maloney
Cannon	McFarland
Chidester	Miller
Christiansen	Morris
Clark	Moritz
Coray	Murdock, Beaver
Corfman	Murdock, Wasatch
Creer	Murdock, Summit
Cunningham	Page
Cushing	Partridge
Driver	Peters
Eichnor	Peterson, Grand
Eldredge	Peterson, Sanpete
Emery	Pierce
Engberg	Preston
Evans, Weber	Raleigh
Farr	Richards
Francis	Ricks
Gibbs	Roberts
Goodwin	Robertson
Green	Robinson, Kane
Hammond	Robison, Wayne
Hart	Sharp
Haynes	Shurtliff
Halliday	Spencer
Hill	Squires
Howard	Stover
Hughes	Symons
Hyde	Thompson
Ivins	Thoreson
James	Thorne
Johnson	Thurman
Jolley	Van Horne
Kearns	Varian
Kerr	Warrum
Kimball, Salt Lake	Wells
Kimball, Weber	Whitney
Lambert	Williams
Larsen, L.	Mr. President.
Larsen, C. P.	

NOES—0.

The PRESIDENT. The chair announces the preamble carried.

Mr. KIMBALL (Weber). Mr. President, I move that we now resolve ourselves into committee of the whole to consider the next article on the calendar.

The motion was agreed to and the Convention then resolved itself into committee of the whole with Mr. Pierce in the chair.

COMMITTEE OF THE WHOLE.

The article entitled executive was then considered.

Section 1 was read as follows:

Section 1. The executive department shall consist of governor, secretary of state, state auditor, state treasurer, attorney general, and superintendent of public instruction, each of whom shall hold his office for four years, beginning on the first Monday of January next after his election, except that the terms of office of those who were elected at the first election shall begin when the State shall be admitted into the Union, and shall end on the first Monday in January, in the fourth year thereafter. The officers of the executive department shall, during their terms of office, reside at the seat of government, where they shall keep the public records, books, and papers. They shall perform such duties as are prescribed by this Constitution and as may be prescribed by law.

Mr. KIMBALL (Weber). Mr. President, I move to amend section 1 by inserting after the word "governor," in line 2, the word "lieutenant-governor."

Mr. THURMAN. I second the motion.

Mr. KEARNS. Mr. President, I hope that the motion will not prevail. It is unnecessary to create any extra offices. We find thirteen states in the Union that are all of more consequence and with more inhabitants and wealthier states than this that get along without a lieutenant governor. Again, I find that the secretary of state is an office that contains a good deal more responsibility. We are apt to get a better representative in the office for secretary of state than we are for lieutenant governor, and I do not see why at this time we should create that office. I think it is unnecessary. I hope this motion will not prevail.

Mr. KIMBALL (Weber). Mr. Chair-

man, I am of the opinion that my friend's argument is not good, that because thirteen states do not have a good thing, that we, the last State, should not have it. I certainly think that a lieutenant governor is a necessary party in the executive department, and I think that for several reasons. The first reason is that under all of the constitutions of all the states a lieutenant governor is the presiding officer of the senate.

Mr. KEARNS. Might I ask you a question?

Mr. KIMBALL (Weber). Wait a minute, will you please? You talk so fast I cannot keep track of you and I would like to get my say first, because I may forget it. He is the presiding officer of the senate. He is an indifferent officer, he is a man there without a vote. He presides over that senate impartially. I say that is a good reason for having a lieutenant governor. Another reason for it is that when the people come to vote for governor or lieutenant governor or secretary of state they know who they are choosing to be their governors and they express their choice, that the man that is named as lieutenant governor shall be governor in the absence of the governor or in case of his death or disability. You take the secretary of state. He is elected to perform other duties entirely, and I say you should not change the form of government so as to diverge from the constitutions of almost all of the states. Now, Mr. Kearns.

Mr. KEARNS. You say he is always speaker of the house. Those thirteen states that have no lieutenant governor, how do they manage to get a speaker?

Mr. KIMBALL (Weber). I have been at a loss to know how they did it. They elect some man from the democratic party or the republican party or the populist party, and they have a man in there that is a partial man from beginning to end, and when you have a lieutenant governor, it does not make any difference whether your state is republican or democratic, he is indifferent. He has no vote. He cannot vote on any question, and therefore, I say that I am in favor of retaining the lieutenant governor. It does not cost you anything. Say the legislative article provides four dollars a day, that the lieutenant governor gets when the Legislature is in session, and then he loses his time besides, and I certainly think that amendment ought to prevail.

Mr. VARIAN. Mr. Chairman, I simply want to explain the matter as it appeared to the committee. We felt that whichever way this was reported it would not meet with the approbation of the entire Convention. That is, if it reported a lieutenant governor, perhaps we would find a feeling or disposition to strike it out; but these were the reasons that moved the committee to eliminate from the government the lieutenant governor: First, the object, of course, was to economize as much as could be done consistently with public good, and then it was considered that the office was hardly worth the keeping. We could not afford to pay the State officer. We cannot afford to pay a lieutenant governor. At least the committee so considered it.

It is a high office, and, as suggested, might perhaps assume a still higher function in case of the death or disability of the governor. I have noticed in the experience that I have had in this matter that the result was about in this wise: The State provides for the office of lieutenant governor. When he is elected he knows that he will receive no salary. He knows that there is more or less dignity attached to it. Some bright man runs for the office and the moment he gets there he looks about him and sees all the other officers getting pretty good salaries and well taken care of by the State. He begins to think, "I am not treated right here; I have got to devote my time to the ser-

vice of the State; I cannot leave the State, and as long as I hold this office I am liable to be called upon to perform duties of the State. Every meeting of the Legislature I have to go there and give my time for the State at a small per diem. I do not think it is right. His friends begin to think so too. The result is they commence to hatch up some legislative scheme to provide emoluments for him.

Now, this is just what happened in your adjoining state of Nevada. No sooner was the constitution adopted and the legislature had met—perhaps the second session, than a scheme was put on foot to provide some way of giving the lieutenant governor a salary, and what did they do? They made him warden of the state prison and that ran along several years until the people became assured it was not just the thing to put politicans in that office. There were too many breaks for liberty; convicts were killed, and officers too; they took him out of that and made him state librarian at a salary of three thousand dollars a year, and so it went. Now, we thought history might perhaps repeat itself. As you start in you will find a tendency like this: "I will run for lieutenant governor, the dignity is all I want." He runs for this office, which is a dignified office; when he gets in there he begin to see that the other men are not running for the dignity alone. They are running for the salary, and they all want all they can get and like to have it increased if possible. That is human nature, and so you will have the lieutenant governor, and his friends, complicating matters and endeavoring to provide some place for him in order that he may live in the capital and be one of the officers with the rest of them. Now, whether that is a sufficient reason in the minds of this Convention, at least that was one of the reasons that moved the committee. Of course the committee are not wedded to the notion at all, and I do not desire to take time insisting that it should remain in that way, but I thought that we would explain the views that moved us.

Mr. KIMBALL (Weber). If you will point to some other instance than Nevada——

Mr. VARIAN. That was under my personal experience.

Mr. KIMBALL (Weber). I am a little prejudiced against the practices in Nevada. I would like to have some other state.

Mr. VARIAN. The gentleman may be prejudiced against a thing that he don't know anything about. I think, perhaps, it will compare quite favorably with those of Indiana, certainly, and if he will take the trouble to be informed he will ascertain that at the time that constitution was made and adopted, Nevada was filled up with some of the brightest men and most distinguished men that ever assembled in one community in these United States.

Mr. IVINS. Mr. Chairman, the gentleman from Weber (Mr. Kimball), who moves as an amendment to this article that this additional office be created, gives as his reasons, first, that the lieutenant governor is president of the senate, and second, that when the people elect a lieutenant governor, they know that the man they choose will, in case of the disability of the governor, act in his stead, and he advanced no other reasons. Now, gentlemen, isn't it a fact that there will be among the twenty-five men or more who may be chosen to the senate of this State some one man that will be just as amply capable of acting as president of the senate as the lieutenant governor might be? Is it not also a fact that the people, understanding when they choose a secretary of state that he will be governor of this Territory in case of the disability of the chief executive, would be just as likely to choose an efficient governor direct? In the first place, this section as it stands, has in view

economy. The committee did not think that a multiplicity of offices should be created where they could be consistently dispensed with.

In looking over the constitutions of other states, we find that the lieutenant governor, as a rule, is a salaried officer. If the plan that has been suggested shall be carried out the officers of this State will be salaried officers, and in that event a lieutenant governor would receive a salary, which in many of the state constitutions I have examined is made about half that of the chief executive. Under those conditions it does seem to me that it is unnecessary. While it is true that in a majority of the states the office of lieutenant governor is created, it is also true that in some of the states which have been more recently admitted to the Union the secretary of state performs the duties of governor during his disability, and it was with this view that the section was passed in the committee as it is. Some greater reason should be shown than that offered by the gentleman from Weber, before I should feel like consenting to any change.

Mr. GOODWIN. Mr. Chairman, I do not care to argue this question, but I would like to a little further elaborate the record in Nevada, because the same thing may be done over in this Territory or State. The lieutenant governor was made warden of the penitentiary, but it was given up after awhile because it demoralized the prisoners. The reason given was that where the prisoners were brought in close association with a high officer they lost the respect for authority and could not see very much distinction between a lieutenant governor and a horse thief; but I arise to ask if I may be excused and to state that the judiciary committee would have no meeting to-night.

The CHAIRMAN. The gentleman may be excused.

The question is on the amendment of inserting the words "lieutenant governor" alter the word "governor," in the first line.

The amendment was rejected.

Mr. LOW (Cache). Mr. Chairman, I desire to offer an amendment to section 1, which is to strike out all that part of the section, commencing at the word "beginning," in line 5, down to and including the word, "thereafter," in line 11. My reason for offering this amendment to section 1, can better be stated and explained more fully when we reach section 2. The clause which I ask to be stricken out here in section 1 seems to me to be precluding the possibility of alternating the offices in the executive department, and I desire when we reach section 2 to offer an amendment that will provide that offices in the executive department will be alternated so that we may not have a governor, secretary of state, state auditor, state treasurer, etc., all elected at the same time, and for the same length of terms.

Mr. VARIAN. Mr. Chairman, I still do not understand, even granting the purpose of the gentleman to amend section 2, why that should prevail. What reason is offered for letting state officers alternate, or some of them? The whole theory of the bill was that state officers would be elected at one time. Of course we have an understanding that certain other elections be held at different times.

Mr. LOW (Cache). Mr. Chairman, by way of explanation, I would read the amendment which I wish inserted in section 2, that after the word "legislature," in line 4 of section 2, the following:

Provided that at the first election the governor and state officers shall be elected for a term of two years.

By striking out this portion of section 1, which I move to strike out, my idea was to provide for the election of two of these officers for two years at the first election. Then after that their

terms of office should be four years as provided in section 1, if we strike out that clause to which I have the objection in section 1.

Mr. VARIAN. If I understand the gentleman, then, he wants to have the state officers elected alternate, that is at different times?

Mr. LOW (Cache). Yes, sir; that is my understanding; they shall all hold their terms of office for four years after the first election, and by putting in the first two or three of them for two years, then at the end of two years, we will have another election for them and their terms of office shall then be four years, and it would not necessitate the election of all the officers at the same time and their term of office expire at the same time; and I would explain further that I believe it would be an advantage to the executive department not to have the terms of the governor and secretary of state expire at the same time, for I understand that the provision was made in this article that in the absence or disability of the governor the secretary of state shall become acting governor, and it would be an advantage I claim that the secretary of state would have had an experience previous to the election or incumbency of a new governor in office.

Mr. ROBERTS. Mr. Chairman, I rose for the purpose of asking the gentleman the advantage that would accrue from having these elections as he proposes. That is, dividing the election of the executive officers, and he has given an explanation of that. But I wish to say that the advantage that he claims for this arrangement that he proposes does not appeal to my judgment. I take it for granted that the executive offices will not be very intricate, and men who will be elected to those offices will not be boys but men of experience and competent to discharge the duties to which they shall be elected, and I can conceive of no advantage really to be derived from the plan suggested by the gentleman from Cache Valley, and therefore should not favor the amendment.

Mr. LOW (Cache). Mr. Chairman, I will explain further in regard to this matter, that it is also provided in this same article that the executive officers, many of them, are members of various boards of control, and if we should happen to vacate all the positions in the executive department at once we would have men put into these places who would not have an understanding pertaining to these various boards of control.

Mr. CANNON. Mr. Chairman, I favor the amendment by the gentleman from Cache; in the article which provides for revenue, taxation and public debt, it is designed to make several of these officers a board of equalization, and I think the advantage of having men who have had some experience and other men who are just coming into office would be considerable. It would be upon the same principle upon which they elect senators to the United States senate, and that is followed in many of the states in other respects that they have different members with their terms of office expiring at different times; so also they would have in the various boards referred to here some men who had had some experience. While it is true they would probably elect men of experience, yet there is a certain amount of routine that has to be gone through with, and I believe it would be an advantage to the State to have them elected in the manner suggested by the amendment. I should, therefore, favor it.

Mr. VARIAN. Mr. Chairman, I agree with Mr. Roberts. The question is new to me and I am not prepared to exchange ideas with the gentleman on this statement. It seems to me to be something new. I am not aware whether it has been practiced anywhere. Perhaps my friend can tell me whether the state of Washington has

it. But I call my friend Mr. Cannon's attention to the fact that there is not really so much in his reason as at first blush would occur. The same principle would apply in the case of the federal government; the President and cabinet officers change every four years and sometimes oftener. Offices are not dependent on the individuals. They live when the individuals go out, and unless the gentleman is able to illustrate a point rather to some particular instance of this kind in other communities it seems to me we ought to hesitate to change the general rote.

Mr. CANNON. I call the gentleman's attention to the fact that the custom in Utah has been almost universally in our boards of county commissioners, or selectmen, to elect them alternately and not have them retire at the same time.

Mr. VARIAN. But where has the custom been followed as to state officers, who have an alternating system of that kind? Where do you find them electing a governor one year and a secretary of state another, etc.?

Mr. BOWDLE. You find it in your native state, I believe.

Mr. VARIAN. It is so long since I have been there I am not able to say.

Mr. JAMES. Mr. Chairman, before putting the question, I want to just make a remark. I am not in favor of the amendment for one reason that has not been suggested, but the greater reason is because this matter has been in charge of a committee who have given it careful thought in their committee room, men that would be capable of dealing with this question, and to my mind their judgment is a guide to me. But there is still one other. It has been said that it would be to the advantage to alternate. Now, my friends, I do not believe that alternating is a good healthy proposition, for the benefit of the State. You, Mr. Chairman, and all other gentlemen here that have observed officials who are not in harmony, know that they do not work to the great advantage for the good of the public, that they do where they are in harmony. Now, the party that may be successful at the election will elect the governor and the other party that probably has been defeated will have the secretary in, and you have a set of officers that probably will not work so well together. Your team is not so well matched. They do not trot so nicely on the road and consequently in place of a benefit, it is really a detriment.

The amendment of Mr. Low, of Cache, was rejected.

Mr. BUTTON. I would like to ask Mr. Varian one question for information. We have to elect a congressman every two years. This provides for these officers to hold four years after this first election. Will it be then that in the intermediate years, we have to have elections?

Mr. VARIAN. I will state that it was thought that after all these articles had been substantially adopted by the Convention then finally this question of time would be fixed.

Mr. BUTTON. Then it won't have any effect on this?

Mr. VARIAN. I presume not. It may be necessary to change this time. It will depend on what the action of the Convention will be in regard to the election this fall, how they will alternate the elections. The committee don't consider that the fixing of this matter in this section was binding on the committee, but simply put in there for the purpose of making the article complete and subject to be changed when you determined how you are going to have the elections.

Section 2 was read as follows:

Sec. 2. The officers provided for in section one of this article shall be elected by the qualified electors of the State at the time and place of voting for members of the Legislature, and the persons respectively having the highest number of votes cast for the office voted for shall be elected; but if two or more shall have an equal and the highest number of votes for anyone of said

offices, the two houses of the Legislature at its next regular session shall forthwith by joint ballot elect one of such persons for said office. The returns of election for the officers named in section 1 shall be made in such manner as may be prescribed by law, and all contested elections of the same, other than provided for in this section, shall be determined as may be prescribed by law.

Mr. LOW (Cache). Mr. Chairman, I have an amendment. I desire to insert after the word article, in line 2 of section 2, the words "except the superintendent of public instruction." I desire to say in support of the amendment which I have just offered that I believe in short that the superintendent of public instruction should be an appointive office.

Mr. EICHNOR. Mr. Chairman, this time I shall not quote from the constitution of the state of Washington. In the state of Pennsylvania the state superintendent is appointed by the governor, and ever since the state of Pennsylvania had a superintendent of public instruction; when we had a republican governor he appointed a republican, when we had a democratic governor, he appointed a democrat. It is simply six one way and half a dozen the other. I believe in electing him.

Mr. HEYBOURNE. Mr. Chairman, I am opposed to the gentleman's motion. I believe in leaving the power and choice of these various officers in the hands of the people just as far as it can be done. Further than that, I am of the opinion that the gentlemen who composed the committee that had this matter in charge have given it very candid and careful consideration, and I am willing so far as the measure has been presented to leave the matter in their hands. Therefore, I shall object to the motion to amend.

Mr. LOW (Cache). Mr. Chairman, I have not heard any argument adduced here why we should submit to every proposition that is presented by members of certain committees, because the gentlemen of those committees would give due consideration to the matters before them and whose judgment would be good. That is the tenor of the remarks made that oppose the amendment I submitted. I desire to add that one reason why I submit this amendment is that we would oftener have an educated man appointed. Where it would be left to the people we would have a politician elected. A politician would work for the office. Certainly he might do if appointed. We would have the governor use his judgment in regard to the question if the matter of appointment is referred to him subject to the support or consent of the senate—the legislative body, and I contend that we would get a better man, no matter if it may be a man of the same political faith that he would have been, if he had been elected. In nine cases out of ten, this would be the truth—the facts in the matter. Although the question of education has been left out of politics to a very great extent, we will find that we will take it into politics to the very greatest extent, if we would allow this to become an office in which the plum would be worth a political fight for, and therefore I would favor the appointing of this officer, no matter what his political ideas may be.

Mr. VARIAN. That is upon the theory that every man who is elected is going to be a politician. Would not the governor be a politician also? And could you depend upon him any more than you could upon a man elected by the people?

Mr. LOW (Cache). You could to a very great extent.

Mr. VARIAN. You would have the governor a politician, picking out another politician to aid him in his political schemes?

Mr. LOW (Cache). The defeat of my first suggestion of course removed this further from possibility in this connection, because the governor would be in four years then, and in the other case he would be in only two years, and I

say there could not be so much conniving in that case. But, of course, if you remove it further from political strife it would be better.

Mr. RICKS. Mr. Chairman, there is one point that we ought to consider in connection with this amendment. Mr. Low refers to section 14 of the article on elections and rights of suffrage. (Reads.) Now, this provides that the superintendent of public instruction, whom I take to be a school officer, should be elected at the same time the other State officers are, and I should think that this amendment or some other looking to harmonizing these two sections ought to be considered.

Mr. VARIAN. I do not understand that the term school officers used in the article on elections and rights of suffrage includes superintendent of public instruction. He is a State officer, but as I said before, can we not, after you get all these articles settled to your satisfaction, by looking over the two that conflict, fix it as you want it?

The amendment offered by Mr. Low, of Cache, was rejected.

Mr. EVANS (Weber). Mr. Chairman, I desire to propose an amendment to section 2, by striking out all in the section after and including line 12. I have so much confidence in the chairman of this committee that I will leave it entirely with him as to whether that is necessary. It simply leaves the Legislature power to do these things, which they would have anyway.

Mr. VARIAN. I have no objection, I think. The thought was that inasmuch as a provision for one sort of a contested election was made in the article—that is, where there were two or more having an equal or higher number of votes than others, that it should be determined by the Legislature. This was put in to provide for other cases, but as at present advised, I see no objection to striking it out.

The motion of Mr. Evans was agreed to.

Section 3 was read as follows:

Sec. 3. No person shall be eligible to the office of governor or secretary of State unless he shall have attained the age of thirty years at the time of his election, nor to the office of attorney-general unless he shall have attained the age of twenty-five years at the time of his election, and have been admitted to practice in the supreme court of the State of Utah, nor unless he shall be in good standing at the bar at the time of his election. No person shall be eligible to any of the offices provided for in section one of this article unless at the time of his election he shall be a qualified elector and shall have been a citizen resident of the State or Territory for two years next preceding his election.

Mr. VARIAN. Mr. Chairman, possibly when you get through with your article on elections, a portion of this section may properly be eliminated. You might pass it now if you will.

Mr. EICHNOR. Mr. Chairman, I wish to offer an amendment to section 3, at the end of line 15, "all officers of the executive department, except the superintendent of public instruction, shall be ineligible to election as their own successors." The reason I offer that amendment is this: The states that have adopted that plan to elect their officers for four years and then make the officers of the executive ineligible to re-election as their own successors—the plan has given great satisfaction.

Mr. BOWDLE. What states have done that?

Mr. EICHNOR. Quite a number of the eastern states. I will come back to Pennsylvania as one of the states, there are several others, the names I cannot recall. I think Ohio has it. Now, if any of you have ever lived in a state where the governor has the opportunity to scheme for re-election as his own successor, I think you would all be in favor of the amendment.

Mr. MACKINTOSH. Mr. Chairman, I would say that that rule ought to apply to the treasurer and all officers having the responsibility of funds.

Mr. EICHNOR. It does apply to all executive officers.

Mr. MACKINTOSH. It should apply to that one particularly, because in cases of malfeasance in office, or breaches of trust, they can cover them up and go on if they succeed themselves.

Mr. LOW (Cache). Mr. Chairman, I desire to amend Mr. Eichnor's amendment by saying they shall not be eligible to any other office during their term of office.

The CHAIRMAN. There is no second to it.

Mr. IVINS. Mr. Chairman, I just want to say that I trust this amendment of Mr. Eichnor's will not prevail. There is nothing so very desirable in these offices that they will be greatly sought after, and if a man makes a good governor why should not he serve two terms, if the people want him? That is the view I take. I do not believe in placing this restriction in this Constitution. If the people want a man for two terms let them have him. If they do not, there is nothing compulsory about electing him.

Mr. EVANS (Weber). Mr. Chairman, I was just going to say that I was going to support the amendment, that is about all. My purpose in supporting it is this, that it will prevent the governor and executive officers from laying their political wires for re-election. I think the provision is a good one. We have given them a long term of office—four years.

Mr. VARIAN. Mr. Chairman, I am at a loss to understand how the State is going to be benefitted from preventing one man laying his political wires to be elected and letting another man lay his political wires. As long as humanity is as it is, men who have a liking and aptitude for political life, you will always find them laying wires. If a man wants an office, he will try to get it, and I see no objection to a man who as he received the suffrages of the people to a high and responsible office, having filled it with satisfaction to himself and his constituents, asking an endorsement of the people for his faithful service, for his fidelity, to his trust. I see no difference in that particular, so far as the State is concerned than to allow a stranger to lay the wires. You cannot help that. A man who has not held office, an untried man, he will be seeking to get there, and he will do just as much and more perhaps than the gentleman who relies upon his position in the community and the record that he has made for the suffrages of the people. Of course, gentlemen, this matter of continuing men in office may be abused, but I have yet to learn that simply permitting men to be re-elected once is such an abuse. I hope that amendment will not prevail.

Mr. MAESER. Mr. Chairman, I speak in regard only to the superintendent of public schools and his office. Now, all politics are a curse on education, and I would like to see that office removed as far as possible away from politics. Now, that office is now elective. The people may be fortunate enough, and I trust they will, to secure a very fine superintendent of public schools, because we have one now. Now, it is not possible for any man, no matter who it is, and Mr. Lewis, our present commissioner of schools, will bear me out in that statement—it is not possible for him to do much in one year. It takes several years to make his mark and organize the schools of the State or Territory, as the case may be, so that he can see the fruits of his labors. Suppose now we have a superintendent of common schools secured for the first four years, he has succeeded in introducing a system of schools, beneficent and beneficial in the highest degree, giving satisfaction to the whole people, and by the time now he has got this system in full working order—by about four years, everything goes nicely and he finds he would be deprived from re-election.

Mr. EICHNOR. I would like to ask

Mr. Maeser—you understand that the amendment excepts the superintendent of public instruction?

Mr. MAESER. I sustain your position. Now, then, according to that, he would be deprived of re-election. And a new one would step in. He has got new ideas. Gentlemen, I know a little of what I am talking about; you do not find two educators that agree in all points. Therefore, he will have his own system. His predecessor has made a fine record and now he wants to do something also. He will undo a great deal of his predecessor, as much as possible, in order to establish his mark, and so every four years our educational system is liable to be thrown into confusion. But suppose that a superintendent who is not very efficient, after four years this people can get rid of him, until we get one that will give satisfaction or start with one that gives satisfaction. We have one now that gives extreme satisfaction. He starts a very fine system throughout. Perhaps that system ought to be perpetuated—ought to be sustained. Then, by all means let us have him again, and so on. Therefore, I sustain the proposition of Mr. Eichnor.

Mr. HEYBOURNE. Mr. Chairman, I would like to ask Mr. Eichnor—that argument applies to Doctor Maeser just the same as do his remarks to the superintendent of instruction?

Mr. EICHNOR. I say no, for this reason. Because all the State officers are political officers, while we may elect a State superintendent—we will nominate him by a political party and at the same time as Doctor Maeser states, he should be removed from politics as far as possible.

Mr. LOW (Cache). Mr. Chairman, while I shall support Mr. Eichnor's amendment, provided I cannot get some one else to amend it still further, I wish to state that it is not entirely satisfactory to me, because I would like if it could be made possible that the governorship would not be made the stepping stone to the senate.

Mr. EICHNOR. That is in the last section.

Mr. RICHARDS. Mr. Chairman, I hope this amendment will not prevail. I see no good reason for it. It seems to me it is in the nature of restriction of the right of the people in relation to these matters. If an officer has performed his duty faithfully and if people desire to re-elect him, I do not see why they should not have the chance to do it. I am opposed to it. Now, when you come to putting objections in the way of the chief executive of the State paving the way to senatorial preferment, I can see some reason for that. I can see a reason why a judge should not be eligible to political preferment, but to say that a governor should not be permitted to succeed himself, or a secretary of state, or an attorney general, or any of the other State officers enumerated here, I see no good reason why that should be so.

Mr. EICHNOR. I would like to ask Mr. Richards a question. Isn't it a fact in the states where there is no restriction placed upon the officers of the executive department, they have more corruption in the offices than in the states where restrictions are placed?

Mr. RICHARDS. That may be so. It would not necessarily be so.

Mr. MURDOCK (Beaver). Is it not safer to leave this matter in the possession of the people, rather than to restrict them from what might be a great benefit to have a man that has been well tried and that they know has made a good officer, and if he is for candidacy again, why not let them have the privilege of putting him in? I think that is a restriction that is certainly taking from the people a right.

Mr. RICHARDS. I desire to complete my answer to Mr. Eichnor. I was going to remark that if an officer was corrupt the people would not in my

judgment re-elect him. I think that they may be trusted on that point.

Mr. MACKINTOSH. Mr. Chairman, I offer as an amendment that the state auditor and state treasurer shall be ineligible to election as their own successors, and for the reason that while they may be perfectly proper persons, still in view of the positions they hold they ought not to succeed themselves.

Mr. CANNON. Mr. Chairman, I desire to second the motion of Mr. Mackintosh. I believe the officers named should not be eligible, but I do not agree with the motion offered by Mr. Eichnor. I do agree with the idea contained in this proposition of Mr. Mackintosh, that the state treasurer should not be eligible to re-election. I believe a number of the states—quite a large number—have a similar provision to this.

The CHAIRMAN. Do you offer this as an amendment, Mr. Mackintosh?

Mr. MACKINTOSH. Yes.

The question being taken on the substitute offered by Mr. Mackintosh, the committee divided and by a vote of 54 ayes (noes not counted), the substitute was adopted.

Mr. RICKS. Mr. Chairman, I move an amendment in line 14, to strike out the word "two" and substitute therefor the word "five." I notice, Mr. Chairman, that most of the states have a provision for five and some of them even ten years as the length of residence that their officers shall have in the state. Seven years in Massachusetts, Michigan five, New Hampshire seven; New Jersey requires that a person shall be twenty years a citizen of the United States and seven years a resident of the state; Maryland requires ten years as a citizen of the state and five years an actual resident, so we can go on. There are a number of the states that have equally long periods of residence, and I think five years is small enough.

The question being taken on the amendment offered by Mr. Ricks, the committee divided and by a vote of 57 ayes (noes not counted) the amendment was agreed to.

Mr. Heybourne was excused by his request.

Sections 4 and 5 were read and passed without amendment.

Section 6 was read as follows:

Section 6. The governor may, on extraordinary occasions, convene the Legislature by proclamation, in which shall be stated the purpose for which the Legislature have been convened, and the Legislature shall transact no legislative business except that for which they were especially convened; or such other legislative business as the governor may call to the attention of the Legislature while in session. The Legislature may, however, provide for the expenses of the session and other matters incidental thereto. He may also by proclamation convene the senate in extraordinary session for the transaction of executive business.

Mr. CORAY. Mr. Chairman, I move to amend section 6 by striking out the word "have" in line 4, and insert "has."

The CHAIRMAN. If there is no objection that can be arranged afterwards.

Mr. Thompson was excused by his request.

Mr. RICHARDS. Mr. Chairman, I move to strike out the word "he" in the eleventh line of section 6, and insert the words "the governor."

The motion was agreed to.

Mr. HART. Mr. Chairman, before section 6 is passed I would like to direct the attention of the members to the clause commencing on line 7, "or such other legislative business as the governor may call to the attention of the Legislature while in session." There is a question in my mind as to what scope that would give the Legislature while meeting in special session. I think the Legislature should do no work except that for which they were specially convened and matters incidental thereto. I move to strike out those words.

Mr. VAN HORNE. It does not seem to me that that ought to be stricken out. Suppose something should come up—another emergency that if it was not the same for which the Legislature had been called, would have been sufficient for him to have called a special session of the Legislature to consider them, would the gentleman say that that should not be presented to the Legislature and that they might not consider that emergency as well as the one for which they were specially called? It seems to me that it would be limiting the power of the Legislature in any session, unwarrantably, because the governor then would have to let that special session go and then have to call another session by proclamation.

Mr. VARIAN. Mr. Chairman, the gentleman from Salt Lake has voiced the sentiment of the committee drafting this provision. That was the idea that it might be safely entrusted to the governor. In case of emergency, authorizing the special session of the Legislature, if there should be something else that had been omitted or had arisen since the call, he might be trusted with the duty of ascertaining whether it was of sufficient importance or not; that is the reason of it. Mr. Van Horne has expressed the idea.

Mr. EVANS (Weber). Mr. Chairman, I just suggest we had an instance in history where a governor of a neighboring state called the legislature together for the purpose of considering the advisability of coining silver for the United States—that it might be done by the state. I say, however, I think the section ought to stand as it now is.

Mr. RICHARDS. Mr. Chairman, I think this ought to be stricken out and for this reason; it is always desired in special sessions that the Legislature shall be restricted to the work for which they have been called. Now, the chairman of the committee says that the only purpose that the committee had in inserting this provision was that if an emergency should arise during the time the Legislature was in session, the session might be continued to avoid the necessity of calling another session. Now, it seems to me that the inconvenience in calling another session would be far less than to leave the Legislature open to legislate in a general way at a special session. There will be no special inconvenience. The Legislature is in session to-day, called for a special purpose. An emergency arises, the governor issues his proclamation for another session. It begins immediately after the termination of that other session. It is simply the trouble of issuing another proclamation; that is all the inconvenience, whereas, if you strike this out, there is no limitation to the business the Legislature may do at a special session.

Mr. CANNON. I wish to ask Mr. Richards whether a proclamation would not ordinarily be required to be given for a certain length of time?

Mr. RICHARDS. I am not aware of anything in this Constitution that requires anything of the sort.

Mr. CANNON. Is not that the usual course?

Mr. RICHARDS. It may be the usual course, but the reason why it is the usual course is to afford the members opportunity to get together. Now, if the emergency has arisen and the Legislature has assembled, what is the reason a proclamation should not be issued to take effect to-morrow?

Mr. BUTTON. Mr. Chairman, I want to ask the gentleman if the extra session then so called would not give every member his mileage?

Mr. RICHARDS. I think not, I see no reason why it should. They do not travel any extra distance. That would be a matter of legislation. The Legislature might provide that it should or should not, just as it pleased, it does not necessarily follow.

Mr. HAMMOND. Mr. Chairman, when I seconded the motion of the gentleman,

Mr. Hart—or the amendment, I had in my mind the crazy, cranky governor's operation over in Colorado recently—Waite. He kept that state in a furore there for weeks and weeks, legislating on what? I could not tell and I do not think anybody else could, and when they got through the populistic operation, they called upon the women to oust him and they did it.

Mr. VAN HORNE. Mr. Chairman, I call Mr. Ricks' attention to the fact that the legislative committee in their draft provided for special sessions that members of the Legislature should be paid per diem and mileage. I take it that it could not easily be controverted, that in a special session the mileage is counted from the place from which the member was elected, and if we have provided in that article that way, it would seem to me that if the committee adopted that article we would have that state of facts; a Legislature convening by proclamation of the governor, in session and emergency arising on which a special session will be called. He will call the special session to take effect perhaps immediately upon the adjournment of the preceding session, and under that each member of the Legislature, without moving from the town at all, would be entitled to the mileage that the member of the Legislature would have upon coming for the first time.

Mr. RICHARDS. Will the gentleman permit me a question? Is there anything to prevent this Convention, when they reach the article that you refer to, from saying there that the mileage shall not be paid unless the distance is actually traveled?

Mr. VAN HORNE. No, sir; I think not.

Mr. RICHARDS. I am only discussing the question as it stands now. We can meet the other contingency when we arrive at it.

Mr. IVINS. Mr. Chairman, if I were certain that this amendment should be voted down I should not say anything. It seems to me like a distinction with very little difference, and whatever difference there is is in favor of the section just as it stands, because the governor being authorized to call an extra session of the Legislature, would not be expected to bring in other matters before it unless they were matters of importance and if they were matters of importance that should be considered, he would simply issue another proclamation reconvening the Legislature, so that the section just as it stands covers the ground very fully and should not be changed.

The amendment was rejected.

Section 7 was read as follows:

Section 7. In case of a disagreement between the two houses at any special session with respect to the time of adjournment, the governor shall have power to adjourn the Legislature to such time as he may think proper; provided it be not beyond the time fixed for the convening of the next Legislature.

Mr. ROBERTS. Mr. Chairman, of course I do not know whether the article prepared by the legislative committee will be adopted or not, but I wish to explain that there is in the article that they have submitted to the Convention a proposition to limit the time of a special session, and in view of that fact I think this section would be unnecessary and I would therefore move to strike it out.

Mr. VARIAN. Mr. Chairman, I would remind the gentleman from Davis County that of necessity we will have to make some comparisons between the several articles when we get them all in, and I do not think he will find any conflict on this general proposition, as to time, but the general proposition underlying this article is that he shall have the power to adjourn a special session when they get locked together—one house against the other. That is the primary object. Now, the question of time is a mere incident. If you strike the entire sec-

tion out, you destroy the original purpose. Why not let it rest and arrange that matter in accordance with the subject?

Mr. ROBERTS. With the consent of my second, I will withdraw my motion.

Section 8 was read.

Mr. RICKS. Mr. Chairman, I think the legislative committee has reported a similar section which covers the same ground, and is much shorter. I move to strike this out.

No second.

Mr. CORAY. Mr. Chairman, I move that the word "five," in line 13, be stricken out and the word "ten" be inserted in place of it.

No second.

Section 9 was read as follows:

Section 9. When any State or district office shall from any cause become vacant and no mode is provided by the Constitution and laws for filling such vacancy, the governor shall have the power to fill the same by granting a commission which shall expire at the next election and upon qualification of the person elected to such office.

Mr. VARIAN. Mr. Chairman, this section probably will have to receive further consideration. Of course, we do not know what committee will have that in charge in regard to district officers—possibly the legislative committee. We can either pass it or strike it out. I am not advised about that committee.

Mr. HOWARD. Mr. Chairman, it seems to me as though this conflicted with some of the sections that we have already passed. In section 1 it provides that officers provided for in that section shall assume the duties of their office on the first Monday in January next following their election. This says that the governor shall have power to fill same by granting a commission which shall expire at the next election. Now, turn back again to section 2, commencing with line 7, it provides, "But if two or more shall have an equal and the higher number of votes for any one of said offices." Now, we will turn over here to the article on legislative department. That provides that the Legislature shall meet on the second Monday in January, so that, returning again now to this section under consideration, it will appear that there will be at least one week of a vacancy in that office without any incumbent.

The CHAIRMAN. Have you any motion?

Mr. HOWARD. I have no motion particularly, only to call attention that it conflicts.

Mr. VARIAN. Mr. Chairman, this section does not contemplate an appointment to office originally. It is after an election, when the office is filled, if there shall be a vacancy, that it shall be filled in this way.

Mr. HOWARD. I would take it that in case there were two men who received the same number of votes and it should come to the Legislature, for them to decide it, there would be a vacancy.

Mr. VARIAN. No, sir; I think vacancy includes something else.

Mr. LOW (Cache). Mr. Chairman, I would like to ask Mr. Varian a question. If a provision could not be inserted in section 9 whereby the appointment or commission might be made until the next meeting of the senate, and they did not consent to the appointment, that he should appoint another individual to fill the unexpired term until the election occurred to that office?

Mr. VARIAN. No; I do not understand it in that way. This contemplates the filling of the vacancy until the people elect. It is not to provide for any officers that the governor shall appoint. This section is not dealing with that class of officers. Another section will probable determine that matter. This section is in relation to all district or State officers elected by the people. Now, an election occurs this fall, and a year from now a man

dies or leaves the State, under this section the governor would fill the vacancy until the people would elect to another term.

Section 10 was read and passed without amendment.

Section 11 was read as follows:

Section 11. In case of the impeachment of the governor or his removal from office, death, inability to discharge the duties of said office, resignation, or absence from the State, the powers and duties of the office shall devolve upon the secretary of state, until the disability shall cease, or until the next general election, when the vacancy shall be filled by election. If, during a vacancy of the governor, the secretary of state shall resign, die or become incapable of performing the duties of the office or be displaced, or be absent from the state, the president pro tempore of the senate shall act as governor until the vacancy be filled or the disability cease. While performing the duties of the governor as in this section provided, except in case of temporary disability or absence from the State, the secretary of state or the president pro tempore of the senate, as the case may be, shall be entitled to and receive the salary and emoluments of the governor.

Mr. VAN HORNE. Mr. Chairman, I think it would go to the committee on revision, but I don't exactly like the expression, "during a vacancy of the governor."

Mr. VARIAN. There is something left out there, I think. I move to insert the words, "in the office" between "vacancy" and "of," in line 8.

The CHAIRMAN. If there is no objection those words will be inserted.

Mr. CORAY. Mr. Chairman, suppose that the Legislature should not happen to be in session at the time that this vacancy occurred, the president pro tempore of the senate shall act.

Mr. VARIAN. Yes, it is usual in all senates to elect a president pro tempore. He is a senator and he is a president pro tempore during his term. When the Legislature adjourned he would be a senator for four years and would be president pro tempore of the senate until he was displaced by another election in the senate.

Section 12 was read as follows:

Section 12. The governor, justices of the supreme court, and attorney general shall constitute a board of pardons; a major part of them, of whom the governor shall be one, may, upon such conditions and with such limitations and restrictions as they may deem proper, remit fines and forfeitures, commute punishments and grant pardons after convictions in all cases except treason and impeachments, subject to such regulations as may be provided by law relative to the manner of applying for pardons, but no fine or forfeiture shall be remitted, and no commutation or pardon granted except after a full hearing before the board, in open session, after previous notice of the time and place of such hearing. The proceedings and decisions of the board shall be reduced to writing, with the reasons therefor in each case, together with the dissent of any member who may disagree, and filed with all papers used upon the hearing in the office of the secretary of state. The governor shall have the power to grant respites or reprieves in all cases of convictions for offenses against the State, except treason or conviction on impeachment; but such respites or reprieves shall not extend beyond the next session of the board of pardons; and such board shall, at such session, continue or determine such respite, or reprieve or they may commute the punishment or pardon the offense as herein provided. In case of conviction for treason, the governor shall have the power to suspend the execution of the sentence until the case shall be reported to the Legislature at its next regular session, when the Legislature shall either pardon or commute the sentence or direct its execution; he shall communicate to the Legislature at each regular session each case of remission of fine or forfeiture, reprieve, commutation or pardon granted since the last previous report, stating the name of the convict, the crime for which he was convicted, the sentence and its date and date of remission, commutation, pardon or reprieve, with the reasons for granting the same, and the objections, if any, of any member of the board made thereto.

Mr. VAN HORNE. Mr. Chairman, I move to amend by striking out after the word "pardon," in line 3, and extending to the word "pardon," at the end of line 26, and insert as follows:

A majority of said board shall, in such manner and under such restrictions as may be provided by law, have power to remit fines and forfeitures, commute punishments, and grant pardons, for convictions in all cases, except treasons and impeachments. The governor shall, except in cases of impeachments or treasons, have the right to grant respites or reprieves, not extending beyond the next session of the board of pardons.

No second.

Mr. EICHNOR. Mr. Chairman, I offer an amendment to section 12, by striking out the first, second——

Mr. VARIAN. Mr. Chairman, I understand Mr. Eichnor has quite an important amendment to offer, and he does not seem to have it written. It is pretty late and in order to give him that opportunity, this being the time anyhow for adjournment, I move the committee now rise.

The motion was agreed to.

The committee then rose and reported as follows:

MR. PRESIDENT:

Your committee of the whole has had under consideration the article on executive, and reports progress.

The Convention then, at 5:02 p. m. adjourned.

THIRTY-SECOND DAY.

THURSDAY, April 4, 1895.

The Convention was called to order at 10 o'clock a. m. by President Smith.

Roll was called and all members found in attendance except Thatcher.

Prayer was offered by Archdeacon Crook of the Episcopal Church.

The journal of the 31st day's session was read, corrected and approved.

By request, Mr. Madsen and Mr. Maiben were accorded the privileges of the floor.

Mr. Christensen presented a petition (file No. 174) signed by Joseph Christensen and 500 others, requesting that the question of prohibition be submitted as a separate article to a vote of the people.

Referred to the committee on schedule, future amendments and miscellaneous.

The PRESIDENT. Are there any reports of standing committees?

Special orders.

Mr. SQUIRES. Mr. President, I move that we now resolve ourselves into committee of the whole for the consideration of the next article on the calendar.

Mr. THURMAN. Mr. President, I arise to a point of order. That is not in order at this time.

The PRESIDENT. Special orders are called for, and the gentleman moves to go into committee of the whole.

Mr. THURMAN. That is not a special order. That comes up under the head of motions and resolutions. There is no special order before the house at all.

The PRESIDENT. The objection having been made, I think the point is probably well taken.

Third reading of ordinances and propositions to be inserted in the Constitution.

Motions and resolutions.

Mr. SQUIRES. Mr. President, I move we now go into committee of the whole.

Mr. HART. Mr. President——

The PRESIDENT. Mr. Squires has the floor.

Mr. SQUIRES. I move we now go into the committee of the whole for the consideration of the article——

Mr. THURMAN. We call for the regular order.

Mr. EICHNOR. That has not been passed.

Mr. THURMAN. It has not been passed. It was called for and the chair went right on. We say that there is a regular order here.

The PRESIDENT. The chair called for the third reading of ordinances and propositions to be inserted in the Constitution. There was nothing said and

the chair called for motions and resolutions, and there is now a motion before the house to go into committee of the whole.

Mr. RICHARDS. Mr. President, I desire to ask a question for information. When the chair announces the third reading of articles, whose business is it to proceed with the third reading? Is it the duty of any member on this floor to stand up and commence the third reading, or is it the duty of the secretary of this Convention to read the first article that is on the calendar here in third reading? My understanding is that is the procedure, and that is the order we are calling for.

Mr. SQUIRES. Mr. President, I hardly suppose that it is in order without the unanimous consent, but I would like to say something on the subject. The early part of this Convention——

Mr. THURMAN. If the gentleman wants unanimous consent, I object for one. I insist on the regular order.

Mr. SQUIRES. All right.

The PRESIDENT. The secretary will go to the regular order.

By request, the privilege of the floor was granted to Mr. McArthur of St. George.

Third reading of article on municipal corporations.

Sections 1 and 2 were read by the secretary.

Mr. CHIDESTER. Mr. President, I desire to offer an amendment to section 2, by substituting for the word "four," in the eighth line, just after the word "in," the word "six," so that the proposition for removal of county seats shall not be submitted oftener than once in six years, instead of once in four. I believe in the first instance I favored putting in four years, but since reflecting over it I believe that six years would be better.

The amendment was rejected.

Section 3 was read.

Mr. ELDREDGE. Mr. President, I move to strike out all of section 3 after the word "state," in the sixth line, because I think it belongs to the legislative business and not a constitution proper.

The motion was agreed to.

Section 4 was read.

Mr. ROBERTS. Mr. President, I move that the words in the tenth line of section 6, "with water at reasonable charges," be stricken out so that it would read, "that all such waterworks, water rights, and sources of water supply now owned or hereafter acquired by any municipal corporation shall be preserved, maintained and operated," etc. I think "water at reasonable charges," smacks so much of legislation that to my mind it is almost undignified in a constitution. And I therefore move to strike it out.

Mr. VAN HORNE. Mr. President, there is only one objection, it seems to me, to that amendment. The question whether it might not be held that municipal corporations would not charge any rates, and that it must be maintained by the population for the supply of its inhabitants, whether it would not preclude the collection of water rates.

The PRESIDENT. Whether the city could make a corner on it?

Mr. VAN HORNE. No, sir; but whether it might not exclude the city from charging water rates if that is stricken out.

Mr. EVANS (Weber). Mr. President, I am very strongly inclined to the idea that the words "reasonable charges," ought to be left as they are, otherwise a city would have arbitrary power to make unreasonable charges to the consumers of water. I do not see any harm—in fact it seems to me it would be a better guaranty to the people to have these words remain. Of course, a city may not be arbitrary in its charges, but it is well enough to say that they shall not.

Mr. VAN HORNE. Mr. President, I move to amend the amendment by

striking out the words "with water," in line 10.

Mr. RICHARDS. Mr. President, I think these words ought not to be stricken out. It is true, as has been suggested by the gentleman who made the motion, that they are to some extent, in one sense, in the nature of legislation, but they are words of restriction of the power of the city, it seems to me, and ought to remain there; but whatever construction might be placed upon those, it seems to me that the striking out of those words would be unfortunate. If, as the gentleman from Salt Lake has stated, it would be possible to construe this section in such a way as to prohibit the city from charging water rates, that would be a misfortune in some of the cities in this Territory. If, on the other hand, as suggested by the gentleman from Weber, the doubt should be the other way, and it be said they might charge water rates and exorbitant water rates, that would be unfortunate. I think the supply of water for domestic purposes for the inhabitants of any city ought not to be made the subject of speculation. The city ought to raise its revenue from some other source than that, and the charges should be reasonable in their character, and such as would be sufficient simply to carry that department of the city, and in view of that, I feel confident that the language as it stands or as amended by the amendment to the amendment could not do any harm. I would prefer to see it stand as it is, although I seconded the gentleman's amendment that he might have an opportunity to speak on it.

Mr. ROBERTS. Mr. President, I don't suppose those words would do any real harm if they were left in. The only thing is that to my mind they are altogether unnecessary and unworthy of a document of this kind—the Constitution of the State providing that municipal corporations shall not charge exorbitant water rates to the inhabitants. To me, sir, notwithstanding what has been said, it seems an absurdity. I think, sir, that city councils will be elected with reference to carrying out the wishes of the people, and if the people of these municipalities will be able to control that matter, if they go to charging exorbitant charges for their water, I believe that the city council can be re-elected with reference to making whatever changes may be necessary, and I hope that the motion to strike out these words will prevail, for the sake of the dignity of the Constitution, if for nothing else.

Mr. BOWDLE. Mr. President, there can be no possible harm done by leaving them in. If it should smack a little bit of legislation, it will be but very little. There is a possible construction to be put on the articles when they are stricken out that would be mischevious, and therefore, in view of that, I am in favor of leaving the article just as it is.

Mr. GOODWIN. Mr. President, I think the suggestion of the gentleman from Davis is perfectly in line. The words are surplusage. If I understand it, they never pretend to charge anything for water in these cities, but only to make charges for the expense and labor of carrying the water to people's doors; and if that is true, the words amount to nothing, because if the city council wanted to charge extra for that purpose, they would do it regardless of the words. The article requiring the cities to maintain the system carries with it the implication that the charge shall be reasonable, and I believe that all rates that ever have been made here haven't been a charge for water itself, but the charges put on for laying the mains—people thinking that too much percentage was demanded. As I understand it, the water in this city from City Creek belongs to the city and everyone has a right to it. Every one has his pro rata right to the water, and all charges are for another purpose altogether; that is, when it is carried to a man's house, they charge him for it,

and those three words in the article are simply surplusage. Of course the city council might be dishonored, but I don't think they will be after our experience in this city. There might occasionally a corrupt man get in under the new order of things, but it is not reasonable to charge that in advance even by implication.

Mr. SQUIRES. May I ask the gentleman a question? He is probably familiar with the education we have had in our own city here within a short time.

Mr. GOODWIN. I have never seen a city that there wasn't an agitation of some kind in.

Mr. SQUIRES. A very large increase of water rate, much to the dissatisfaction of the people, and I don't see why those words should not remain in there to prevent any such thing as that.

Mr. GOODWIN. The water rates were not for the water.

Mr. SQUIRES. This talks about the supply. It does not make any difference what they put the cost on, whether to bring the water there, for the use of the water, or what it is, as long as the cost is there.

Mr. GOODWIN. The question is, does this strengthen it at all? Couldn't you attack the authority just as well without this as with it? If you could, then the words are superfluous. I am astonished at hearing the gentleman from Salt Lake make any fuss over water at all. I never knew him to take it. [Laughter.]

Mr. SQUIRES. Mr. President, I take water.

Mr. VAN HORNE. Mr. President, there is something more in this section. It seems to me on careful consideration the leaving of those words in would save any possible question. This section contemplates not only the supplying of inhabitants with water rights that are now under the ownership of the town, or municipality, but it implies the control of such water rights as may be required by such municipality hereafter, and it might well be that the expense of the supply of the city or the town with a company water system could well be taken off of the burden of general taxation, by charging a reasonable rate for the use of that water, in proportion to the amount used, of course, by individuals, until such time as the water supply would be free to the city, and then it might become free to the inhabitants. It seems to me that there can be no trouble about leaving the question of reasonable charges in there. It does not legislate as to what reasonable charges are. It is simply a general declaration that the municipality shall reserve its control over water rights for the supply of its inhabitants. Why not at reasonable charges, if reasonable charges are necessary to the proper administration of a municipal government? If they are not, we can trust the people of our municipality, as I think, to elect such men to the control of their towns or cities as will, whenever the water supply becomes such that the city can give it absolutely free to the inhabitants—to elect such men as will make it free at once. The fact that we should say this does, not preclude them, under such circumstances, from saying, "we have cleared the cost of our water supply; the reasonable charge now will be nothing at all, consequently it shall be free to the people," and undoubtedly the people will insist upon their municipal officers making such declarations whenever the waterworks of a city or town are free of debt incurred through acquiring them and carrying them to the people——

Mr. JAMES. Mr. President, I just want to make a few observations. The city of Salt Lake owns very complete waterworks at the present time. They have cost a great deal of money. We also own at the present time quite a large bonded indebtedness. Now, we

have no provision for a sinking fund or raising any money. Twenty years from now, or less, the indebtedness of this city will come due and we have nothing to fall back up on excepting our waterworks. Now, I happened to be in the east when our last $800,000 in bonds were placed, and took some little interest in assisting the city to place those bonds.

The question comes, Mr. President, every time when the proposition was made for an investment, "What provision has your city for finally meeting the payment of those bonds?" Mayor Baskin was there at the time and his answer was every time, "It is our waterworks." And the system of waterworks was so explained that it was satisfactory to those people there. Now, let us put anything into this Constitution that would look like the prohibiting of charging water rates in this city, and if you are compelled hereafter to float bonds for any purpose, you will find, Mr. President, that you put an obstacle in the way of selling your bonds at a good rate. For that reason this thing should be left in shape so it will not hinder or stifle legislation, so that we can use our waterworks to provide a revenue to meet our expenses in this city, and other cities in the Territory, so that I am in favor of the section as it stands.

Mr. THURMAN. Mr. President, of course, it may appear like quibbling at words, but I think the amendment ought to prevail, "water at reasonable charges." Now, I take the position that if we leave the balance of the section stand, requiring cities to hold this property as a trust for the benefit of the inhabitants to supply them with water, the courts will always construe the question of a reasonable charge, because it will be a trust fixed and formed by the Constitution for the purpose of supplying the people with water, and they will have no right to charge more than a reasonable amount. But let us take another view of this, which has not been suggested. The gentleman from Salt Lake (Mr. Van Horne) spoke of a time when the city might want to supply the inhabitants free with water. Suppose that day comes and some stubborn member of the council who would have no other excuse, would say, "you cannot give them water free. The Constitution of the Territory says that you have got to charge for it. It is true you have got to charge reasonably, but it says you must charge." And he makes his point. This may be attenuated, but there are some men who would raise just that question.

Mr. EVANS (Weber.) Do you think that time would ever come when cities would furnish water free?

Mr. THURMAN. I don't know. I was answering Mr. Van Horne; he suggested that the day might come. Now, I say if that day ever comes it would be met by a proposition from somebody that you have got to charge for it, because the Constitution says you must supply water at reasonable charges. I think it ought to go out. It is unnecessary. It is lumbering up this article with words that are unnecessary, and it does not look well to me to see this Constitution here legislating upon the question of reasonable charges of water for the people unless there is some necessity for it.

Mr. CREER. Mr. President, I am opposed to striking out those words, "reasonable charge." The very fact that has been mentioned here that there will never come a time but what there will be some charge for supplying the city with water—there will be the annual expense at least of bringing it from the living stream and distributing it to the cities, and it seems to me that that would prevent the officers of the municipality from creating a fund and making a revenue from this particular branch of the municipal government, and not only that, but I would be in favor

of making that still stronger so as to make it read "with water at uniform and reasonable charges," because that would then prevent a city council from making a distinction or discriminating. I think that this should be uniform and it should be so fixed that they would be deprived of making a revenue from it, as we know is sometimes done by licensing various lines of business. They may make a business out of this and make unreasonable charges, and I think they not only ought to be confined to be reasonable simply, at the cost, but they also should be made to be uniform so that they cannot discriminate or make a discrimination between the inhabitants.

Mr. THURMAN. We may have prohibition and we may soon need water without any expense.

Mr. CREER. Very true. I do not think we ought to leave the question of water open to the principle that liquor is. And we know many of the cities make quite a revenue from licensing liquor and by placing this restriction there we can never make water parallel with intoxicating drinks. That ought to be enough to pay expenses and it ought to be uniform, because many cities are deriving their water from various sources and they are inclined to make distinctions that ought not to exist. It is simply a charge—a water rate, and it seems to me we ought to make it definite and distinct in the Constitution in order that it may be understood, and I am not only in favor of making reasonable charges, but uniform and reasonable charges.

Mr. BUYS. Mr. President, if I understand the motion of the gentleman from Salt Lake, to strike out the words "with water" would be equivalent to letting the words "with water" stand and leave the motion of the gentleman from Davis County "reasonable charges." If this amendment should stand, the words "with water" are stricken out from the words of the motion of the gentleman from Davis, and would leave his motion to strike out "reasonable charges" only.

The PRESIDENT. If the amendment prevails it seems to me that we are done with that amendment. That would be the impression of the chair.

Mr. BUYS. It seems to me the gentleman from Davis offered the amendment (move to strike out the words), "with water at reasonable charges." The gentleman from Salt Lake moved to amend the amendment by striking out the words, "with water." As I understand it, that would strike out the words, "with water," from the amendment of the gentleman from Davis, and would leave his amendment then to be voted upon, "at reasonable charges." It would be equivalent to letting "with water" stand, striking it out of his motion to amend.

The PRESIDENT. The chair's ruling in regard to that matter would be that in striking out "with water," the amendment is adopted and that the other would stand without any action.

Mr. SQUIRES. We would then have to vote down the amendment of Mr. Roberts to have the one we have adopted of any avail.

Mr. IVINS. Mr. President, I just want to say that after listening to all this debate my impression is we had better pass this section just as we passed it in committee of the whole or else strike it all out. I hope it will remain just as it is.

The PRESIDENT. The question then is on the amendment to strike out the words "with water."

The amendment was rejected.

The PRESIDENT. The question now reverts on the motion of Mr. Roberts to strike out "with water at reasonable charges."

The amendment was rejected.

Mr. ELDREDGE. Mr. President, I would move to strike out in line 10, at the end of the line, the word, "that" andin line 12 the word "any."

The amendment was rejected.

Mr. ELDREDGE. Mr. President, I move to strike out all the words after the word "supply," in the fifteenth line.

The amendment was rejected.

The President here called Mr. Varian to the chair.

The PRESIDENT pro tem. The question is upon the final passage of the article relative to counties, cities and towns.

The roll being called the vote was as follows:

AYES—92.

Adams	Larsen, C. P.
Allen	Lemmon
Anderson	Lewis
Barnes	Lowe, Wm.
Bowdle	Lowe, Peter
Boyer	Low, Cache
Brandley	Lund
Button	Maeser
Buys	Maloney
Call	Maughan
Cannon	McFarland
Chidester	Miller
Christiansen	Morris
Clark	Moritz
Coray	Murdock, Beaver
Corfman	Murdock, Wasatch
Crane	Murdock, Summit
Creer	Page
Cunningham	Partridge
Cushing	Peters
Eichnor	Peterson, Grand
Eldredge	Peterson, Sanpete
Emery	Preston
Engberg	Raleigh
Evans, Weber	Richards
Farr	Roberts
Francis	Robertson
Gibbs	Robinson, Kane
Goodwin	Robison, Wayne
Green	Ryan
Hammond	Sharp
Hart	Shurtliff
Haynes	Snow
Halliday	Spencer
Heybourne	Squires
Hill	Stover
Howard	Strevell
Hughes	Symons
Hyde	Thompson
Ivins	Thoreson
James	Thorne
Johnson	Thurman
Jolley	Van Horne
Kerr	Varian
Kimball, Salt Lake	Warrum
Larsen, L.	Williams.

NOES—0.

ABSENT—15.

Driver	Nebeker
Evans, Utah	Pierce
Kiesel	Ricks
Keith	Thatcher
Kearns	Wells
Kimball, Weber	Whitney
Lambert	Mr. President.
Mackintosh	

Third reading of article on amendments was then taken up.

Mr. HART. Mr. President, I would move to strike out the word "three" in line 11, and the word "two" inserted in lieu thereof.

The amendment was agreed to.

Section 2 was read.

Mr. BOYER. Mr. President, I move to strike out the whole of section 2.

The motion was rejected.

Section 3 was read.

Mr. ROBINSON (Kane). Mr. President, in order to make it uniform with the law in regard to the adoption of the Constitution in the first place, which requires a two-thirds majority of the State, I would amend section 3 by inserting before the word "majority" the words, "two-thirds."

No second.

The PRESIDENT pro tem. The question now recurs upon the passage of the article as amended.

Mr. EVANS (Weber.) Mr. President, I just want to make an inquiry whether that section 3 fully covers that article. This article is upon amendments to the Constitution, and the section simply provides that any constitution adopted by such convention shall have no valid-

ity, etc. I want to make the inquiry whether that should not also apply to amendments which might be submitted to the people?

Mr. VAN HORNE. Mr. President, to bring that matter up, I move that the word "constitution" be stricken out and the word "amendments" be inserted.

No second.

Mr. MALONEY. Mr. President, I move that the words "or amendment" be inserted after the word "constitution."

Mr. HART. Mr. President, I think that matter is covered by section 1. The first section refers to the amendments proposed by the Legislature and then passed by a majority of the electors voting to sustain them. This last section, section 3, refers entirely to the ratification of a constitution that has been framed by a constitutional convention. I therefore am opposed to the amendment.

Mr. RICHARDS. I desire to state this: Suppose a constitutional convention we recalled in pursuance of section 2 to revise the Constitution, but after deliberation came to the conclusion that it was not necessary to revise the entire Constitution and was to submit an amendment. Then what would become of that amendment? I think the amendment proposed by the gentleman from Weber should prevail.

Mr. SQUIRES. Mr. President, I would like to inquire what is meant by the last line of section 3, "voting at said election."

The PRESIDENT pro tem. The chair is unable to answer.

Mr. GIBBS. I understood that the word "said" was stricken out and "at the next general election" inserted.

Mr. SQUIRES. Mr. President, I move to strike out the word "said," in the last line of section 3, and add the words "the general election."

The PRESIDENT pro tem. The motion cannot be entertained now. It is not germane to the amendment already pending. The question is upon the insertion of "or amendment" after the word "constitution," in line 3.

Mr. EVANS (Weber). I move as an amendment to that amendment to insert the words "or revision thereof," so that the section would read "any constitution, amendment, or revision thereof."

Mr. KERR. Mr. President, I cannot see that it is necessary to insert the words contemplated by the amendment. Even if there are not more than two or three amendments to the original Constitution, that would be the revised constitution adopted by the convention as they adopted the constitution as revised. They are not forming a constitution, but they are revising an old one, and after revision it seems to me that constitution is the one to be submitted to the people for their adoption or rejection. I cannot see the necessity of inserting the words proposed.

Mr. EVANS (Weber). Will the gentleman from Cache permit me a question?

Mr. KERR. Yes, sir.

Mr. EVANS (Weber). I desire to withdraw, with the consent of my second, the amendment I first offered. I think on reflection the first section covers it all.

The PRESIDENT pro tem. Does Mr. Maloney insist upon the amendment offered by him?

Mr. MALONEY. I do.

Mr. SQUIRES. Mr. President, I understood that the gentleman from Weber, Mr. Maloney, accepted this amendment offered by Mr. Evans. That makes it a part of his original motion.

The PRESIDENT pro tem. Mr. Evans was allowed by the house to withdraw his amendment and now Mr. Maloney insists upon the original proposition. The question is now upon inserting the words, "or amendment."

The amendment was agreed to.

Mr. SQUIRES. Mr. President, I now

move that we strike out the word "said" in the last line, and insert "the next general."

Mr. CREER. Mr. President, I see no necessity of that amendment. The whole matter is predicated upon the action of that convention. It covers the whole business.

Mr. SQUIRES. Do I understand that the words in section 2 refer to the question of whether a general election shall be held or not? That cannot possibly be referred to in section 3, which would come a year later.

Mr. CREER. I will concede that.

Mr. VAN HORNE. Mr. President, I move that we strike out of section 3, after the words "of the state," the words, "voting at said election."

Mr. CANNON. Mr. President, I would like to offer a substitute if it is in order. I offer as a substitute to strike out all after the word "until" and insert in place thereof the words "notice by publication has been given and the change proposed has been appoved as provided in section 1 of this article." The section will then read, "and constitution or amendments adopted by such convention shall have no validity until notice by publication has been given and the change proposed has been approved as provided in section 1 of this article."

No second.

The PRESIDENT pro tem. The question comes now upon the motion of Mr. Squires.

Mr. MALONEY. May I ask the gentleman from Salt Lake, is that intended to prevent it being submitted at an election other than a general election?

Mr. SQUIRES. That was my idea, to save the expense of a special election on this subject. The matter contained in the substitute offered by Mr. Cannon is already provided for—the method by which the amendment shall be submitted to the people and voted upon in section 1.

Mr. LOW (Cache). Mr. President, I agree with Mr. Squires just now. I believe that section 1 covers all arrangements for amendments. Section 2 provides for revision. Now, we are trying to provide in section 3 to cover amendments and revision. That is the view I have on it. I would like to have gentlemen of the committee explain their idea on the subject.

Mr. VAN HORNE. Mr. President, it seems there are two methods of amendment provided here. One is by propositions in houses of the Legislature, submitting an amendment to the electors of the State, and it provides the manner in which it shall be submitted and how the amendment shall be published and for how long.

The other is a distinctly separate branch of amendment. It provides for the Legislature by a two-thirds vote calling for a constitutional convention to amend or revise the Constitution, and in that way, there it delegates to the constitutional convention the drafting of the proposed amendments. In the other case they were drafted directly by the Legislature and submitted to the people. The other constitutional convention itself must propose those amendments, and then the last section becomes applicable to that method of amendment and not the first, and should contain in itself all that is necessary to make the validity of the amendment proposed or revision proposed or constitution adopted by the constitutional convention.

Mr. CANNON. Mr. President, I would like to inquire why it is not proper to give notice of a revision proposed by a convention as well as that proposed by a legislature? I cannot see myself clearly the distinction between the two unless it might possibly be that no notice is needed of a convention specially called. I do not understand from the language of the section as it is proposed to be amended by the gentleman from Salt Lake County, that any

notice would be given of the proposed change as proposed by a convention, and I think such notice should be given.

The amendment of Mr. Squires was agreed to.

The amendment of Mr. Van Horne was withdrawn.

Mr. HART. Mr. President, I move to strike out the word "it" in line 2, and insert in lieu thereof "the same."

Mr. VAN HORNE. Mr. President, I move to strike out the words "it has been," leaving it to read, "any constitution or amendment adopted by such convention shall have no validity until submitted to and adopted by a majority of the electors voting at the next general election."

The amendment was agreed to.

Mr. EVANS (Weber). Mr. President, I am opposed to that, and I am going to move a reconsideration of the vote wherein I voted to insert the word "amendment."

The PRESIDENT pro tem. The gentleman cannot make that motion now.

Mr. EVANS (Weber). I regret to say that I had not familiarized myself with this first section, and this whole article, because I did not have it upon my desk in time.

Section 3 has reference especially to a convention which is called for the purpose of revising or framing a constitution. That convention would have no right to make any amendment at all. That section ought to stand just as it was with the words added by the amendment as made by Mr. Squires; then it will be consistent with the whole article, and I shall vote against this amendment.

Mr. VAN HORNE. Suppose it was left just as it is with the amendment of Mr. Squires, and the words "it has been" were still stricken out, would it change the sense of the thing at all? Are not they superfluous even under that view of the case?

Mr. EVANS (Weber). That would not do any harm so far as that is concerned.

Mr. ELDREDGE. Mr. President, I move to strike out the word "any," at the beginning of section 3, and substitute the word "no," and then strike out the word "no" just before the word "validity" in the second line, so that it will read, "no constitution or amendment adopted by such convention shall have validity until submitted," etc.

The motion was agreed to.

Mr. EVANS (Weber). Mr. President, I move to reconsider the vote by which the words "or amendment" were added after the word "constitution."

Mr. THURMAN. Mr. President, I am not ready to vote for this motion to reconsider, without knowing why I should vote in that way. The article provides for voting upon the question of amendments of this Constitution from time to time. It may be that the only thing submitted to the people or to a convention will be the question of whether a certain amendment shall be adopted or not?

Mr. EVANS (Weber). The only purpose I have on that is, that section 1 makes explicit mention of amendments to the Constitution to be submitted to the people by a certain vote of the Legislature; this section provides the method by which a new constitution might be made by a constitutional convention or by which the Constitution might be revised.

Mr. THURMAN. "Or amended." That is the trouble. It provides for both phases, for a thorough revision of the Constitution, or possibly for a single amendment. Now, the amendment which we have adopted here says, "No constitution or amendment adopted by such convention shall have validity," etc. I think it is right as it is. There is no reason for reconsidering, that is my understanding of it.

Mr. SQUIRES. I would like to ask the gentleman from Weber, if, with the

words "or amendment" stricken out, it would be necessary to publish to the people the entire Constitution before submission to the people, whereas, if there was a simple amendment to offer, great expense would be saved in notifying the people by just publishing the amendment?

Mr. EVANS (Weber). I will answer that by saying that the Legislature never would call a convention together for the purpose of making a simple amendment to the Constitution. That would be done by a two-thirds' vote of the members of the Legislature, and that would be done without a convention.

Mr. RICHARDS. Mr. President, I agree with my friend from Weber, that the Legislature would never call a convention for the purpose of making a single amendment, but suppose a convention were called for the purpose of revising or amending the Constitution, with the expectation that a general revision would take place, and after proper deliberation that convention should come to the conclusion that it was not desirable to prepare a new constitution, but that one or two, or any number of amendments could be prepared, that would answer the purpose, and would be better than submitting a new constitution—in other words, that they would report their work in the form of amendments instead of in the form of a revised constitution, now I say that under that Constitution they would have the right to do that thing, and if they did it, then this section 3 would not provide for the submission of those amendments, and I think that the section is right just as it is, and I hope the motion will not prevail.

Mr. SNOW. Mr. President, I move to strike out the words, "have had validity," in line 2, and insert "be valid."

The motion to reconsider was withdrawn.

The amendment of Mr. Snow was rejected.

Mr. FARR. Mr. President, it being in order to cut down and make things very concise, I move that the words "of the state" be stricken out, as being entirely useless and of no account.

The amendment was rejected.

Mr. ELDREDGE. Mr. President, I would move to strike out from section 3 all after the word "state," in line 4, that is striking out the words "voting at the next general election." And leave it to the Legislature to provide at what election they should vote.

No second.

The PRESIDENT pro tem. If there are no further amendments to this section, the question is upon the passage of the entire article.

The roll was called and the vote was as follows:

AYES—91.

Adams	Lewis
Allen	Lowe, Wm.
Anderson	Lowe, Peter
Barnes	Low, Cache
Bowdle	Lund
Boyer	Maeser
Brandley	Maloney
Button	Maughan
Buys	McFarland
Call	Miller
Cannon	Morris
Chidester	Murdock, Beaver
Christiansen	Murdock, Wasatch
Clark	Murdock, Summit
Coray	Page
Corfman	Partridge
Crane	Peters
Creer	Peterson, Grand
Cushing	Peterson, Sanpete
Eichnor	Pierce
Eldredge	Preston
Emery	Raleigh
Engberg	Richards
Evans, Weber	Ricks
Farr	Roberts
Francis	Robertson
Gibbs	Robinson, Kane
Goodwin	Robison, Wayne

Green	Ryan
Hammond	Sharp
Hart	Shurtliff
Haynes	Snow
Halliday	Spencer
Hill	Squires
Howard	Stover
Hughes	Strevell
Hyde	Symons
Ivins	Thompson
James	Thoreson
Johnson	Thurman
Jolley	Van Horne
Kerr	Varian
Kimball, Salt Lake	Warrum
Larsen, L.	Wells
Larsen, C. P.	Williams.
Lemmon	

NOES—0.

ABSENT—16.

Cunningham	Lambert
Driver	Mackintosh
Evans, Utah	Moritz
Heybourne	Nebeker
Kiesel	Thatcher
Keith	Thorne
Kearns	Whitney
Kimball, Weber	Mr. President.

The article was then declared adopted and referred to the committee on compilation and arrangement.

Mr. EMERY. I move to take a recess until 2 o'clock p. m.

Mr. SQUIRES. Mr. President, I do not think we ought to take a recess at a quarter to twelve o'clock. What is the object of it? What is the purpose of it? We have plenty of work to do. Now, if there can be any good reasons why we should take a recess at this hour of the day and this stage of the business, I am perfectly willing to vote for it, but to pass a thing through like this without any reason being assigned why we should stop this work, after the slow progress that we have made, I am opposed to it. It seems to me there must be some reason at the back of it that gentlemen do not disclose. We generally run until half-past twelve o'clock, which is a very suitable hour for lunch, and here we are throwing away three-quarters of an hour of our usual time. I am in favor of going on with our work.

Mr. EMERY. It is only ten minutes.

The question being taken on the motion, the Convention divided and by a vote of 53 ayes to 36 noes, the motion was agreed to, and the Convention then took a recess until 2 o'clock p. m.

AFTERNOON SESSION.

The Convention re-assembled at 2 o'clock, President Smith in the chair.

The PRESIDENT. The question has been asked of me whether the Convention could possibly adjourn over Saturday, as it is Arbor day. The gentlemen may just consider it and we will act upon it later.

Mr. HART. Mr. President, it is a legal holiday, and the rules provide for no session on a legal holiday. That is already provided for unless we suspend the rules.

Mr. SQUIRES. Mr. President, what is the order of business?

The PRESIDENT. The order of business, as the chair understands it, is the third reading of the article on elections and rights of suffrage.

Mr. SQUIRES. Mr. President, I move that action on this article be postponed until the 15th of April. There are several reasons why I favor this. One is that——

Mr. CANNON. I would like to ask a question. Is your motion to suspend the rules?

Mr. SQUIRES. No, sir; to postpone to a day certain of the rules.

Mr. CANNON. Can you postpone without suspending the rules?

Mr. SQUIRES. To postpone to a day certain is out of the rules. There are a number of delegates to this Convention who are not present; who are excused from being present by the action of the Convention itself. There are a number of others who are absent without the consent of the Convention, but who,

undoubtedly, would like to be heard and recorded upon this article when it reaches final consideration. But aside from that, in view of the long and ardent debate upon the subject in the Convention during the days that have passed, I have noticed an aroused public sentiment in this immediate vicinity which I have no doubt extends over the Territory, and I know, not from newspaper report, but from consultation with gentlemen of the committee, that petitions have been sent or are being sent throughout every postoffice in the Territory to leading citizens all over the Territory, with a view of getting an expression of them as to the wisdom of submitting this first section of this article as a separate article. I hold in my hand one of those petitions, which reads as follows:

The undersigned men and women of Utah respectfully petition the Constitutional Convention to submit to the people in a separate article the question of suffrage for women.

I believe, sir, that that is a fair proposition, that in view of this movement on the part of the people, it would be unwise and unseemly on a part of this Convention to rush to a final action of this question before the people can be heard from. I grant you that we have been in session here for a month, and that the people have not been heard by petition or remonstrance upon this side of the question. I cannot explain the reason why they have waited until this hour before making their move, but I do realize, sir, that the movement is general—more general than some gentlemen upon this floor may understand, and I make this motion, not speaking for myself alone, but speaking for a large number of my constituents, whom I have met and conversed with upon this subject; and in answer to letters that I have received from those portions of my district that I have not been able to reach. I hope, Mr. President, that in fairness, with the same sentiment prevailing here which prevailed when the minority stood and asked for a due share of the time to consider this question—I do trust, sir, that this proposition will prevail, and that we shall take due time to consider this matter carefully and to allow our constituents all over this Territory to be heard from upon the other side of this proposition.

Mr. EVANS (Weber). Mr. President, I want to rise to a point of order. It seems to me that the motion is out of order. The Convention is now engaged in the business of third reading of ordinances and propositions to be inserted in the Constitution. If the gentleman desires to make this motion so that it would suspend the rules, I would have no objections and would not raise the point of order. I raise it now before any further speeches are made. I refer to rule 3, the 7th subdivision, as to the order in which business is to be transacted in the Convention.

Mr. VARIAN. I would ask the gentleman a question before he sits down. Is it not true that when the order of the day is reached and the business under that order is within the jurisdiction of the Convention, it can dispose of it in whole or in part; that it can postpone it indefinitely, that it can lay it upon the table, that it can vote it down or up? That is a point I make—having jurisdiction, the Convention can act upon it by postponing it to a day certain?

Mr. EVANS (Weber). That is true. I simply remind you, Mr. President and gentlemen of the Convention, that the other day when we took a vote on the question of setting the elections and rights of suffrage article for a special order, it was then ruled that we require a two-thirds majority, and such a majority was not secured, and for that reason the order was not made. This motion is equivalent to making this a special order for the 15th day of April.

Mr. VARIAN. Is it not true that this is not an equivalent motion to make

this a special order, because making a special order for a day certain, and it fixes or disturbs and suspends operation of the general rules on that day, and therefore requires a two-thirds vote, as laid down by Mr. Roberts. A motion to postpone to a day certain, is it not true only postpones the consideration for that day and lets it come up under the regular order for that day, without disturbing any order of business?

Mr. EVANS (Weber). That is true. I grant it, but we are disturbing the regular order of business when we postpone this regular order of business. It seems to me just the same as though we were asking to take it out of its regular order and set it at a regular day.

Mr. SQUIRES. May I ask the gentleman a question? Would he consider that a motion to lay this upon the table would be in order now?

Mr. EVANS (Weber). Certainly it would.

Mr. SQUIRES. Would not that disturb the order of proceeding? Would a two-thirds vote be necessary for that proposition?

Mr. EVANS (Weber). We would simply lay it on the table. That would be equivalent to disposing of it without further action. Of course it would have to be taken up again, but an order to lay upon the table is usually made to kill the particular proposition which is before the convention. I am not expressing my opinion as to whether I would vote with the gentleman for the postponing of it or not, I am simply raising the point of order.

The PRESIDENT. The chair is of the opinion that this matter could be brought up by a motion in the form in which the gentleman proposes to bring it, and is debatable here. The point of order is not well taken, would be the opinion of the chair.

Mr. CHIDESTER. Mr. President, the rule reads like this: "Every proposition or other matter reported from committee of the whole for third reading by the Convention shall be placed upon the Convention calendar, and be considered and acted upon a subsequent day."

Mr. VARIAN. Is there anything before the house except the motion to postpone?

The PRESIDENT. The motion is brought before the house as I understand it.

Mr. VARIAN. The point of order has been ruled upon, as I understand it?

The PRESIDENT. The gentleman is speaking to that section as I understand it. It is debatable.

Mr. CHIDESTER. As to the first proposition raised by my friend Mr. Squires that a number of delegates are away from the Convention, I desire to say this, that it is presumed that they have no right to be away. It is their duty to be here, and it is no good ground for the postponing of a question to say that there is a number of delegates away. Now, then, we have not crowded this proposition here for this particular time, but we have waited until it has come along in its regular order, and I say now to postpone this—that any member that votes to postpone this votes against woman suffrage. That is my opinion of it, and I do not consider that it is right and proper to delay the matter in any such a way as that. I believe it has been reached in a right and proper way, and then it should be considered now, and not be postponed a great length of time that Mr. Squires desired. And the other proposition that he makes that we wish to hear from our constituents, is, in my opinion, badly taken. I heard from mine before I came here, and I believe that every man heard from his constituents in that regard, and that when they came here they prepared then to go to work upon the proposition, and especially one that was so well understood as this one, and for

my part, that does not sound very well to me, and I do not favor this postponement, but I will insist upon the regular order of business.

Mr. CORAY. I call for the previous question, Mr. President.

Mr. THURMAN. Mr. President, I trust the gentleman will not insist upon the previous question just now. I admit that it is in order, but I hope the gentleman will withhold it and not insist upon it.

The PRESIDENT. There was no second to it.

Mr. THURMAN. While I am on my feet, I will make a few remarks in opposition to the motion. I know that there has been some feeling in relation to this question since the day that it first came before the Convention. It has been a matter upon which we have divided in a particular way. Not as parties but as individuals. There has been great latitude. I believe the mover of this motion will admit that the majority so far on this question (I do not say the majority to-day, for I do not know how we stand,) but I think that the gentleman will admit that the majority have not been unfair in the courtesies they have extended to the minority. In the first place, we had a debate of five days in the committee of the whole and remarkable courtesy was shown to my esteemed and able friend from Davis County of allowing him to close the debate, a thing I presume that was never done in the world before in a legislative body where there was the same amount of feeling, and positive feeling, as existed in this case. That was given to him as a courtesy, not as a right, and he closed the debate in the committee of the whole with a half-day's speech. We were all edified. Now, I say that it would be undignified, it would be unprecedented, I lay that down. Gentlemen may search the record—it would be unprecedented for a dignified body like this to defer action when the time comes in the regular way to hear what somebody may possibly have to say on the outside. Let me suggest, gentlemen, what we ought to do, and I say this in earnestness as I say it in candor, if it be true that it turns out that the democratic party and the republican party on this floor err as to the true sentiment of the people, and that becomes manifest to us, before this Convention adjourns that in whatever respect we have been deceived and misled by a mistaken idea of what their sentiment is, let us say that as brave men, as honest men, we will stand up, no matter what position we have taken here, and move to reconsider anything that has been done improperly or hastily. I do not know what the vote may be on the first section of this article. I stand here this afternoon ready to take up the question and let the result be what it may, and then, gentlemen, I say to you now—and you will find that I mean what I say—that if it be true that the honest sentiment of the people of the Territory as it may be made manifest to us hereafter before we close our work, is opposed to what we have done, I will join with you in a motion to reconsider. But there have already been enough things done in this body that tinge of what I believe to be undignified and improper. Motions have been made here to adjourn, to take this Convention off to the theater or to some other building, making of ourselves a spectacular concern. We have done these things under the heat of the moment, without thought. Why, gentlemen, we are in as dignified a capacity to-day as men can possibly hope to act in. I agree with my friend from Garfield, and I want my friends on this question to understand that a vote to postpone this question means, whether intentional or not, in effect a vote against woman suffrage. Now, I am in favor of disposing of this matter. It has agitated the minds of the members of this Convention long enough, and if, I repeat again, we find we have

done wrong, or we have not understood the sentiments of the people, we can undo what we have done, but at the present time let us dispose of this whole business by going ahead with the regular order.

Mr. MURDOCK (Beaver). Mr. President, I am opposed to the motion to postpone, for the reasons are these: There is distrust on this floor in regard to the matter. I want that matter settled with them. There is perhaps a distrust throughout the country, and they will have a chance to know the situation if we go to work and consummate the matter right in the time when it should be done. I come from a county that I suppose that I represent and I knew the feelings of the people when I left and I have heard nothing to the contrary from that county, and I presume every other member here knew the sense of the community with which they are associated, and knew their feelings, and I presume that they have not heard anything to contradict the fact that they are here as representatives of the people, putting all these matters in their hands to do such work and perform such labors as will be suited for the coming State Constitution, and this is one of the principles, and why should we stop and hesitate and wait for something to come from the outside to change our ideas? I know there is a distrust and I know where it emanated from; it emanated from this floor and it has gone broadcast throughout the country, through the papers, for and against, perhaps, and I am ready to vote on the subject when it comes up.

Mr. CORAY. Mr. President, I call for the previous question.

Seconded.

Mr. HALLIDAY. Mr. President, I have not asked the privilege of speaking on this floor since I have been in this Convention. If I can be recognised I would like to make a few remarks.

The PRESIDENT. The gentleman will proceed.

Mr. HALLIDAY. I do not know what other delegates in this Convention may have learned from their constituents before they came here, but I know what I learned from mine before I was elected, and from the day that I was elected the announcement was made; my constituents have not changed their minds. If they have they have not let me know. I am opposed to the motion and I hope it will not carry, from the fact—it looks to me like it savors a good deal of delay, in order to change the phase of tactics in a certain direction to defeat the move of woman suffrage. I am opposed to the motion? I was elected upon a platform that plainly—the plank was inserted "we say the women shall have equal rights with men—common suffrage." And my mind has not changed since and I want to go on record that I am opposed to this delay. I am opposed to such—I call it wire-working; I call it a political trap, in order to gain time to change the ideas of men. Now, you might stay here until the 4th of July, and I might listen to the best orators there is in the United States, I do not believe there is one that would change my opinion in regard to this matter, but it seems that there is an opinion that men's minds can be changed and they will forego their promises to pander to the wishes of the outside. I know what the outside felt and said in regard to me from the county they came from, and they have not said "do not stop, do not falter," but they have said simply, "go ahead and do your duty like a man," and I hope the motion won't carry, gentlemen. I am ready to vote on the question.

Mr. ROBERTS. Mr. President——

The PRESIDENT. The previous question, gentlemen, has been moved.

Mr. SQUIRES. As the mover of that motion I would like to be heard for a moment.

The PRESIDENT. I think it is but just to the gentleman.

Mr. SQUIRES. My friend from Garfield made the assertion that a vote——

Mr. THORESON. Mr. President, the previous question has been called for.

The PRESIDENT. The gentleman was not recognized.

Mr. SQUIRES. I challenge any gentleman on this floor to make that statement in regard to myself personally, that I am opposed to woman suffrage. It was not with any such object that I made the motion to postpone. I believe that I have given good reasons why this Convention should pause at this point.

Mr. THURMAN. May I interrupt you a moment? You misunderstood me, if you understood me to say that anyone was opposed. I said the vote in effect would be a vote against woman's suffrage.

Mr. SQUIRES. Mr. Chidester made it upon broader grounds, and it was his remark that I challenged and not yours. I am in favor of woman suffrage, if it shall come before them so that they will have a chance to say whether they want it or not. I had believed that the people from the outside wanted woman suffrage. I believe so still. Are the gentlemen upon this floor, who are the advocates of that movement, afraid to trust this matter to the people? Are they afraid to submit it as a separate article in this Constitution? The gentleman who has just taken his seat seems to be afraid that the people will vote it down if they get an opportunity to do so.

Mr. HALLIDAY. I am not afraid of my constituents.

Mr. SQUIRES. If there is such a feeling in this community, it is not fair, or wise or just for this Convention to attempt to force it upon the people. The gentleman from Beaver (Mr. Murdock), tells us that he comes from a county where he is acquainted with the sentiment of the people. I would like to ask him if under the aroused sentiment which has come to the people of this county, the people of Beaver County should take action similar to the action taken in Salt Lake County, if he would not be willing to wait to hear from the people who may possibly have changed their minds upon this subject?

Mr. MURDOCK (Beaver). Yes, but I must first hear that they want it.

Mr. SQUIRES. That is it exactly. We want to hear and we want time to hear, and we want that to be accorded to us.

Mr. MURDOCK (Beaver). But until then I am ready to vote.

Mr. SQUIRES. How can you hear if you decide the matter this afternoon, without giving them an opportunity? I told you in my first remarks that the committee that had this matter in charge was sending this petition to every postoffice in this Territory so that the people of all the Territory might be heard upon the proposition, and I believe this is only fair. The gentleman from Utah (Mr. Thurman), has told us that we are in a dignified position to-day, qualified to act upon this matter intelligently, and that if we shall find later on that we have made a mistake, we can move to reconsider, and he will join us in that movement. I ask you, gentlemen, which is the more dignified, to pause at this point and defer our action, and not make any mistake, or to take some action which we shall afterwards find is a mistake and have to reconsider it? I am in favor of this motion, and I hope sincerely it will prevail in the interest of fairness and justice to all the people of Utah.

Mr. CREER. May I ask a question? Is this committee constituted of delegates from this Convention?

Mr. SQUIRES. No, sir.

Mr. CREER. I would like to ask the gentleman has he any objection to naming that committee?

Mr. SQUIRES. I do not know all of

them. I will name one of them that I think of. I will name Grant H. Smith, of Salt Lake City, one of our judges here in the police court, and he represents a large constituency in this county. Gentlemen, do not rush headlong into this thing. Give these people who think they have a right to be heard upon this question the right to be heard.

Mr. CORAY. I insist upon the previous question.

Mr. KERR. I arise to a point of order.

Mr. CORAY. I insist on the previous question. If the chair rules I am out of order, I appeal to the house.

The PRESIDENT. The previous question is in order if there is a second.

Mr. KERR. Mr. President, I arise to a point of order. My point of order is this: in rule 8 on page 19 of the standing rules of this Convention there is a statement that no member rising to debate, to give a notice, make a motion, or present a paper of any kind shall proceed until he shall have addressed the President and be recognized by him as entitled to the floor. I had addressed the president and desired to speak upon this question, and the gentleman who moved the previous question did not even address the president, neither was he recognized by the president, therefore the motion is out of order.

The PRESIDENT. The president has just recognized him.

Mr. CORAY. The president recognized me twice.

Mr. KERR. Other gentlemen were on the floor.

Mr. JAMES. Mr. President, I arise to a point of order.

The PRESIDENT. Shall the main question be now put, gentlemen?

Mr. JAMES. I arise to a point of order. I wish to say to Mr. Kerr, at the time the gentleman from Juab County arose I was on the floor, Mr. Van Horne was on the floor and demanded the attention of the chair, and the motion was put, and Mr. Roberts, of Davis County, was on the floor demanding the attention of the chair.

Mr. CORAY. I call for a ruling of the chair.

The PRESIDENT. The ruling of the chair is that Mr. Coray was the recognized man, and had the right to move the previous question.

Shall the previous question be put?

Mr. VARIAN. I call for the ayes and nays.

Mr. HALLIDAY. Mr. President, I do not know that I have got this thing clear. I want to know how I vote at this time?

The PRESIDENT. The ayes and nays are called on the previous question.

Mr. RICHARDS. I understand that the vote we are now taking is this: That if we vote aye, it means that we are ready to vote on the question of postponement. If we vote no, it means we want to hear further debate on that question.

The roll was called and the vote was as follows:

AYES—52.

Allen	Larsen, L.
Anderson	Larsen, C. P.
Barnes	Lemmon
Boyer	Lowe, Wm.
Brandley	Lowe, Peter
Buys	Low, Cache
Call	Maeser
Cannon	Miller
Chidester	Morris
Coray	Murdock, Beaver
Corfman	Murdock, Wasatch
Creer	Partridge
Cunningham	Peters
Driver	Preston
Engberg	Raleigh
Farr	Richards
Francis	Ricks
Hammond	Robertson
Hart	Robinson, Kane
Halliday	Robison, Wayne
Howard	Snow
Hughes	Symons
Ivins	Thompson
Johnson	Thoreson

Jolley	Thorne
Kimball, Salt Lake	Thurman.

NOES—43.

Adams	Mackintosh
Bowdle	Maloney
Button	McFarland
Clark	Murdock, Summit
Crane	Page
Cushing	Peterson, Grand
Eichnor	Peterson, Sanpete
Eldredge	Pierce
Emery	Roberts
Evans, Weber	Ryan
Gibbs	Sharp
Goodwjn	Shurtliff
Green	Spencer
Haynes	Squires
Hill	Stover
Hyde	Strevell
James	Van Horne
Keith	Varian
Kerr	Warrum
Kimball, Weber	Wells
Lewis	Williams.
Lund	

ABSENT—11.

Christianson	Maughan
Evans, Utah	Moritz
Heybourne	Nebeker
Kiesel	Thatcher
Kearns	Whitney.
Lambert	

Mr. KERR. Mr. President, I desire to explain my vote if I have permission.

The PRESIDENT. You may have the privilege of explaining your vote.

Mr. KERR. My reason for voting no——

Mr. EVANS (Weber). Mr. President, the gentleman has no privilege of explaining his vote under the rules, unless he desires not to vote at all. He may explain the reason why.

Mr. KERR. I want to explain why I vote no.

Mr. EVANS (Weber). Under the rule that cannot be done.

The PRESIDENT. That cannot be done under the rule.

Mr. KERR. It seems to me this is not a very dignified body, when gentlemen are deprived of expressing their views upon a question simply to force it to an issue.

Mr. WILLIAMS. Mr. President, I would like to know just exactly what we are voting upon.

The PRESIDENT. We are voting on the question as to whether debate shall be stopped upon this motion to postpone.

The motion for the previous question was declared lost.

Mr. ROBERTS. Mr. President, I am very pleased that debate has not been cut off on that proposition to postpone the third reading of this article on elections and suffrage until the 15th. I am of the opinion that the Convention ought to be perfectly willing to postpone the consideration of that subject. During the debate in the committee of the whole on this question a good deal was made out of the circumstance that there was no protest against the Convention inserting in the Constitution a clause granting woman suffrage. Now, that a sentiment has been aroused, and the people not alone in this city and in Ogden, but in all parts of this Territory, are making preparations to make themselves heard, I think the most undignified thing for this Convention to do would have been to close their eyes to this fact and refuse to hear what that aroused sentiment had to say. This is all very well, gentlemen, to make the proposition that if we discover that there is a change in public sentiment we will reconsider the action. The gentleman when he makes that proposition knows that it would be very difficult to take that consideration since it would require a two-thirds vote in order to do that. I want to ask the gentleman what harm can come from a postponement of this question until the 15th? What party pledges will be broken? What is there that would be undignified in it? What harm can it do to the main issue? The very least that can be expected from the demands that will yet

be made of this Convention would be that the proposition to grant woman's suffrage should be put into a separate article to be voted upon by the people separate and apart from the Constitution itself. If a majority of members of this Convention here determine to put that proposition through this afternoon and make it a part to-day of the Constitution we are forming, I ask them to pause once more and to remember this, that your action this afternoon means thousands of votes against this Constitution, if you do this act that you now propose. The gentlemen will do well to consider that proposition. I concede that this Convention in committee of the whole has accorded to me very great courtesies indeed, no greater, however, than the exigencies which confronted us demanded, and I think the committee and the Convention have done themselves as much honor in extending to me the courtesies as I have been gratified. I call attention of this Convention to the fact that a public sentiment is fast awakening against the insertion of this article into the Constitution itself. The chamber of commerce in this city passed a unanimous resolution, asking that this question be submitted separately. The trade unions of this city did the same thing. A mass meeting of ladies is to assemble only to-morrow afternoon. A monster general mass meeting is to be held to-morrow night. A movement is on foot for it. Mr. Squires has already called attention to the fact that a widespread agitation is taking place throughout this Territory, and I think that the Convention will be guilty of no unseeming conduct if they postpone this matter to the time that is proposed. I do not want to detain you longer upon this subject. You already know my feelings upon it. But when there is such a general demand that this proposition should be put into a separate clause I insist that this Convention should give ear to that sentiment that is being expressed. The Convention listened to my protest against inserting this in the Constitution. I now ask it to listen to the aroused public sentiment upon this question. I take it, sir, that I am dealing with men in opposition, who are men of character, and men who are earnest in their convictions as I am in mine. Surely, gentlemen, you do not wish this to prevail if the people do not want it. Surely, you do not intend to crowd it into the Constitution, if a majority or even a large minority should ask that you make it a clause separate to be voted upon by the people, apart from the Constitution itself. You are stronger in your convictions, you are conscious of ability to go before the public with this question. There is nothing undignified in the proposition that is made to postpone this matter. Certainly it ought to be done out of respect for the aroused public sentiment on this question, and I hope sincerely that it will be done.

Mr. KERR. Mr. President, I am in favor of postponing the consideration of the article on elections and right of suffrage, and I do not believe in the first place that as stated by one of the gentlemen that have spoken, that to vote to postpone the consideration of this question means a vote against woman suffrage. If it does, it means then that between now and the time when this subject is considered by this Convention there will be a change in the minds of the delegates as to whether the rights of suffrage should be granted or whether the question should be submitted to the people as a separate proposition. It is stated by two of the speakers that their constituents have been heard from, but the people of Garfield and Beaver are not the people of Utah. In the campaign I had the pleasure of attending a large number of meetings, and at no meeting did I hear the question of woman suffrage even mentioned. And I say, Mr. President, that the question as to

whether the women of Utah will be given the right of suffrage has not been carefully and thoroughly considered by the people of Utah. Now, without considering at all the question of suffrage, it does seem to me the proper thing that we should defer consideration of this for some time, while mass meetings are being held and protests being sent in against the rights of suffrage. Friends of suffrage have equal opportunities of expressing their views and sending in their petitions and memorials to this Convention. This I believe is said to be a free country. We believe in free speech, we believe in the freedom of the press, and I say, Mr. President, that if within the next 10 or 12 days the people of Utah are prepared to vote against woman's suffrage, then it would be an outrage upon the people of Utah to force it upon them at this time.

Listen to those who have something to say upon this question. Defer the final consideration of this question until the people of Utah can be heard from, and I say that although I shall vote to postpone the consideration of this, I disclaim that I thereby vote against woman's suffrage, and I repeat that if the mere postponement of this consideration of this question for 10 days means its defeat, and the question of submitting it to the people as a separate proposition is one that can be carefully considered—I submit, Mr. President, that this question is of the greatest importance to the people of Utah, and they should be heard from upon it, but none of the gentlemen has said that the postponement of the consideration of this question will be for the purpose of perfecting some scheme, by which to defeat it, and the setting of some political trap. Does the gentleman admit or mean that the delegates in this Convention are to be drawn into some trap? That they have not minds of their own, that they are not prepared to consider this question upon its merits? And say, Mr. President, that it is but fair, it is but just, that we should postpone the consideration of this question until the people of Utah can be heard from, and if the majority of the people are so overwhelmingly, then they too can be heard from. Let us show that we believe in liberty, in the voice of the people, in the rights of freedom—freedom of speech, and freedom of the press, and let us get all the information we can upon this subject before we finally decide as to whether we shall place it in the body of the Constitution, or submit it as a separate proposition, as to whether we shall decide against woman's suffrage. I trust, Mr. President, that this Convention will vote to postpone consideration of this question, that the people of the Territory may be heard upon it.

Mr. VAN HORNE. Mr. President, it seems to me that it has been developed that there is in the minds of members of this Convention a misapprehension of the duties of the delegates, an idea perhaps that they were to be autocrats over the people, that we were to establish a Constitution and leave the people no say about it, except to adopt or reject. My own idea of the duty of a delegate is, that however high may be the office entrusted to him, it is not as controlling to the people in any way that he should act, but he is their servant for the purpose of suggesting to them a Constitution, which shall only get effect by their suffrage. If that be the true way of looking at our office and our duties, it seems to me that there can be no possible objection to such postponement of an important question upon which men in the Constitutional Convention itself widely differ, and as will give the people, who are the true sovereigns, and who will have to pass upon the question of adopting or rejecting such things as may be drafted by this Convention, an opportunity to suggest to us, their servants, what we shall draft, and how it

shall be submitted. If it be true that sentiment is changing on this matter there—if it be true that people who thought that woman's suffrage in Utah is a thing that must assuredly come, are changing their minds now, and saying, "We are doubtful as to whether it shall be the fate of women to vote in the new State or not," if they are changing their minds as to whether it is proper and best that women should have suffrage in this new State; if they send us here to draft a Constitution to present to them, without pledging us to the particular manner in which different things should be presented, and we have a choice of manners, it seems to me that we might well await the decision—the suggestion even of our constituents as to the form in which questions may be presented to them.

I have heard of its coming from citizen after citizen, who has expressed himself as in favor of woman's suffrage, to say of it, "if they put that this way that we must vote woman's suffrage or not have statehood—give us no chance to say whether we want a State and want to have it with woman's suffrage or without woman's suffrage, that we will not submit to be dictated to in that way," and will vote against the Constitution. It seems to me if that feeling is becoming prevalent among our constituents, that we might well pause and say to them, "Gentlemen, you have sent us here to propose certain things for adoption by you; if you can show us that if we propose some things about which men can honestly differ in the Constitution itself, you will reject the Constitution, but if we propose them to you in a separate article and the Constitution in other respects agrees with your ideas, we will adopt the Constitution and reject the separate article," that we, the servants of the people, should surely listen. It does not seem to me it goes to the merits of the question or to the final result. It simply goes to the question of whether it is dignified here to listen to the voice of the sovereign who sent us.

Mr. WELLS. Mr. President, I am in favor of deferring this question for the present. Statements have been made by the minority upon this floor that a portion of the people of this Territory desire to be heard upon the proposition. We must take notice of the fact that meetings have been called and petitions are in circulation asking that some different action be taken than that expressed the other day as the will of this Convention. To take action now would be to deny citizens a right which we guaranteed them yesterday by the adoption of our bill of rights, wherein we say the right of petition shall not be denied, and when the storm of petitions come and the rains of remonstrance descend, if our house is built upon a rock it will stand, and if it is built upon the sand it will be swept away. Do not let us be accused hereafter, gentlemen, of railroading this measure through. Let us give all sides an opportunity to have their say. We can always afford to be fair with an opponent. The right of petition shall not be denied. I do not believe a vote to delay is a vote against woman suffrage. We are making a Constitution to endure for perhaps fifty or a hundred years. Surely we can afford to wait ten days to let the people be heard in regard to one section of it. I shall vote to postpone.

Mr. RICHARDS. Mr. President, I am opposed to the motion to postpone, and I am opposed to it for the reason that the minority, in my opinion, have had the indulgence of this Convention beyond what they could reasonably ask. They have recently closed a debate of five days, during which one gentleman occupied the floor over five hours discussing this question. They come here to-day, when we had met them, and have it now as the regular order, and ask to suspend the regular order,

and to defer it until some future time, and then they talk about unseemly haste, and they talk about railroading things through after we have been in session here for thirty days, and crave a want of time for the people to be heard from. The people of the Territory of Utah were heard from in the middle of last September, when they made their platforms in both political parties. If there was any doubt—if they spoke with any uncertain sound at that time, they were heard from on election day, when they elected me and you to come here and frame a Constitution. We have been in session thirty days; where is the remonstrance that has come up against this thing? Where is the voice that has been raised from our constituency telling us to pause and not do that which they sent us here to do? That is what I want somebody to answer to me, and tell me that this is in unseemly haste. Tell me that men who have been elected upon this platform, and have come here and sat for thirty days, and had a week's debate—a week this morning since the distinguished gentleman from Davis commenced upon the floor of this Convention to manufacture sentiment against equal suffrage, and yet not a word or a voice has been sounded here in remonstrance from one of our constituents. Tell me it is unseemly haste to proceed with the regular order! I deny it, and I say further that we have, in my opinion, proceeded as far as we can and maintain the respect of our constituents, to say nothing of our own self-respect, in the way of dilly-dallying and trifling with this matter. That is how it looks to me. That is where I stand. No man can say that I am not in favor of the people having an opportunity to speak. No man can justly say that I will stifle any man's voice upon the floor of this Convention. It does not lie in the mouth of the minority to say that. I say, with the gentleman from Utah, that they were extended a courtesy that is unusual and unheard of, and I cannot unite with the gentleman from Davis when he says that we did ourselves honor in listening to all this debate and in according to him all the time that he desired, and that he occupied.

Mr. ROBERTS. Mr. President——

Mr. RICHARDS. We did honor to him, but I doubt the assertion that the Convention did so much honor to itself as the gentleman suggested. Of course we were edified. Of course we were instructed; of course we were amused by the gentleman's eloquence, but I do not understand that this Convention was overwhelmingly honored to the extent that the delegate from Davis would seem to indicate. Now, I say in answer to what the gentlemen have said about hurrying this matter up, that there has been no hurry. If the proposition was to advance this matter upon the calendar, if it was a proposition to put it out of order and to consider it before it was reached in the regular order, I think I should be with those who are now voting to have this matter postponed. But it has taken its regular order. They opposed it being made a special order, and it went on until it was reached in its regular order before the committee of the whole, and then, as I say, debate was not checked, it was not limited. As far as I understand it, every gentleman on the opposite side and every gentleman either in favor of or opposing this proposition had an opportunity to say all that he wanted to say on the subject. The subject was thoroughly exhausted in that discussion. It went on the calendar. We have reached it in the regular order; now, I say it is unfair, it is unjust—I say it is untrue to say that we are pushing this with undue haste—I say it is untrue to say that we are attemping to railroad it through when we take it up in its regular order. That is my position. And so I say, Mr. President, I am opposed to this motion. I believe that we should go on now with

the regular order and attend to our regular business, and if these remonstrances that have been promised ever materialize, so long as this Convention is in session, so long will we be ready to listen to the voice of the people, and if it should appear that the people have changed their sentiments since they elected the delegates who compose this Convention and want us here to do this work, I, with the other gentlemen who have spoken, will be among the first to recognize the right of the people to speak. But I say we are not justified in remaining silent and assuming that they have changed their minds in the absence of any proof to that effect, and so I say we ought to go on with the regular order. That is my position.

Mr. ROBERTS. Mr. President, I arise to a question of personal privilege, that of making an explanation. The gentleman from Salt Lake, (Mr. Richards) has had an entire misapprehension of one remark I made. I remarked that this Convention did itself honor when it refused to cut off debate on the propriety of postponing the consideration of this question, and not that the Convention did itself honor in listening to my remarks. That, sir, is egotism, and I trust that I shall forever be free from the presumption, and I shall never be guilty of, and the gentleman's heat and passion upon that particular point were uncalled for.

Mr. RICHARDS. Mr. President, I think if the stenographer's notes are referred to, it will appear as I have stated that the gentleman said that the Convention did itself honor in hearing him as it gave him satisfaction to speak. That I think was what was said.

Mr. JAMES. Mr. President, I ask unanimous consent to hand a note from some ladies that are now present in our room, to the secretary of this Convention to have it read.

The PRESIDENT. If there is no objection, gentlemen——

Mr. EVANS (Weber). Mr. President, it seems to me that we ought to consider this motion that is before the Convention.

The PRESIDENT. It is certainly out of order to do this.

Mr. VARIAN. I would like to ask the nature of it.

Mr. EVANS (Weber). I do not like to be discourteous to the ladies and cannot be——

The PRESIDENT. It cannot be considered if there is objection.

Mr. JAMES. I will then take the floor if I have the privilege.

The PRESIDENT. The gentleman has the floor.

Mr. FARR. What is the question before the house?

The PRESIDENT. The question before the house is to postpone the consideration of this question of woman suffrage until the 15th of this month.

Mr. JAMES. I arise to speak to the motion to postpone this matter until the 15th day of this month. I suppose the mover of that motion did not include to postpone it beyond the time that would interfere with our work. I want to say this in answer to Mr. Richards, of Salt Lake County; he says that there is unfairness, that we are acting unjustly in asking for postponement. Now, I would grant Mr. Richards is correct in his position provided that this Convention had nothing else to do but to deal with the woman suffrage question. Now, my friends, we have on the calendar plenty of work. We need not have lost one moment this afternoon. We could have taken up the work and gone right along with it, that we will have to complete before we complete our Constitution, or we will never have any Constitution. As Mr. Squires has well said, and as every gentleman that has been on this floor knows, there has been a reason brought about for asking for more time. That reason has been that we have had communications

coming to us. They have come, Mr. President, from the thousands, and I say, Mr. President, when I stand up here and ask you to postpone this matter for a few days, I say that I voice the sentiment of ten thousand honest men and women in this county, and I say, let that man deny it that will; I say it is correct. I know I am right, because I know the people and I know their feelings. I am no stranger here among them. I meet them in my daily walks in life, and I meet them of all classes. They are not confined to the church that I happen to belong to, nor to the church that my neighbor or any other denomination may belong to. They include all classes. They include as loyal and as honest a people as are to be found in this community. They include as loyal woman suffragists as ever walked upon the streets of Salt Lake. They have a higher motive, my friends, than simply to ask of this Convention that they engraft into the Constitution something that jeopardizes the very life of that article. That is the reason that I arise here before you, my friends, to raise my feeble pleading in behalf of this little favor to be granted of postponing until we can hear from this people and determine whether the majority want it in the Constitution, or whether they want it submitted in a separate article; now, I want to say in answer and in due respect to the gentlemen that have accused me and have accused others that are in favor of this postponement, that it is unjust, it is unfair and it is not true, my friends, that any gentleman that votes upon this floor for a postponement is voting against woman suffrage, and I am sorry such honorable gentlemen, such fair-minded men that I have got acquainted with, and live to learn and respect and honor in all things—I do not know why they should get up here and so unjustly accuse us of this unfairness, and I plead to my friends, and plead to you, Mr. Chairman, who brought the majority report in here, in an honorable way, but in a manner at the present time of attempting to unduly force this thing down the throats of the people—do not do it, you are going to make a mistake.

Mr. CHIDESTER. May I ask you a question? When the proposition comes up regularly on its third reading, is that crowding it unduly down the throats of the people?

Mr. JAMES. Under the circumstances, Mr. Chidester, it is. I would say if it is true that this woman suffrage question had come before the people, had been discussed upon its merits, and the people had passed upon it, I would say then, the gentleman from Garfield County may be right, but I say, while it may be true in his locality that it was thoroughly understood, and his position is correct, so far as the people are concerned in this Territory it is not correct, for I assert, as I asserted before, that this question never was brought before the people.

Mr. BUTTON. Mr. President, I would like to ask Mr. James a question. You said that if Mr. Chidester's position is correct, so far as his county is concerned—who would they have voted for if they were not in favor of woman suffrage? They would not have voted at all, would they?

Mr. JAMES. I do not understand the gentleman's question. I said his position is correct on this proposition, that the question had been brought before his people and it had been discussed and he came here pledged to that proposition.

Mr. BUTTON. You don't understand my question. He claims it has been discussed in his county, throughout the county, and they voted upon it. Now, was there a candidate on any ticket in his county that was against woman suffrage so that the other side could vote on it?

Mr. JAMES. I understand the gentleman now. I could not answer that

question, Mr. Button. I do not know. Mr. Chidester, probably, can answer that question. I doubt very much whether it is true, because I heard of no gentleman disputing the proposition in any part of the Territory. Consequently, I take it for granted that it was not so, that there were no anti-suffragists or suffragists. They were probably in his county all in favor of it. Now, I want to read you, Mr. President, a note that I hold in my hand in support of the proposition that I have taken:

Salt Lake City, Utah,
April 4, 1895.

Mr. President and gentlemen of the Convention:

You are hereby invited to attend in a body the woman's mass meeting at the Grand opera house to-morrow, Friday afternoon, which will be held for the purpose of protesting against equal suffrage being incorporated in the State Constitution, and taking action to submit the question to the popular vote.

Very respectfully,
MRS. J. A. FROISETH,
MRS. M. E. EASTON,
Committee.

Mr. CREER. Mr. President, I move to lay that on the table.

Mr. JAMES. Now, Mr. President, is there any plea there to this question for postponing action on this matter? Is not there going to be a convention held in this city to-morrow that will express the views of the ladies of this city?

Mr. CANNON. May I ask the gentleman a question?

Mr. JAMES. Yes.

Mr. CANNON. Is it a meeting to express the views of the ladies of this city?

Mr. JAMES. Why, certainly, and it is not an expression of Sanpete valley, or any other part of the Territory that I know of.

Mr. CANNON. Is it of all the ladies of this city?

Mr. JAMES. Yes, sir; I suppose so. I am not in charge of the affair. I do not know anything about the management of it, but I do not suppose that the ladies have got any corner upon any convention that is to be held in this city. I do not believe they are that kind of ladies.

Mr. CANNON. As I understand the invitation it is to attend the meeting which is to protest against the woman's suffrage. Not to express the sentiment of the people, but to protest against woman's suffrage; am I correct?

Mr. JAMES. Oh, no, I think that is your own construction.

Mr. IVINS. Mr. President, will Mr. James allow me to read a notice that calls this meeting for to-morrow as it is published in the daily papers?

Mr. JAMES. I have no objection.

Mr. IVINS. Just at this point, because it will clear up this matter. The call is as follows:

The women of Salt Lake City and County, who are opposed to equal suffrage being incorporated in the State Constitution, are hereby cordially invited to assemble in mass meeting to enter their protest against the proposed measure and take action for submitting the question to popular vote. The meeting will be at the Grand opera house on Friday afternoon at 2 o'clock.

Mr. JAMES. Is there any objection to the ladies to assemble in mass meeting and declare to the people of this county what their convictions are upon this matter?

Mr. CORAY. Mr. President, I arise to a point of order—that Mr. James should have addressed the chair. He has no right to talk to Mr. Ivins.

Mr. JAMES. Probably the man from Juab would like to make my speech for me. But I object.

The PRESIDENT. Mr. James has the floor.

Mr. JAMES. I want to say, gentlemen, but a little more upon this question. Our distinguished friend from Utah County says that it would be the fair thing to go ahead and decide this matter from a dignified standpoint——

Mr. ANDERSON. Mr. President, I arise to a point of order.

The PRESIDENT. State your point of order.

Mr. ANDERSON. My point of order is that according to amendment of our rules we are limited to five minutes in this discussion.

The PRESIDENT. That is in the committee of the whole. It is without limit in the house.

Mr. JAMES. Anything more the gentleman would like to bring up [laughter] from Beaver County? Now, gentlemen, do you see the gentleman's position? He is a lawyer and a very clever gentleman, too, in his profession. Do you see the gentleman's position? He says to you very nicely, "Now in a dignified manner let us meet and settle this question. And if afterwards, after the matter has been discussed and brought before the people of this Territory, we find we have made a mistake, then, we will reconsider this matter and set it all right." Very nice, but the gentleman knows very well that he has got an advantage when he has accomplished that point and he will turn around and say to you, "Oh, to reconsider it takes a two-thirds vote, and it don't make much difference whether——

Mr. THURMAN. May I ask you a question?

Mr. JAMES, Yes, certainly.

Mr. RICHARDS. Before the gentleman from Utah asks a question, I would ask Mr. James if he would speak a little louder. We are losing your remarks, Mr. James; we would very much like to hear them.

Mr. THURMAN. Don't you suppose that if it does turn out that the sentiment of the people—the honest sentiment—is opposed to woman suffrage that delegates on this floor would be willing to reconsider?

Mr. JAMES. Mr. President, I protest against the proposition. I have never taken this floor, nor has the majority of my friends that have stood with me on the proposition of opposition to woman suffrage—we simply ask you, gentlemen, to consider the course that is most advisable to pursue in this Convention. We want to have the matter done in a way so that it will be satisfactory. We do not want to jeopardize the Constitution of this State. We want statehood, and if the people say so, I say they are entitled to woman suffrage, and I defy the man to contradict my position.

Mr. THURMAN. Let me ask you one question further, if you will?

Mr. JAMES. Yes, sir.

Mr. THURMAN. Do you want a Constitution and State government, if the majority of the people of Utah want a certain provision in it, which is republican, but who kept it out and who are forced to keep it out through fear—do you want that kind of a Constitution?

Mr. JAMES. That is a——

Mr. THURMAN. Do you want that kind of statehood?

Mr. JAMES. That is a kind of a hypothetical question that is not entitled to an answer, in my opinion. The proposition is this, I say to the gentleman from Utah County, that if there is one doubt, or ten thousand honest people in this Territory who are honestly opposed to woman's suffrage, that in all fairness and justice to those people, you have no right to refuse them to vote for the Constitution of this State, or to vote for woman's suffrage, which they may be opposed to. Why do you do it? Why don't you put it in a separate article? Is it going to deny the ladies of this Territory the right of voting if the people want it? No, sir.

The PRESIDENT. That is not the question. The question is on the postponement.

Mr. JAMES. The postponement of what?

The PRESIDENT. On the postponement of the consideration of this question until the 15th.

Mr. JAMES. Mr. President, I was

trying to answer my friend from Utah County. Now, I say that I do hope that our friends will act so as to bury this feeling, this distrust that is growing here in our community. This majority here that are trying to deal unjustly with the minority. Now, I beg of the gentlemen to simply postpone this matter and let it be debated by the people. There is nothing wrong in it. It will do no one any harm on earth. It will certainly give a chance for us to act intelligently in this Convention and prevent that widespread evil, and my friends, it is an evil, and no man appreciates the danger of our condition more than I do. I have lived among you from the time that I was a beardless boy. It has been my home, and no man has ever regretted the friction that existed in this Territory more than I have, and we have just stepped out of that condition, and I say, Mr. President, nothing is more gratifying to me than to find myself working side by side with all classes for one common purpose. Now, these conditions existed before, and we have hardly sponged them off the slate yet. The marks are there yet plain. Now, let us act in a way so that we may continue this good work and go on and do what is just and what is right, and that is all I ask for.

Mr. LEWIS. Mr. President, during all the discussions upon this question I have remained in my seat and have not given utterance to any expression of my feelings in regard to the matter. I have sat quietly and patiently and listened to the entire discussion throughout the five or six days in which it has been engaged. To-day it seems to me that I cannot consistently retain my seat any longer, but that I must arise before this Convention, and in the interest of my constituents and in the interest of the people of this Territory proclaim in favor of the motion offered by Mr. Squires. The gentleman from Salt Lake City said there had been no remonstrance. Cannot the gentlemen hear the murmur that has already commenced? And if you will but wait the allotted time, ten days, the sentiment or remonstrance, to my belief, will roll upon this Convention, and every man will see the wisdom of this Convention incorporating this article in a separate proposition. [Applause.] The gentleman said that every man who voted in favor of this proposition was against suffrage. I can, with the same propriety, say that every man that votes against it is against statehood. My constituents sent me here, gentlemen and Mr. President, for the purpose of trying to establish or to adopt this Constitution that will bring Utah into this great American Union as one of the sovereign states of this Republic. I stand here, my friends, upon that platform, and if the cry has gone out among my constituents that if you incorporate female suffrage in that Constitution, we will have no statehood, I say, hold, and let us hear further from this people, and hear what they have to say, for I will not cast my vote in this Convention for any proposition that will endanger statehood for this Territory, therefore, I say it behooves you as men of intelligence, as honorable men, and as high-minded men, as statesmen, it behooves you to wait and hear from the people. I have heard from my constituents. They are the representatives of my city and of my county, men whose opinions I cannot afford to sacrifice. I am not afraid of the people. I am a man and I stand here to-day as their representative awaiting their opinion. Therefore, I give this utterance to my sentiments and I shall vote for this proposition of deferring this matter for fifteen days or ten days until we may hear from the people and I am not afraid of the consequences. And I challenge any man to say that by so doing I am not in favor of female suffrage. I will not detain

you. I just wanted to give expression to my feelings and the expression of my heart, for they are honest and sincere.

Mr. GOODWIN. Mr. President, there is one advantage to this proposition for postponement which I have not heard any expression given to, that is, if we could postpone for ten days, we could probably have the rest of the Constitution about fixed. As it is, I think we will be discussing it right along ten days hence, and some of these speeches are getting very thin. The gentleman from Salt Lake said he had five days of this, and he carried the idea that nearly all of it was on one side. If my memory is correct, we heard a very magnificent speech for an hour or two from the gentleman himself, and there were but two long speeches delivered. Now, it is only this way, a call for a meeting to protest against this thing has been issued for to-morrow, and the idea has been carried that that would be a put-up affair. Suppose there should not anyone attend that meeting. That would be an endorsement of those in favor of suffrage. If there would be a great rush of people, it would be an intimation that we ought to wait. I am talking this way because I have stated how I am going to vote on this question. I stated it after due deliberation, and I don't propose to change my mind. But on this floor there are two sets of men. One set believes that the majority in this country should rule. I belong to that crowd. There is another class who says that if there is one woman in this Territory that wants the right to vote, she ought to have it, and ought to have it put in the Constitution. What will my friend from Utah County do with the people that believe that way if this thing is passed and comes up for reconsideration? Some men do not change their minds. The good Lord only knows how they are made up, but we all know that after they are once made up, that fixes it. When I was a boy I learned that the majority of the people in this country ruled. That if they didn't rule, the thing must be agitated until they did, and if there was an unjust law there was a way to get at it—to have that repealed, that is, through agitation, until the voice of the majority should be heard. Now, my belief is that these gentlemen who are anxious to force this thing to an issue to-day are making a mistake. I believe they have a perfectly certain thing. I believe that it will not change for one moment the time when the women of this Territory will have suffrage, whether it is put into the Constitution or whether it is put into a separate clause, but the difference between the two will be this: a great many thousand people in this Territory will vote for the Constitution in one of them and against it in the other. In all communities there are active forces at work, and latent forces which are not moved until emergencies arise.

The latent force is at work now. Let us see how strong it is. We do not want to make a mistake. Some of us here are getting a little tired of this debate. We would rather gentlemen would re-write their speeches, and if they take a delay of ten days, they can bring us in something fresh. Let us wait. Who is going to be harmed by it? About the dignity of the matter, there is nothing in it. It would be dignified for us to go on. It would be dignified for us to wait. That is, our opinion here is bound to be dignified if we say so. We have got the say on the subject. I do not see who is going to be harmed by this little delay; and, in the meantime, we can transact a great deal of business. There is only one other question that I can think of that is going to cause a great deal of debate on this floor, and I am in hopes that that will be disposed of in a single sitting. Why not go on with the regular business and let those people for or against woman suffrage be heard?

Mr. CORAY. Mr. President, I would like to ask Judge Goodwin a question. I would like to ask if you think we can pass the question as it stands? The question as I understand it is whether it shall be postponed or not. I am anxious to bring it to a vote and find out what we are going to do, but they all seem inclined to talk on woman suffrage for a week or ten days.

Mr. GOODWIN. My speech would have been ended, Mr. President, if I had not been interrupted. These gentlemen that get up and ask conundrums delay the Convention. I merely want to say that we, as a deliberative body, are in the hands of the people as their agents to do their will, if we find it out, and we ought not to do anything by which the enemies of the measure would say to-morrow morning, "They rushed it through, because they are afraid." I do not believe any gentlemen here is afraid. I do not believe any harm could be done to any gentleman, or for that matter any lady (although I believe the proposition is to make every lady in the Territory a perfect gentleman at once), to let this matter rest for a week or ten days. I was not here when the motion was put, but I speak for the postponement in the interest of peace, the interests of justice, in the interests of good fellowship, and for the sake of the ladies themselves, because they do not want to be debated every day in this house, and principally because when we come here then we can get through with the matter in twenty minutes, and there will be no occasion for debate.

Mr. EVANS (Weber). Mr. President, as I come from a locality where something has been said about this matter recently, I thought it necessary and proper that I should make a few remarks respecting the motion which is now before the Convention. Other gentlemen who have spoken here upon this floor say they want it for the purpose of hearing from their constituents. So far as I am concerned, I have heard from mine, and I do not desire any particular time on that account. And I heard from them in a somewhat emphatic way.

I want to say to you now, gentlemen, upon this floor, that if these meetings of protest against woman's suffrage are to be carried on in the same disgraceful manner that the one at Ogden was carried on, it will not aid you much in determining the question as to whether the people desire suffrage or not. In my county the constituents of my colleague seemed to be somewhat displeased with him because he opposes it, so we have this situation. In one locality people seem to favor it and in another locality they seem to oppose it. Now, what is going to be the result? Delay action here for ten days—to-night it is said we are to have a meeting of ladies who desired to protest against the insertion of a clause in the Constitution favoring woman's suffrage. Some meeting perhaps will be held to-morrow when a different class of people may get together for the purpose of favoring a clause in the Constitution of that character; so we will have it. The gentleman who made the motion kindly furnished me with a petition which he says is being circulated broadcast throughout the Territory. It reads as follows:

> The undersigned men and women of Utah respectfully petition the Constitutional Convention to submit to the people in a separate article the question of suffrage for women.

That petition is designed to secure that particular class of people who favor that particular method. Doubtless counter petitions will be gotten up, reading differently from this, soliciting the people to sign petitions favoring the insertion of suffrage in the Constitution itself. So I grant you, Mr. President and gentlemen of this Convention, that when ten days shall have passed there will be upon the floor of this house, charges, counter-charges, criminations, and recriminations. It will be said

upon the one hand that the people of Utah oppose woman's suffrage being inserted in the Constitution. Upon the other hand it will be equally emphatically charged that the people of Utah demand that it be inserted in the Constitution. The agitation will become rife. Will we then be in a situation by which we can determine this with any more intelligence than we can now? Let me give you an illustration. In Ogden the other night a meeting was held, friends were present who favored suffrage. There were people there who were enemies to it. It is charged by the friends, or insisted upon by the friends of suffrage, that that meeting largely predominated in favor of suffrage, and that they succeeded in adjourning the meeting. Upon the other hand it was charged that the people there favoring suffrage were but very few, and those who opposed it predominated the meeting. There is a little bit of conflict right in a little meeting like that, which was called by the chairmen of the democratic and republican committees of Weber County. It ended with some bitterness. No lesson had been taught. Nothing had been done by which the people could secure the real sentiments of the people of that locality—nothing at all. Gentlemen, we have been in session now for 32 days. If this postponement be made ten days, that would be 42 days. We commence then with all the multitude of petitions and remonstrances that would lie upon the secretary's desk and renew the discussion. As the gentleman from Salt Lake has remarked, people will study the question. They will make new speeches. I doubt that any man will change his mind upon the subject. We will start anew. Under the rules as we have now in the Convention the debate is unlimited. When will this Convention end? I do not, however, appeal to this house upon that point, because that is not proper alone. But will we change our minds upon this subject? Will it be profitable to us? I have thought, and I have thought of it so seriously that I desire to do that which is right.

I have thought many times, and I think yet, that notwithstanding the fact that I am in favor of woman's suffrage, that if the majority of the people of Utah were opposed to it, I should willingly bow in humble reverence and obedience to that opinion, because, in this country, the majorities must rule. I have upon two occasions prepared a resolution, but after looking them over, I thought it would be unprofitable to introduce them, and I have not introduced them—resolutions looking to the submitting of this by the special election for the purpose of securing their sentiments upon this question, and postponing action until that could be done, but I know of no power which this Convention could exercise which would effectuate that matter, so I have abandoned that. Now, I am here in this position, like Brother Roberts said, so far as my constituents are concerned, standing alone, digging my cold, silent grave. It makes no difference to me, gentlemen. I say now, as he said then, that I would rather have my free thought than a crown, and I do not believe that to postpone action ten days will qualify any member in this Convention to cast a more intelligent vote than he could cast to-day. I do not desire to make any particular reference to a personal matter, but it is true, the gentleman from Weber has not made any expression of opinion upon this floor respecting this question until he has done it to-day. It may be as admirable to sit quiet and make no expression of opinion at all until you see how your constituents go, and how public sentiment is forming, but for my part, gentlemen, I do not care. In the face of my constituents and in the face of the people of Utah, if I am sent here to perform a duty I shall perform that duty and do it honestly, and if it be my last political act, I am satisfied, and I now say that

while I am willing to have a reasonable postponement of this matter, I will not vote for a postponement for ten days.

The PRESIDENT. I trust the gentlemen will confine themselves to the proposition to postpone, and not go over too much ground. We have been threshing too much old straw.

Mr. MORRIS. Mr. President, I cannot see what more we can learn by the postponement of ten days in regard to the fact and conditions of the feeling of the people of Utah Territory. It may be true that a few agitators in Salt Lake City and Ogden may come together to give expression to their feelings, but as for the mass of the people, from one end of the Territory to the other we will know no more of them than we know to-day. You cannot get in a few days like this all the masses of the people to come together. Few, and very few, can come together to agitate this kind of a question—while the mother with her children would rather stay at home. And we may postpone this for a month, we will never find the facts in regard to the feelings of the women of Utah. I claim we have lost too much time on this question. We were ready on the first day to settle this question, just as much as we were to-day, and I, for one, oppose postponement. Let us bring the thing to an issue. Let us go on with our business or else we will not get through in time for the election in November next.

Mr. IVINS. Mr. President, I would like very much if the question had been called an hour or two ago, but inasmuch as it has become a kind of field day again, I just want to say that when the proposition to postpone this matter was first made, I was favorably disposed towards it, because it was represented by the gentlemen making it that petitions had been sent out in every postoffice in the Territory, and that it would be well to wait until we got the voice of the people as the result of these petitions. Now, when I come to look in the papers here I find that these petitions are to the women who are opposed to equal suffrage being incorporated in the Constitution.

Mr. SQUIRES. I beg the gentleman's pardon; upon the desk of Mr. Evans——

Mr. IVINS. Mr. President, I have the floor.

Mr. SQUIRES——there is the petition.

Mr. IVINS. "The undersigned men and women of Utah respectfully petition the Constitutional Convention to submit to the people as a separate article the question of suffrage for women." Now, I submit that after ten days have elapsed, and these petitions that have all come back from the people are laid before us, we may only have one side of this question properly and fairly before us for consideration. What will the result be? Why, I should want ten days more to send down to my constituents and get a counter petition, which I certainly could be able to obtain, because we came here very distinctly instructed in regard to this question. First, to use our best efforts in the direction of equal suffrage, and second, to see that that article was incorporated, not that it was submitted to the people in a separate article. And therefore, in order that there may be no delay, and because I feel satisfied that no justifiable good will result from it, I have concluded that I am ready to assume my part of the responsibility of going on with this matter right here now. It has not been heard? This cry of unseemly haste has been raised from very first day that this question came into the Convention. The committee was accused of unseemly haste who made the report. The men who attempted to shut off this debate a week ago and save thousands of dollars and engaged valuable time, were accused of unseemly haste, and now when it comes along in its regular form just as it should, not hurried at all, men ask why this unseemly haste to attend to the matter, when it should be attended to

in its proper order. I am opposed since listening to this debate—I have become opposed to any further postponement of this question. I do not partake of the fear that it is going to endanger statehood. I know the people of Utah too well. Every delegate on this floor came here instructed by the people of Utah to work to this end, whether he acknowledges it or not; whether he is a republican or whether he is a democrat, he came here pledged to equal suffrage, and I am getting tired of seeing men crawfish and adopt this policy and the other policy, with no purpose under heaven it seems to me, but to obstruct this measure in the hope that eventually they will be able to defeat it. I am ready to vote to-day.

Mr. THOMPSON. Mr. President, I wish to announce that I am very well acquainted in Millard County, the county that I partly represent here, and I do not know of a man or woman in Millard County that is opposed to woman suffrage. I have been acquainted in that county for a number of years, and cannot call to mind one instance of a woman or man that has expressed an opinion opposed to woman suffrage. It has been argued on this floor that it would bring politics into our families. It is too late in the day to bring that up as a proposition against woman suffrage. Why, it came into my family three years ago and the republicans got away with half of the family and the democrats with the other half, and it is a foregone conclusion that politics has made its way in our family, and with both classes, the men and the women, and I shall oppose postponing for the reason that we would not know, as some have said before here, any better in ten days from to-day the sentiments of the people of Utah Territory than we know now.

Mr. RICKS. Mr. President, I move the previous question.

The PRESIDENT. That has been voted down.

Mr. RICKS. There has been debate since.

Mr. FARR. I find it very difficult, Mr. President, to get this floor just at this time. I wish to say a few words on this subject. This is a very important one. We have been here some little time on this subject, and we have been very patient, I think. The question has been asked, what harm is it to postpone? That is an item that I wish to speak upon. I can tell you what harm it will be to postpone this for ten days. It will cost this Territory a great many thousand dollars. That is one harm. It will cost a great many meetings and all sort of feeling and acrimony, and harsh sentiments to be brought up and agitated to get people to state their feelings, and to get an influence used against woman's suffrage. I am aware of this. For that reason I am opposed to postponing it. There is not a gentleman that has come here to the Convention, but what came here with an understanding when they came, that woman's suffrage was to be embodied in the Constitution. They understood it. It was so understood in public in every quarter, and they have had for the last six or eight or ten months to think over this matter. It is not a new thing. I have been conversant with these matters and I know something about what the feelings of the people are, and I am sorry to see this thing postponed. We came here to do business. We came here to transact business for the people and get up a Constitution, and here we are put off day after day, day after day, and now when it comes to an issue to vote, we are asked to put it off a little longer. It is not right to impose upon the people and fool away—spend their money in this way. I say let us get our Constitution and put it forth, and if the people do not like it, why they have the

right to vote it down. I am opposed to this delay.

It is well known that the element that is opposed to woman suffrage, although there are a great many honorable gentlemen and ladies—nice gentlemen and ladies that are opposed to woman's suffrage, but I want to say to you and you all very well know it—if you do not I do, that the saloon element, the gambling element, and the prostitute element are opposed to it; every one that I have conversed with [laughter] I have conversed with that element and I know what I am talking about [laughter]. I want you to understand that I have conversed with the prostitute and the saloon element. I have been acquainted and conversant with them for many years, and I know they are opposed to this, although, as I said before, there are many honorable gentlemen and ladies that are opposed to it, but I tell you the time is coming when the women of Utah are going to have the privilege of voting and say who should rule over them and who should handle their funds and their means. I am a particular friend of the females, and my sisters are females, and I will tell you I have walked side by side with them, and my wife, I have walked side by side with her, and I want to continue to walk with her and to have her come with me and have her rights as she has her rights. I don't care, gentlemen, if there is not more than ten women in this Territory that wants suffrage they have that inalienable right God has given to them. The United States has given it to them. Although it says male, yet it means female. [Laughter.] They have the right to vote and to express their judgments as well as the men have, and I do not care if nine-tenths of the women in this Territory are opposed to female suffrage, the other tenth have a right, and should have that right, and if the nine-tenths do not want to vote and do not want office, and do not want anything to do with it they can let it alone, but the others should not be deprived of that, and we are not going to be the men here to deprive them of it. We are going to give them that right and we came here for that purpose, and to establish laws that will protect every man and woman in their inalienable rights.

I do not wish to occupy your time, but I felt as though I wanted to give vent to some of my feelings that they may be known that I am in for the rights of honorable and upright women of this Territory; if they want to vote they shall say who shall handle their means. And I can tell you another thing, when they get the right to vote you will find the saloons and this gambling element and this other element that you laughed so much about, they will all be scattered, and you will, and you may, laugh just as much as you want to. It is going to come.

Mr. JOLLEY. Mr. President, it seems as though there is no end to the question before us, but I have felt like inquiring in my mind, while sitting here listening, how it was that those on both sides of our political parties were so ignorant that they did not know that the people did not want suffrage when they put it in their platform?

Mr. LOW (Cache). Mr. President, I arise to a point of order. The gentleman is not speaking to the question.

The PRESIDENT. The question is on the postponement.

Mr. JOLLEY. That is the question that I am upon.

Mr. LOW (Cache). Suffrage has been spoken of this afternoon for an hour and a half instead of the question of postponement.

Mr. JOLLEY. I am opposed to the postponement, and I will state my reasons why I am opposed to it. As I stated, they do not seem to know the minds of the people at that time, or at least they thought they did, and those that were elected were elected on the

same platform, and they did not find out any different but what the people were for suffrage. There was no remonstrance sent in here since this question has been sprung on the floor. We had a five days' debate as has been stated, and it went from here out and returned. We hear of some remonstrance, but not of ladies—but few of ladies. Now, for to wait another ten days and to send out an inquiry all over Utah who is against this proposition, it is simply appealing to the people that we here, assembled in this Convention, do not know what to do, that we have not the stamina to put that in the Constitution and we want an excuse to crawl out of it; and the agents of these petitions will say to them, "You sign this and that will relieve those men that you sent down there, and it will be put as a side issue;" but those that are yet in for it and expect that we will be men of our word—have they got to ask the second time that they wish us to be men of our word, and send petitions down to rebut those? I would not think that would be reasonable, and as the speaker of Davis County said a while ago, if there was a fair minority then we ought to switch it and and let it go in on its own issue——

The PRESIDENT. The question is on the postponement; you are talking on the suffrage question.

Mr. JOLLEY. The postponement is what I am on.

(Call for the question.)

The PRESIDENT. The gentleman has the floor. I have allowed wonderful latitude here and I want to check it up a little.

Mr. JOLLEY. By sending out and getting those remonstrances in there is bound to be a minority report without the majority would send in a full report that they yet meant what they elected us for, and I think that we ought to remember what we come here for without being told the second time, and even though there would be a minority report come in, I think that we ought to go ahead for the majority of the people. Therefore, I am against the proposition.

Mr. CANNON. Mr. President and gentlemen of the committee, I do not desire to take up much time, but I desire to call attention to this fact: We have other business that we could attend to by going into committee of the whole. We have other propositions that we can take up, but so far as I am concerned I am opposed to the proposition as presented by Mr. Squires. I shall certainly vote against changing the order of this bill on elections and rights of suffrage. If the Convention desire to go into the committee of the whole, I would vote for that, because we could spend several days in that way profitably, but to change this, put it out of its order and delay it by putting it on for eleven days, after the committee has reported, after we have been in session 32 days, I certainly am opposed to it.

Mr. BARNES. Mr. President, I am opposed to the postponement of the consideration of the article now before the Convention on elections and rights of suffrage, for the following reasons: I came here this afternoon, gentlemen, prepared to listen to anything that would pour oil upon the troubled waters. Now, it has been asserted here that a great deal of feeling has been engendered throughout the Territory in consequence of our proceedings in this hall.

If such is the case, I claim that the origin of it is right in this Convention and that we are responsible for it. I have heard nothing this afternoon that induces me in any degree to give to a postponement of the consideration of the measure before us, but for the very reasons adduced in order that these feelings which I believe are growing—ask ourselves gentlemen if the feeling upon this floor is not more intense today than it was two weeks ago, when

this measure was first brought up. I believe it is and I believe that this feeling is growing and I believe that it is our duty to take immediate action in order that it may be definitely known where we stand and what we propose to do, and when we assert ourselves like true men, say what we intend to do; the people of the Territory will fall in line and they will follow our lead.

The roll being called on the question of postponement, the result was as follows:

AYES—42.

Adams	Mackintosh
Bowdle	Maloney
Button	McFarland
Clark	Murdock, Summit
Crane	Page
Cushing	Peterson, Grand
Eichnor	Peterson, Sanpete
Eldredge	Pierce
Emery	Roberts
Gibbs	Ryan
Goodwin	Sharp
Green	Shurtliff
Haynes	Spencer
Hill	Squires
Hyde	Stover
James	Strevell
Keith	Van Horne
Kerr	Varian
Kimball, Weber	Warrum
Lewis	Wells
Lund	Williams.

NOES—51.

Allen	Larsen, L.
Anderson	Larsen, C. P.
Barnes	Lemmon
Boyer	Lowe, Wm.
Brandley	Lowe, Peter
Buys	Low, Cache
Call	Miller
Cannon	Morris
Chidester	Murdock, Beaver
Coray	Murdock, Wasatch
Corfman	Partridge
Creer	Peters
Cunningham	Preston
Driver	Raleigh
Engberg	Richards
Evans, Weber	Ricks
Farr	Robertson
Francis	Robinson, Kane
Hammond	Robison, Wayne
Hart	Snow
Halliday	Symons
Howard	Thompson
Hughes	Thoreson
Ivins	Thorne
Jolley	Thurman.
Kimball, Salt Lake	

ABSENT—13.

Christiansen	Maeser
Evans, Utah	Maughan
Heybourne	Moritz
Johnson	Nebeker
Kiesel	Thatcher
Kearns	Whitney.
Lambert	

The president declared Mr. Squires' motion lost.

Mr. CANNON. Mr. President, I move that we now go into committee of the whole for the consideration of the next proposition.

Mr. THURMAN. Don't do that. Let us go on with the third reading. Regular order.

Mr. JAMES. I second the motion to go into the committee of the whole and consider the second article.

Mr. IVINS. Mr. President, I submit that we cannot go into committee of the whole without suspending the rules.

Mr. ELDREGE. Mr. President, I will move that we postpone until the tenth the article on elections and rights of suffrage. I do this on consideration of the matter that was set forth by Mr. Squires. I think it is a sufficient justification to entitle a continuance of this until that day. I do not see why there will be anything lost in fixing it on a certain day, and realizing that there is any amount of work by which this Convention can be engaged in while that may be left until further consideration——

Mr. CANNON. Mr. President, I rise to a point of order.

Mr. SQUIRES. I second the motion of the gentleman from Summit.

The PRESIDENT. State your point of order.

Mr. CANNON. My point of order is that this motion is out of order at this time. The other motion is before the Convention. It necessarily involves a suspension of the rules, when we go into committee of the whole. It is understood that that would be a part of the motion.

Mr. ELDREDGE. Mr. President, I will say that it is a different day, and hence, I think it is not out of order.

The PRESIDENT. The point of the gentleman is that his motion had precedence; that is the point of order, which is correct.

Mr. Murdock of Beaver by his request was excused.

Mr. CANNON. I favor going into committee of the whole for the reason that we have a great many articles that we can consider in the committee of the whole, and that by so doing we do not displace this article. I would vote against any motion to postpone for a single day, but I would not like to take it up at this time. I favor going on with our regular business in committee of the whole, and by that means, without displacing this, we can be occupied several days if we choose so to do.

The PRESIDENT. The question is on the motion of Mr. Cannon.

Mr. SQUIRES. Roll call—yeas and nays.

Mr. THURMAN. Yes, take up all the time you can. We will stay with you.

Mr. VARIAN. Mr. President, I call your attention to rule 24, which provides, "That when a question is under debate no motion shall be received but to adjourn, but to lie on the table, for the previous question, to postpone to a day certain, to commit or amend, to postpone indefinitely, which several motions shall have precedence in the order in which they are arranged."

The question before the house was the third reading of the article. Now, a motion to go into committee of the whole should give way to a motion to postpone to a day certain.

Mr. HART. Mr. President, I arise to a point of order on the motion of Mr. Eldredge to postpone to a day certain. That is exactly the motion we have been discussing.

The PRESIDENT. It is another date.

Mr. HART. Well, that I say, Mr. President, makes no difference, it is virtually a motion to postpone to a day certain. Having just decided that we cannot consider it again. If any other rule should prevail than this, this Convention could be kept here until the 15th in voting on just such motions as that, because you could take a motion for just as many days or parts of days as there are in the whole year, and we would never come to any limit on this question. Deciding a question against postponing to a day certain, if that does not settle the question for the time being, then we have no protection whatever.

Mr. RICHARDS. Before the chair announces its decision, I want to say one word in support of the point of order, and that is this, that if the gentleman from Summit desired to have his motion prevail he should have made it as an amendment to the other, but now coming in and saying that the proposition is for another day will not answer. That does not obviate the rule.

The PRESIDENT. Rule 24 states that "equivalent motions, resolutions or amendments thereto shall not be entertained."

What is the further pleasure?

The Convention then proceeded to the third reading of the article on elections and rights of suffrage.

Section 1 was read by the secretary as follows:

Section 1. The rights of citizens of the State of Utah to vote and hold

office shall not be denied or abridged on account of sex. Both male and female citizens of this State shall equally enjoy all civil, political, and religious rights and privileges.

Mr. EICHNOR. Mr. President, I offer the following amendment:

The following section shall be submitted as a separate article to the qualified electors for adoption or rejection at the election for the adoption of this Constitution. Separate article, No. 1:

Section 1. The rights of citizens of the State of Utah to vote and hold office shall not be denied or abridged on account of sex. Both male and female citizens of this State shall equally enjoy all civil, political, and religious rights and privileges.

Mr. EICHNOR. Mr. President, my amendment is by striking out section 1 and inserting in that amendment in lieu thereof.

Mr. ROBERTS. I second it.

Mr. THURMAN. I arise to a point of order on that, that kind of an amendment is not in order. This is a proposition to go into the Constitution. You cannot amend this article which is for insertion in the Constitution by the proposal here of something which is not to go into the Constitution, but is to be submitted as a separate proposition. There certainly can be no question about that. You can readily see we have got to present here a complete article. Whatever may be the result of our vote upon this question of woman's suffrage, we have got to present an article which defines the qualifications of electors.

Mr. VARIAN. Mr. President, I arise to a point of order. When a gentleman on this floor states to a point of order it is his duty to state it and sit down. If he desires to debate it, he can do that after the chair decides it by taking an appeal.

Mr. THURMAN. That point of order is well taken, whatever may be said of mine.

Mr. EICHNOR. Mr. President, I arise to a——

Mr. VARIAN. I arise to the same point of order with Mr. Eichnor.

The PRESIDENT. I did not catch the gentleman's point of order.

Mr. THURMAN. My point of order, Mr. President, is this, that the amendment proposed to section 1 of the article is not in order because it is not germane to the proposition. It is a proposition to amend a section of an article presented here to go into the Constitution by a proposition which is not to go into the Constitution, but to go somewhere else. It has no bearing whatever upon this article; if it is relevant anywhere it will be in some article——

Mr. VARIAN. Now, Mr. President——

Mr. THURMAN. Well, I wanted to make myself plain.

The PRESIDENT. The opinion of the chair is that the point of order is well taken.

Mr. VARIAN. I take an appeal if the chair so decides.

Mr. EICHNOR. I second the appeal.

The PRESIDENT. Shall the decision of the chair stand? An appeal is taken from the decision of the chair. Shall the decision of the chair stand? All in favor will say——

Mr. VARIAN. One moment, Mr. President. It must be obvious to the Convention, as well as to the gentleman from Utah County, that if this is the law under our rules this question cannot be presented at all, and the question confronting us now is whether upon the third reading, when we are in the Convention, where the ayes and nays are to be called, any member or number of members on this floor are entitled to submit for the consideration of this Convention a proposition of this kind. If it shall be determined by the Convention that the decision of the chair shall stand as the decision of the house, the result will be that if there be a majority of the members on this floor in favor of passing this article as it is written, it will go under our laws to the committee on arrangement and compi-

lation to be revised for the purpose of putting it into the Constitution, and nowhere in our proceedings will be permitted to vote upon this question as to whether or not this article ought to be submitted separately. Now, in the first place, that is not fair. I think every gentleman will admit that any such construction, unless imperatively necessary by the absolute letter and spirit of the rule, ought not to prevail. The intention of these rules is, when the propositions come from the committee of the whole, that the recommendation from that committee that a third reading shall be had, when all these propositions for amendment may be presented and discussed, and determined by the body of the Convention. I venture to say that this is in the nature of an amendment germane to this very section. What is the proposition before the Convention? That this section shall not be put into the body of the Constitution, but shall be substituted as a separate article with the Constitution. Why is that not germane? It is just a question as to how it shall be submitted. It is germane to that question and it does not follow at all that because it would be incongruous, the method of submission to the people being decided in one way would be incongruous because of the context of the other sections, which are submitted in the body of the Constitution, because that matter would be governed and controlled by the committee on compilation and arrangement, just as we are doing every day in the committee of the whole, passing and voting upon questions which members believe properly belong in other articles of the Constitution, and it has been stated here time and again, and we so understand it, when we get through as to the substance we will arrange as to the garb and the form in which the substance shall be dressed. Now, I submit to the Convention that the proposition presented by Mr. Eichnor is simply this: Shall this particular subject matter, just as it stands here, be submitted as a separate article? As presented by the committee of the whole it stands. Shall it be submitted in the body of the Constitution, and we ought to be permitted under the rule to decide that question, and then if it shall appear that it is necessary to transpose this article and put it in another place, it can be done, and that is in contemplation of the rule. To that extent it is germane, and it cannot be done, so far as I know, at any other time. That is at least after you have called the ayes and nays and had your roll called upon this entire article, when it passes into the hands of the committee on compilation. If you do it now, peradventure, if there should be a majority in favor of that, the committee on compilation would take it as it came and arrange it in form, or the committee on schedule would consult with them, therefore, it can be done that way. Therefore, I hope that this decision shall not stand.

Mr. CANNON. May I ask the gentleman a question? I would like to know, Mr. Varian, what would be the effect should the proposed amendment offered by Mr. Eichnor—that is, should this proposed section be voted down by the people who vote on the Constitution—how would the article then stand?

Mr. VARIAN. Do you mean the entire article?

Mr. CANNON. No, sir; the article on this particular subject—section 1—if they should vote it down?

Mr. VARIAN. I will answer that in this way. If it should be the sense of the Convention that this article should be submitted separately they would have to remodel, in some degree at least, some provisions of the article on elections and rights of suffrage in order to meet such a possible contingency.

Mr. CANNON. That is what I wish to know.

Mr. VARIAN. But I submit that that would furnish no argument against permitting a vote to be taken upon this

question at this time, under the head of third reading, so that everybody may have an opportunity of presenting their views with their vote upon that particular question, which is the important one and the only one that is dividing this body to-day.

Mr. EVANS (Weber). I would like to ask Mr. Varian a question on this. Suppose section 1 was displaced by Mr. Eichnor's amendment, and it should pass in that way, would we have anything then in the article on election and rights of suffrage defining who were entitled to vote in the new State, and say further that the article proposed by Mr. Eichnor would be defeated at the polls?

Mr. VARIAN. That is the same question asked by Mr. Cannon. I answered that in the same way. If it shall be the sense of this Convention fairly and candidly that this question should be submitted by way of a separate article, it would possibly be necessary to make some change in the language of this section or article.

Mr. IVINS. If the amendment proposed by Mr. Eichnor should prevail, would it take the place in that article on elections and right of suffrage, that section 1 now has?

Mr. VARIAN. No, I think not.

Mr. IVINS. Could it take that place?

Mr. VARIAN. I think it would simply sense in the view of the Convention that that particular question was to be submitted separately.

Mr. IVINS. If it cannot take the place of that section how can it be a proper amendment to that section—if it cannot possibly take the place of it?

Mr. VARIAN. In this way, it is a question that may come up at any time, and I will illustrate in this way. When you come to consider any article that has been presented from a committee, you may stumble on to a proposition that will divide the people here in this Convention. Some may be in favor of submitting it separately, some may be in favor of keeping it where it is. When you are considering it, the question as to how it shall be submitted is germane. That is one of the great questions that is before the body all the time. Under the Enabling Act you may submit any question in the body of the Constitution, or you may submit such a question by a separate article. Of course, it is germane. It is one of the very questions that this Convention has got to decide, and it is idle to say by any argument of that kind that you can do away with the power of this Convention to pass upon that question, and I ask the gentlemen where, in the course of the proceedings, will we be permitted to take a vote upon that question in open Convention? If this shall be sustained we go through this section. The majority here force a vote to-night, and it passes the third reading and gets beyond our power under the rules of this Convention. Now, I submit that that never was intended. Congress never intended that. We have a right to pass upon that question, and whether it takes the places of that section or not does not determine this question. The question is to be determined whether it is germane to the matter before the house. It is germane that, before the house, you determine whether a question shall be submitted in the body of the Constitution or separately. That is one of the principal germane questions, and that is all this motion reaches. It does not attempt to change the language. It does not attempt to do anything except to present the question as to how it shall be submitted, in the body of the Constitution or separately. That is one of the principal germane questions, and that is all this motion reaches. It does not attempt to do anything except to present the question as to how it shall be submitted, and this rule would deprive the members of this Convention from voting.

Mr. EVANS (Weber). Mr. President, I desire to advocate sustaining the chair upon this proposition. I think the

chair is undoubtedly right. I do not pretend to be a parliamentarian. I yield that palm to Mr. Varian, who is the chairman of the committee on rules, in the absence of the president, but it does seem to me that to offer as amendment to section 1 an article which is to be separate and apart from the Constitution is ridiculous itself. We are here in Convention making a Constitution. The committee on elections has proposed an article. We are now considering section 1.

The proposition is presented here to amend that section by offering a substitute which is to be submitted apart from the Constitution, to the people. It seems to be wholly foreign to it. While the subject matter itself is germane, the place is altogether foreign to that which we are considering. Is it not ridiculous, gentlemen of the Convention, to say that we will put in an article to be inserted in the Constitution, which is to be inserted separately and apart from it? The gentleman says where will we go? What will we do here in the future if the chair's decision be sustained? I say it will be all right, and when any gentleman undertakes to move as an amendment to something which we are considering in a Convention, a proposition to be submitted to the people separately from the Constitution, that the chair ought to hold it is out of order. If the gentlemen do not like section 1, let them move to strike it out; that will be germane, and if it be stricken out, if it be the sense of the Convention that it go out, let a proposition be proposed at the proper time to submit this question to the people.

Mr. VARIAN. I would like to ask the gentleman a question. When is the proper time to propose it? When can we do it and where can we have a vote on it?

Mr. EVANS (Weber). You do it when the question is to be considered which comes up from the committee on schedule. There is a committee which proposes an article here. I believe it is already reported, and when that committee's report is being considered anything which is proper to be submitted to the people separate and apart from the Constitution, it would be proper then to offer, and gentlemen would not be precluded in this matter.

Mr. EICHNOR. May I ask you a question? If section 1 is passed, and if this article is adopted by the Convention, you place the substitute which I offered in the schedule, and suppose it is voted down by the people, where are you then? You would not have any section at all.

Mr. EVANS (Weber). That is just why I say it is not germane. If brother Eichnor's amendment should prevail, then section 1 is not to be submitted at all, but the substitute shall be submitted to the people and apart from the Constitution itself, and if the people shall vote that down, the rights of citizens would not be defined at all in the Constitution. Then anybody could vote, idiots, insane persons, or anybody else—Chinamen for that matter.

Mr. THURMAN. Mr. President, the vice of this proposition, from a parliamentary standpoint, is this, if this substitute carries it is immediately placed somewhere else—in some other article—and a new proposition will have to be proposed, which would be an amendment. Now, I take it, that brother Eichnor has some proposition or something to suggest here as to who shall be qualified electors; have you not?

Mr. EICHNOR. If my substitute carries?

Mr. THURMAN. Yes.

Mr. EICHNOR. Yes, sir.

Mr. THURMAN. You, then, have a proposition fixing——

Mr. EICHNOR. Can I answer you?

Mr. THURMAN. Yes, of course.

Mr. EICHNOR. If my substitute is adopted to remodel section 2, or make a new section, and the committee on

compilation and arrangement will take my substitute, which becomes section 1 and place it into the schedule and change the number of the article.

Mr. THURMAN. Then you admit that the proposition that you now offer does belong to the schedule, don't you?

Mr. EICHNOR. If it is accepted here.

Mr. THURMAN. Can you place it anywhere else but in the schedule?

Mr. EICHNOR. No, sir.

Mr. THURMAN. That bears out the argument of my friend from Weber County. The proposition is to send an article on election and rights of suffrage which must come into the article on schedule and there is no escaping from it.

Mr. VARIAN. Will the gentleman permit me to ask him a question now?

Mr. THURMAN. Of course.

Mr. VARIAN. If it should be determined by the Convention that this should be submitted as a separate article, of course, is it not true that sections 1 and 2 would have to be changed so as to confine the right to male citizens?

Mr. THURMAN. Of course that is true.

Mr. VARIAN. That is all that would have to be done?

Mr. THURMAN. That is true, but the gentlemen say how can we get this thing before the Convention?

Suppose that the gentleman from Salt Lake had come forward with this motion to amend section 1 by putting in its place another section which belongs there, and say in his argument, "I have a proposition which I want to submit to the people, which I wish to read as a part of my argument, to show you my views on this question of woman suffrage." That would be germane, that would be proper, but we contend that when the chair ruled that it was not germane to have the elections and right of suffrage article amended by a proposition which cannot go anywhere else but in the article on schedule, the chair ruled right and that the appeal ought to be denied.

Mr. RICHARDS. Mr. President, it seems to me that when a section is before the Convention for consideration, it means this: Words may be inserted in that section, words may be stricken out, the whole section may be stricken out. A substitute might provide, but to say that the section should be taken out of that article and placed somewhere else as an amendment of that section or of that article. Now, it seems to me that that is just as clear as daylight. If the motion had been to strike out that section that would have been one thing, but it was not to strike out the section, it was to provide that a certain section—in fact the same section as I understood it when it was read, should be transposed from that article into the schedule or somewhere else as a separate proposition. Now, certainly that can not be an amendment to that section or to that article.

The question being taken on the appeal from the decision of the chair, the Convention divided, and by a vote of 50 ayes to 35 noes, the decision of the chair was sustained.

Mr. WELLS. Mr. President, are further amendments in order now?

The PRESIDENT. Yes, sir.

Mr. WELLS. I have an amendment that I wish to offer to section 1 to add at the end of the section:

Provided that laws shall be passed excluding women from serving on juries or acting as officers of the peace, and for military duty.

Mr. ROBERTS. Mr. President, I can not vote for that amendment. If we are going to have woman suffrage, I believe in having it pure and unadulterated. That is, if you grant women the suffrage I propose to have everything that properly goes with it, and it upon this ground I believe that General Grant is credited with saying, that if you want to obtain a repeal of a bad

law, the proper thing to do is to enforce it vigorously. If we want to test the granting of women the franchise in its effects, I believe they should have the sweet privilege of having the whole dose of it. I believe that it is absolutely an improper thing to do to grant the elective franchise to citizens who are not prepared to meet all the obligations that go with it when other people exercise that franchise.

Mr. CANNON. Will the gentleman permit me a question? In case of a man who has passed the age at which military service is required, or who is deformed, or infirm in body, would you deprive him of his vote?

Mr. ROBERTS. No, sir; I would not deprive women either of their vote. Let women that are crippled and have the same disabilities that the gentleman has referred to have the same exemptions that men have. I lay down, that it is a proper principle that whenever you grant the elective franchise to any part of the citizens, everything connected with it ought to accompany it.

The fact of the business is, Mr. President, that I am of the opinion that in consequence of the fact that this body of citizens that you propose to enfranchise are not physically competent to meet all the duties that go with an exercise of the elective franchise upon them, and for that reason I cannot sustain that amendment.

Mr. CREER. I would like to ask him a question?

Mr. DRIVER. May I ask Mr. Roberts a question?

Mr. ROBERTS. Certainly.

Mr. DRIVER. Under the law, I am exempt from serving on juries, have I the right to vote?

Mr. ROBERTS. I cannot state anything about the condition of the gentleman.

Mr. DRIVER. I am exempt from serving, not on account of age. Have I a right to vote?

Mr. ROBERTS. I do not know anything about the gentleman's disabilities as to voting, but whatever the disabilities are and if they are justified, I would be perfectly willing to have the same courtesy extended to the women that he possesses in individual cases.

Mr. DRIVER. I am exempt from serving, not on account of age. Have I a right to vote?

Mr. ROBERTS. I did not know the gentleman was a clergyman.

Mr. DRIVER. Prescription druggists are exempt from serving on juries.

Mr. ROBERTS. My answer to that is that if there are women druggists or women ministers, let them exercise the same privileges that men in that same condition do.

Mr. WELLS. Mr. President, I just desire to alter the reading of my amendment a little; "Provided that no female citizen shall be compelled to serve as a juror or act as a peace officer or perform military duty."

Mr. RICHARDS. Mr. President, I hope this amendment will not prevail. This is legislation. I think that we can safely trust the Legislature of a coming State to make such provisions in relation to jury service and exemptions, etc., as may be proper. I think that it will be very improper for us to adopt an amendment of this kind to this section.

Mr. JOLLEY. I accept the slight amendment and will yet second the amendment of the motion.

Mr. VARIAN. I call the attention of the gentleman from Salt Lake, Mr. Wells, to the fact that so far as a military service is concerned, he may leave that out. The law of the United States regulates militia; limits that to male citizens.

Mr. WELLS. I will accept that suggestion, if that is a fact.

Mr. VARIAN. I would like to ask the gentleman a question? Whether he contemplates the possibility of their sitting as judges? As I read the article, their right to hold office shall not be denied or abridged, and now the amend-

ment will have the effect of abridging it to the extent of sitting on juries.

Mr. EVANS (Weber). It simply provides that they shall not be compelled to do that.

Mr. BUTTON. Mr. President, if it is in order, I would like to have that amendment so that Mr. Jolley's wife would not be a justice of the peace. He spoke about that particularly, I believe.

The amendment of Mr. Wells was rejected.

Mr. MALONEY. Mr. President, I would like to offer an amendment to that section. On line 3, in section 1, after the word "of" and before the word "sex," insert "race, color, or." I make this statement, because it was required in the Enabling Act, which reads as follows:

> The Constitution shall be republican in form and make no distinction in civil or political rights, on account of race or color.

It is absolutely essential, because of the language of the Enabling Act.

Mr. IVINS. Mr. President, it seems to me, there is no necessity for that amendment at all. Section 1, as it stands, makes no distinction as to race or color.

The question being taken on the amendment offered by Mr. Maloney, the Convention divided, and by a vote of 37 ayes to 39 noes, the amendment was rejected.

The Convention, at 5:05 o'clock p. m., adjourned.

THIRTY-THIRD DAY.

FRIDAY, April 5, 1895.

The Convention was called to order at 10 o'clock a. m. by President Smith.

The roll was called and all members found in attendance except Thatcher.

Prayer was offered by Rev. W. S. Hawkes of the Congregational Church.

The journal of the thirty-second day's session was read and approved.

Messrs. Murdock, Coray, Apperley, Neilson, Denny and Ollerton were admitted to a seat on the floor of the Convention.

The following petitions were presented, asking that the question of woman's suffrage be submitted as a separate article to the vote of the people:

File No. 175, signed by George L. Nye and ninety others, by Varian of Salt Lake.

File No. 176, signed by J. W. Savage and one hundred and fifty others, by Button, of Salt Lake.

File No. 178, signed by James L. Franken and fifty others, by Eichnor, of Salt Lake.

File No. 179, from the Chamber of Commerce of Salt Lake, by Roberts, of Davis.

On motion, they were ordered filed.

Mr. C. P. Larsen, of Sanpete, presented a petition (file No. 177), signed by about five hundred citizens of Sanpete, requesting that the question of prohibition be submitted to a vote of the people.

Referred to the committee on schedule, future amendments and miscellaneous.

The following minority report of the committee on water rights, irrigation and agriculture was submitted:

MR. PRESIDENT:

I beg leave to submit a minority report on the subject of irrigation as follows:

ARTICLE.

Section 1. All existing rights to the use of any of the waters of this State for any useful purpose, shall be recognized and confirmed.

Section 2. The Legislature shall provide by law for the regulation, distribution and controlling of the waters of this State and may provide by law such rules and regulations under which rights may be acquired to any of the waters of this State, for any useful purpose, and shall also provide for the protection of all water rights acquired, or to be acquired for any useful purpose.

LAURITZ LARSEN,
On the committee of water rights.

Under the rules, referred to the committee of the whole.

Mr. LUND. Mr. President, I would make an oral report of the committee on accounts and expenses. We have left $10,870.88, and the amount disbursed, which the secretary has actually paid, is $16,600.25.

Mr. JAMES. May I ask the chairman of the committee on accounts and expenses whether he has submitted the bill for clerk hire for the committee on corporations other than municipal.

Mr. LUND. The committee on corporations had a clerk who wrote ninety-one letters, addressed them to different points of the Territory and paid the postage and the material, and the charges are $20. They asked that that be permitted or allowed.

Mr. VARIAN. I would like to ask the chairman of that committee whether he has taken care of the bill allowed by the committe on rules?

Mr. BOWDLE. I would like to ask the chairman of the committee whether that includes the expense of the printing?

Mr. LUND. Yes, sir; as far as we can get at it to-day

Mr. JAMES. Mr. President, I move the adoption of the report of the committee.

The PRESIDENT. Should not there be a written statement to the secretary here of this matter? The chairman will hand it up in writing.

Mr. RICHARDS. Mr. President, I think the report of this committee ought to set out the items of expense that go to make up these different amounts.

The PRESIDENT. He has it right there in his book.

Mr. RICHARDS. I do not care to have them myself. I think the report itself should show the items. I suppose it will.

Mr. LUND. Mr. President, I will say for the information of those who would like to know, that there has not been one item omitted. It is all upon the list, even five cents. When the bill is printed the item has to be there too.

Mr. RICHARDS. I do not think the gentleman understands my suggestion. My suggestion is it should be incorporated into the report and become a part of the record of the Convention.

The PRESIDENT. The chairman will take notice of this and make such a report. There was a motion made to allow an account to some committee there.

Mr. LUND. The committee on corporations.

The PRESIDENT. What is the amount?

Mr. LUND. Twenty dollars.

The account was allowed.

Third reading of ordinances and propositions to be inserted in the Constitution.

The PRESIDENT. This brings us to the consideration of elections and suffrage. Section 1 was under consideration when we adjourned.

Mr. VARIAN. Mr. President, I move to recommit the article on elections and rights of suffrage to a special committe of five members with instructions to report an article providing for equal suffrage for men and women, to be submitted separately to the qualified electors of the Territory with the Constitution, and to revise the general article on the subject for insertion in the Constitution, so that it shall harmonize with the proposition for separate submission. The objection made on yesterday, by means of a point of order, was principally made on the ground that purposes sought to be accomplished by the amendment offered were not germane to the matter under consideration, and the house sustained the chair in his ruling upon that question. It is manifest that under that ruling, to which we must now bow, of course, the majority of the house, being of the opinion that it was right—it is manifest that in no other way can

this question be presented to this Convention, so that those of us who are in favor of submitting this question separately can be heard and record our votes on it. We do not record our votes on that question by voting aye on this article, or by voting no against this article. When this article, as now pending before the Convention, shall have passed its third reading and been adopted under our rules, no further amendments are allowed to it, and it must go into the Constitution, unless at least two-thirds of the Convention should decide to suspend the rules for the purpose of allowing an amendment. And if a proposition of this kind should come from the committee on schedule, such report and such advocacy would be at once met with this very answer, and with this proposition, "We have already put into the Constitution something that is entirely in conflict with this proposition now suggested by the committee on schedule." So, the Convention will perceive that it is virtually depriving a very large minority—possibly one-third of the members of this house, of a right not only of their own right, but the right of their constituents to express by their votes on the record there their convictions upon this question.

Mr. CHIDESTER. I take it, Mr. President, that this is an extraordinary motion to make at this stage of the proceedings, to submit that to a special committee when it has been in charge of a committee and has been reported upon, from the fact that that committee who had it in charge was largely in favor of the report that was presented here, there only being two members who were opposed to it, and it seems to me to be in the nature of an attempt to prolong this and put it off. Now, I may be accused again of wanting to crowd this matter through, but now, I believe that I am justified in saying that this is an attempt to postpone it—an attempt which was defeated yesterday, and in answer to the proposition of the gentleman who just spoke, that in the event that the committee on schedule would bring in something that it would be met by members who favor this, now that this had been adopted—if that is the voice and sentiment of the majority of this Convention, then it is proper that it should be settled, and I see no reason why this matter should be submitted to any committee, either to the standing committee or to any special committee appointed for that purpose. I believe it has had due consideration, and I call the attention of the gentleman to the fact that everything that could be required, in the way of giving a chance to meet this, has been done from the beginning, and it was left open from the beginning that any objection might be brought in, and it was taken up the first day and at the end of the session it was there stated that it would still be open for discussion. Nothing was brought in, and I say it is unfair now to even make an attempt to resubmit that to the standing committee or to any special committee.

Mr. VARIAN. Mr. President, I would like to add, with leave, an amendment to that motion as to time, which did not occur to me, I want leave to insert in there, "within three days."

Mr. CHIDESTER. Mr. President, I make the same objection to the motion as amended as I did before.

Mr. IVINS. Mr. President, this seems to me like a very unusual proposition for more reasons than one. In the first place the amendment provides that this matter shall be submitted to a committee of five with instructions just what they are to do. Now, if that committee is to take this matter under advisement, with instructions to report an article providing for the separate submission of this matter to the qualified electors of this Territory, why cannot we do it right here without sending into commitee at all? It does not leave any dis-

cretion with this committee that is to be appointed. They are appointed for a certain purpose, and that purpose is well defined in the proposed amendment. That is one reason that I object to it. Another reason is that it seems to be inopportune to propose such an amendment at this time. This has been properly reported from its proper committee. It has been before this house in committee of the whole and been considered there, and passed, and now at this stage, to ask that it be committed to a special committee, seems to me to be entirely out of place. It is simply asking that that be done which this body refused to do yesterday, and that is, to submit this proposition to a separate vote of the people. Now, Mr. President, in connection with this matter, and as a part of my argument, I wish to read a call that appears in this morning's Tribune, signed by about two hundred persons, some of whom are members of this Constitutional Convention.

(Reads:)

A mass meeting of all the qualified voters of Salt Lake City and County, is hereby called to be held at the Exposition building, on Friday evening, April 5, 1895, at 8 o'clock, for the purpose of protesting against the incorporating into the Constitution, now being prepared for the proposed State of Utah, the proposition entitling women to vote and hold office in the new State, and for the purpose of taking such action as may be advisable with a view of requesting the Constitutional Convention to make provision for the submission of the question of woman's suffrage to a vote of the people, under such regulations as shall be provided by the State Legislature.

The thing is gradually coming out in its true colors. It is not a proposition to submit the question of woman's suffrage to a vote of the qualified electors of this Territory, but it is a proposition to defer the whole question until after the first State Legislature shall convene, and leave this matter in their hands, so that in case it may be possible in a political campaign to have elected to the first Legislature a majority of men who would be opposed to woman's suffrage. The question would be effectually killed by such action as this. Gentlemen, I am becoming more and more persuaded that we have temporized with this question just as much as we ought to. Let us get through with it.

Mr. THORESON. Mr. President, I am opposed to any further delay in this matter. It seems to me that a majority of this Convention should insist upon having their rights. I do not think now that we should continue this campaign work any further. In looking around this Convention we see that the friends—or rather those that have individual scruples against equal suffrage—are absent from this Convention a good portion of the time. We hear and see announcements of meetings in which they expect to speak. I say that this has originated upon the basis of personal scruples against this subject, because neither of the great parties of the Territory dare come out and say that we do not want it. We came here instructed how to vote. When we got here this Convention showed a great majority in favor of this proposition. The supporters of the two political parties of this Territory dare not say nay to the proposition. The entire people of this Territory that voted last November, by their expressions through their party platforms, told us to come here and to grant equal suffrage to men and women alike, and after these votes had been taken again and again, we find that this small minority are getting in with resolutions and motions for delay, for postponement, to set aside the rights of the great majority of this Convention and of the people of the Territory. I hope, gentlemen, that we will now sit down upon this proposition and get down to work and stop this second campaign on this same proposition.

Mr. BOWDLE. Mr. President, I have sat

here I think for seven days and listened to the gentlemen about this question. I have never said one word in this Convention with reference to the question, but I am in favor of this proposition and I will tell you why. I am not afraid of the people; I am not afraid of the voice of the people; I believe the voice of the people generally is right. I do not know what the people may say, I do not know whether any petitions will come up here. I know that whatever petitions may come if they be by the tens of thousands will not change my conviction or my opinion upon this question. I have been somewhat slow coming to that conclusion, but I think I have canvassed it carefully and if the vote were to come this morning, or come next week, I think my convictions are so clear upon that subject, that it would not change. If I were to fear the people—that sovereign power that the gentlemen have talked about so much, I would pack my grip and leave the country, and hunt some lone island, and live in solitude, and not live among my fellows. I am not afraid to trust the people of this Territory on that question, or on any other question that may be submitted to them, but I expect to go before this people next fall, when it comes time for the ratification of this Constitution. I want to say to them, "we have given you every opportunity to be heard on every important question. We have not throttled your voice. We have listened to your petitions and now we come to you with the result of our work." Suppose this thing should come to a vote this morning, with this proposition, fair as I presume, and as I believe it to be, and I fear that I might stand where a great many voters will stand next fall—if this proposition to make it absolutely and irrevocably a fact that woman is to have the right to vote, is put into the Constitution. I want to vote, and I want my vote recorded that I favor the people of this Territory settling the question as to whether woman shall vote or not. I will be perfectly willing if it could be done that woman should settle it herself and that man keep his hands off, but that will probably be impossible, but I am in favor of the next thing that comes the nearest to that, that the people shall settle it. Suppose, as I stand here this morning, my name was called to that first article in this bill of suffrage. My present conviction would be that I could not support that, but I would, with all voice and power, support the proposition, and I will do it any time during this Convention, to submit it to the vote of the people, and by the verdict of that power that is above all other power in the State. I do not care if you make this a shorter time than three days, but give us who want our vote to be recorded upon that proposition, the opportunity. Mr. Ivins says, "Why cannot you do it now?" If you will do it now I am willing to vote upon it, but I want that vote to be in that way and I want my privilege to put it just in that shape. Therefore, I favor this proposition to recommit it, and recommit it to a committee of one and ask him to report within an hour if you want to, but give us that opportunity.

Mr. THURMAN. Mr. President, I think it ill-becomes a gentleman to stand upon this floor and ask if we are afraid to leave matters to the people. I want to know who it is in this Convention that is trying to give to the people a voice in public matters? One side of this Convention are contending that all the citizens of the United States, without regard to the mere accident of sex, shall have free and unrestricted voice in public affairs, and that side is being denounced by gentlemen and accused of trying to throttle the voice of the people. We are seeking to give the people a voice—all of them.

Mr. BOWDLE. How are you seeking to give them a voice?

Mr. THURMAN. We are seeking to say that every man and every woman

citizen of the United States, intelligent, and of requisite age, shall have a right and a voice in public affairs.

Mr. BOWDLE. Upon this question, how are you giving them a voice?

Mr. THURMAN. Upon this question the people have had their voice, and the representatives of your party—far more of them than you have in this Convention, have said that equal suffrage shall be given to women. Four hundred of your party, in solemn convention from all over the Territory, have declared upon this, and here, sir, you have only about forty-four who are trying to say they shall not have it. That is the situation of the party to which the gentleman belongs.

Mr. KIESEL. The people have changed their minds.

Mr. THURMAN. More than four hundred of the party to which I belong have said that women shall have suffrage and here you are trying to persuade about forty of us to say they shall not have it. The representatives of the people have spoken in thunder tones, and I say we ought to settle it, and settle it now. When it comes to the voice of the people, they have spoken. They spoke in primaries; they spoke in their conventions; we have declared ourselves upon this question, and say that it is improper—it is not right for members of this Convention to sign their names to notices for public remonstrances, and go and make speeches to these meetings and ask this Convention to wait until a meeting gotten up in that way shall have decided the question. I think it is wrong in every sense of the word, and repeat what I said yesterday. I say it is undignified in a Convention of this kind to delay for such a purpose.

Mr. HEYBOURNE. Mr. President, I am just as particular and as desirous of recording my vote as the honorable gentleman who preceded me (Mr. Thurman) in his remarks, and I desire, sir, that that vote shall be recorded, not only in accordance with my own private feelings, but in accordance with the expressed will of the people whom I have the honor to represent upon the floor of this Convention. I claim, Mr. President and gentlemen, that this question that is now under consideration has received unusual consideration. Days of time have been spent and thousands of dollars have been expended in presenting this matter before the delegates of this Constitutional Convention, and after due consideration and deliberation, to which the honorable gentleman from Provo has just referred, we find organizations throughout this city and other cities of prominence, calling the people together, seeking to get their views and ideas with regard to this matter, notwithstanding the opportunities that had been given to some of the honorable gentlemen whose names appear in connection with these statements, that we find in the press this morning. We are, sir, in my opinion, giving to the people their rights. As I remarked upon this occasion before, I do not particularly view this matter that I am bound up by the Convention, or by those who sent me here, or by the agreements that were placed in the party platforms, so much as I look upon this matter as a matter of right and a matter of justice, and to come here now at this late date and state that we are trying to shut off the voice of the people, why this very proposition, sir, is what is giving to the voice of the people their rights and privileges. We are trying to establish in the coming State this important matter, that all classes shall have a right and an opportunity of being heard in the selection of those who shall govern and control them in the years that are to come, and I think, sir, that it would be, to say the least, unwise to go to work now at this date and postpone further action upon this matter. And I am just as tenacious, as I said in the commencement, that my vote should be recorded, as the gentl e

men are who referred to this matter, and I trust that when this matter comes up it will be recorded in this way that all shall enjoy this right.

Mr. BUTTON. May I ask the gentleman a question?

Mr. HEYBOURNE. Yes, sir.

Mr. BUTTON. You say you are ready to record your vote and are willing that other people should theirs?

Mr. HEYBOURNE. Yes, sir.

Mr. BUTTON. How are you going to allow us to record ours?

Mr. HEYBOURNE. You have got the same opportunity.

Mr. BUTTON. We have not; that is all we ask.

Mr. HEYBOURNE. You have had it all the way through.

Mr. SQUIRES. Mr. President, I have very little further to say upon this subject, but there were some things in the remarks of the gentleman from Utah (Mr. Thurman), that are certainly unfair and unjust to the minority on this floor. He made the broad assertion that the minority present here were endeavoring to deprive the women of Utah of the suffrage. So far as I am concerned, I must deny that soft impeachment. I do not believe the gentleman understood the force of his remarks when he made that statement. All that the minority upon this floor has ever asked has been that this question be submitted in a separate article to the people. That is all that they now ask, and if a meeting is to be held to-night under the call read by the gentleman from Washington, with a view to having this matter postponed and not considered until the first session of the Legislature, I do not believe such a proposition will receive a single vote of this Convention. Gentlemen lose sight of the exact situation here. We are all united upon one proposition. I do not believe that there is a man within the sound of my voice, and especially those who are ardent woman suffragists, who has any doubt that the people of this Territory when they come face to face with this proposition will give the suffrage to women. All that the minority asks upon this proposition is that they shall have that opportunity.

Gentlemen from the far counties, like the gentleman from Iron County, and the gentleman from Garfield, and the gentleman from Beaver, told us that they know the exact sentiment of the voters in their counties. We have discovered, who live nearer the center of the Territory here, or the center of population, that we have not understood the sentiment of our constituents. It has begun to dawn upon the people of Salt Lake City that there is a crisis here in the affairs of this Territory. They want statehood for Utah. They want it more than they want anything else. They are afraid, gentlemen, that if you put into this Constitution section 1 of this article as it appears here, without giving the people an opportunity to consider it separately, that in the end you will not have statehood, that all the efforts of this Convention, all the time and all the money will have been utterly wasted and we shall wake up to find that the Constitution which we have worked so hard to prepare will lie buried under the votes of the people. Now, I ask you, gentlemen, to consider which is of the more importance to the people of this Territory? Which do they want most? Is it statehood? Do we want this Territory represented in the halls of Congress by a man who can vote as well as talk? Do we want two men in the United States senate to stand up and re-enforce the element which is in favor of silver? Do we want that? I grant you that we do, and we want it so utterly that we are careful not to prejudice that by putting anything in this Constitution which will defeat it. That is the position which I take and the position which is occupied by the minority upon this floor.

Mr. ROBINSON (Kane). May I ask the gentleman a question? I understand you to say that if this be submitted separately it will no doubt be carried through?

Mr. SQUIRES. Yes.

Mr. ROBINSON (Kane). Then, why will not the Constitution be carried through if it is in the Constitution? If there is sufficient to carry the plank separately, why are they not sufficient to carry the Constitution?

Mr. SQUIRES. I will answer the gentleman if he is through. Because there is a widespread sentiment in this city to-day that says to the gentlemen composing this Convention, "Wait. Pause for a few days and give us an opportunity to be heard and, if you fail to pause, if you insult that large constituency in this county and in neighboring counties, who want to be heard upon this proposition, you will arouse an opposition against this Constitution that cannot be staid, and when the votes are cast and counted next November, you will find that the Constitution has been defeated." That is the position I take. I do not see any harm. I do not see how the gentlemen need to fear the delay for three days upon this question. It does not need to change your votes, gentlemen of the majority. It certainly won't change my vote. The possibility is that there won't be a vote changed in this Convention when the time shall have expired, but we shall have been courteous enough to listen to the appeals from the gentlemen who are interested on the other side of this question. We shall not have insulted the ladies of Salt Lake who are to-day to meet to consider this proposition. We shall not have antagonized men who are devoted to this Territory and who have it in their hearts that the star of Utah should shine upon that banner. I tell you, gentlemen of the Convention, it is time to pause and realize that a great courtesy has been shown to the minority upon this floor. I grant you that when great questions come before legislative assemblies courtesy is wise, justice is wise. Let us, gentlemen, accept this proposition from the minority. Let us give them this time. If the committee on elections and suffrage feel that they are slighted in this proposition by having a reference made to a special committee, let it go back to the committee on elections and suffrage. I care not so that they follow the instructions given to prepare an article for separate submission and so remodel the article before us to make it harmonize with such proposition. I hope that every gentleman upon this floor who favors the submission of this matter in a separate article in the Constitution will vote to recommit this question to the committee. I call the attention of the gentlemen to the fact that when this matter comes back in three days, it will be only until next Monday. To-morrow we take an adjournment on account of Arbor day. Sunday we certainly cannot do any work. We are not losing any of the time of this Convention. Our calendar of the committee of the whole is filled enough with work lying before us there to last us ten days at least, and when that report comes back we shall have an opportunity to vote upon this question, and I hope we shall have further intelligence upon this matter to enlighten the minds of the gentlemen of this Convention. I hope that this proposition will prevail.

Mr. RALEIGH. I wish to ask the gentleman a question.

Mr. SQUIRES. Yes, sir.

Mr. RALEIGH. You express your opinion that time will not alter the votes of the majority or the minority in this Convention?

Mr. SQUIRES. I said that it might not.

Mr. RALEIGH. What was your object, then, in asking for further time? That is the question I wish to ask.

Mr. SQUIRES. I believe I answered

that question in my remarks. We shall then avoid the insult which would naturally follow when ladies of this city are engaged only this afternoon in a meeting in which they desire to express their wish to this Convention on the subject.

Mr. RALEIGH. I would not want to insult the ladies.

Mr. SQUIRES. And another thing, the minority desire to record their votes on this proposition of separate submission, and we deem it that this is the only opportunity that will come to us in the course of the debate upon this question.

Mr. ROBERTS. Mr. President, when this question was up last evening, just before adjournment, I think that the gentleman from Salt Lake unconsciously paid me a higher compliment than he intended to. It is stated that the sentiment that is arising against woman's suffrage in our large centers of population was manufactured right here on this floor. I wish to say in answer to that, that I do not believe it. The sentiment was already there. This perhaps was the occasion of it making itself manifest, and I would rather, sir, have it made manifest now than to have it made manifest when the people come to vote upon the Constitution and be in a condition that they are compelled to vote against the Constitution, in order to express their deep detestation of woman's suffrage. This agitation has resulted at least in this: It has brought the fact to the mind of members in this Convention that all the world are not suffragists and all the people of Utah are not suffragists, and if gentlemen undertake to tell me that this question has ever been before the people of Utah upon its merits, I deny such a statement.

It never has been discussed on its merits. Now is the opportunity to have it so discussed and to have it finally settled and those who are in favor of suffrage shrink just from that issue. That is the position that this question has assumed. I deny that this question was settled in the campaign of last fall. And it never has been discussed upon its merits, and gentlemen may get up here with what emphasis they will, but they cannot contradict that hard solid fact. Now, then we ask that this question be submitted in such form that in the forum of the people the eloquent advocates of this measure may triumph if they carry it to a victorious conclusion. Why do they shrink from the undertaking? Will they answer me that? I agree with the gentleman from Cache Valley. I too am tired of campaign politics upon the floor of this Convention, and that is just the position that this question has assumed. Sparring has been going on for advantage. Gentlemen connected with the party with which I associate undertake to get an advantage of their political opponents upon this floor to have them appear in the light of having somewhat withdrawn from the support of woman's suffrage. They are holding together upon that issue and I denounce it as peanut party politics unworthy of the great party with which I am associated. [Applause.]

No man on this floor, no democrat in the party with which I am associated, more earnestly desires the success of that party than I do, but, gentlemen, you must furnish me a better issue for winning party success in the Territory than the mere quibble of trying to put your political opponents in a hole. If democracy has sunk to that I denounce all such kind of leadership as unworthy of the great democratic party. I want to say to my republican friends that they have nothing to fear in this issue by insisting that this shall go before the people where it may be finally adjudicated. Whenever that sovereign power shall speak it is an end of the controversy. You now do as the majority upon this floor on this particular issue purpose to do, place it in the

Constitution and those who are opposed to woman suffrage have their mouths closed, for the simple reason that statehood is so desirable that they will even swallow woman suffrage, distasteful to them though it may be. I announce upon this floor that this is just what I would do, for I would rather have statehood with woman's suffrage than not have statehood. I had rather have a republican State than no statehood, however great I might consider that calamity to be. [Laughter.] I take it, gentlemen of the majority party on this floor, that you will lose nothing by going to the people upon this issue and insisting that this article shall be submitted as a separate article to the vote of the people. In regard to the objects named in this communication calling a general mass meeting for to-night asking that it shall be referred to the next Legislature, I know nothing of that, nor do I favor it. My understanding is that the object of that meeting was simply to submit this question separately to the people just in the same sense that it is proposed to submit prohibition to the vote of the people.

That far I am in sympathy with it and no further than that, and I cannot conceive how the majority party on this floor cannot fulfill every pledge it has made to the people by favoring submitting it as a separate proposition, and your opponents who undertake to make political capital out of your action, if you shall conclude to do that, will utterly fail and only reveal their own littleness as manifested in this issue. You have nothing to fear on that, but you have much to gain as they have much to lose for the reason that you take this action in order that you might give statehood all the better advantage of success; while they would be put in the position of risking statehood in order to get a petty advantage of their political opponents. My friends, your party boasts of its courage, it boasts of its patriotism. I now appeal to it and ask you to remove this pretext against statehood by saying, "This shall be submitted to the voice of the sovereign people, and their answer shall be final." If you do not do that I want to tell you that this will forever be a bone of contention in this new State. Party success, party harmony is dear to me, but the attainment of statehood for Utah is still dearer to me. [Applause.]

Mr. IVINS. May I ask the gentleman a question? Did I understand the gentleman to say that he was not in sympathy with the proposition to submit this to the next Legislature?

Mr. ROBERTS. Mr. President, that was the call or representation that was made to me of the object of this meeting that is called for to-night. The gentleman merely wishes to read my signature to the call for that meeting. I wish to say to him that if the call is as he says, namely, the postponement of this matter for the action of the first State Legislature, I understood nothing about that. My understanding of the call for that meeting, and as it was explained to me, was that it should be to submit this proposition separately to the vote of the people. I understand Mr. Varian, whose name I believe is also attached, understood the matter in the same way.

Mr. VARIAN. If the gentleman will permit me—my name is not attached, but my name is mentioned there in connection with your own. I so understood it.

Mr. IVINS. I just wish to ask the gentleman when he signed this if he was not in favor of that proposition?

Mr. SHARP. Mr. President, I would like to state that I was with Mr. Roberts when this paper was presented to us, and it was just as he stated. We understood that it was to submit this question to a separate vote of the people, and we both signed that proposition without reading the paper.

Mr. EVANS (Weber). I desire to ask

Mr. Roberts a question. I may have misunderstood Mr. Roberts in his first remarks upon this question the other day, but I want to ask him now if he did not state then that he was opposed to submitting this question of woman's suffrage in a separate article?

Mr. ROBERTS. No, sir; I do not think I ever made any such statement.

Mr. CREER. Mr. President, I wish to say that I have endeavored to listen with great respect to what has been said by gentlemen who are opposed to taking decisive action upon this section now in consideration, and speaking to the motion—the remarks that have been made here this morning—I will say this, that over one-sixth, or perhaps one-sixth of our time has been expended in discussing this question, and much has been said by way of menace—endangering statehood if this proposition would be fairly presented before the people. I will say right here, gentlemen, that I will look with complacency—my mind has not been ruffled one particle or changed by the eloquence of the gentleman who has preceded me, not one iota, and why should it be? He says that the question has never been placed before the people and we now want this matter brought before them; I want to say this, that it is well known that in each of those platforms there was a prominent plank placed that they were in favor of female suffrage, and it is an insult to the intelligence of the people of this Territory to say that they did not understand what they were doing. Here was something adopted by four hundred men in each of those conventions——

Mr. CORAY. Mr. President, I arise to a point of order. The gentleman is not speaking to the question.

Mr. CREER. I am speaking to the question in this wise: This matter has come spontaneously, gentlemen, and it is unfair—it is unfair in this: Because we see here gentlemen absenting themselves, as I believe and infer from their remarks, for the purpose of creating an agitation against this section as it now stands before us. I see two eloquent gentlemen, one from each party, who are announced to speak against the immediate action on this proposition and the placing of it in a separate platform. I want to say to you that the voice of the people has been heard upon this matter.

The standard bearer of the majority of those who oppose the action upon this matter, went through the Territory and announced himself emphatically in favor of woman's suffrage in all that that means—in all of its terms—Frank J. Cannon, your standard bearer. The result of it was that he received nearly two thousand majority of the votes of the people, and yet gentlemen say that this matter has not been discussed. It was discussed by your own champion, gentlemen, for I heard him myself, and the very fact that people took it for granted that there was no issue upon this matter, and now we want to say that this shall recur back to them and get the voice of the people or you will endanger statehood. Gentlemen, are you afraid of these menaces that are attempted to be brought before the people? It is unfair. It is unfair to the people of the Territory in this: You are in touch perhaps with those that are in sympathy with you, but the great majority of the members of this Convention are not and they could not be in the time that will be allotted to them. We have not the opportunity of getting out amongst our constituents, as you have, and create agitation. I am not afraid of the result. I am not afraid of these menaces. I can look with complacency upon them. And with all the eloquence and oratory that has been displayed here, it does not affect me one particle. It is said sometimes that rhetoric is the art of making people believe things that are not so, and it seems to me that that has been the endeavor here in this Convention—at-

tempting to make the people believe that this matter has not been before the people. I say that is has been before the people and furthermore it is known right around us here—the states on the east of us and all have acted upon this question. It is not a new question. It is something that is understood by the great majority of the people of this Territory. Therefore it is no use, gentlemen. You can not move me, not one iota, by your attempt of oratory, of agitation. I am going to rely upon my own sober judgment in this matter,and I am ready to vote upon the question. What could you do in three days? The gentlemen ask for this motion simply to defer it for three days. Can you reach all the conditions, I say? What has been said with regard to the petition for prohibition? You talk about the voice of the people—have any of you incidently remarked or said one word about the voice of the people in that particular?

Mr. ROBERTS. Will the gentleman answer me a question?

Mr. CREER. I will try to.

Mr. ROBERTS. Is the question of prohibition up yet?

Mr. CREER. It is not, only as it came here by a petition, but I say incidentally, have you had such regard for the people——

Mr. ROBERTS. Has it been reported back by the committee?

Mr. CREER. No, sir; I concede that.

Mr. IVINS. I would like to ask Mr. Roberts a question.

I would like to ask him if he is not the first man that introduced the question of prohibition in this debate in connection with woman suffrage?

Mr. HALLIDAY. What is the question?

Mr. IVINS. I wanted to ask Mr. Roberts if he was not the first person that introduced the subject of prohibition into this woman suffrage debate?

Mr. JAMES. I arise to a point of order.

Mr. ROBERTS. I would like to answer the question of the gentleman by asking him another. What point is there in his question, if I was the first one to introduce prohibition?

Mr. IVINS. I think it is a matter of bad grace to spring——

The PRESIDENT. The gentlemen will take their seats. Mr. Richards has the floor.

Mr. RICHARDS. Mr. President, I am opposed to this motion. It seems to me that this Convention has gone just as far as it can go in the direction of listening to these remarks in opposition to equal suffrage and in delaying the work of forming a Constitution for the State, without submitting itself to ridicule, and if the members of this Convention had heard the criticisms and comments of their constituents that I have heard concerning the conduct of this Convention during the last eight or nine days, they would hesitate and pause before they would insist upon keeping before this Convention a subject that is a continual agitation and will be a source of agitation just so long as it remains before us under consideration. It is time this question was disposed of, and I want to answer some of the questions that have been put here—put in that tone and manner that have prevailed during the whole of this discussion on the part of the minority. In a manner of arrogance—in a manner as though the questions put were unanswerable, that no man could answer them—what do they say? They say, "Are you afraid of the people? The reason you are unwilling to have this submitted in a separate proposition?" No, it is because I have faith in the people that I want it to go into the Constitution, for I know they will not vote against the Constitution. That is the reason I want it there and when men stand up here, and tell me that those who favor placing it in the Constitution are afraid of the people, I say no.

By that very thing we demonstrate our confidence in the people. It has been said here again and again that this issue was not before the people. I remind the gentlemen that denial and denunciation, however emphatic it may be, is not proof, and it counts for little in the face of the history of the Territory of Utah, and the two great political parties that are represented by the delegates on this floor. Their party platforms speak. The votes of the people on election day speak. And I say, as I have said before on this floor, that I came here as did every other man with the understanding on the part of the people who elected me that I would help to form a Constitution, and in that Constitution, not as a separate article, should be a provision for equal suffrage, and I say I am here prepared to do that work, and when any man stands in this presence and tells me I am shrinking from any issue, I hurl it back and I ask him to look at himself if he wants to see somebody who is shrinking from the issue. [Applause.] And then when the terrible alternative is submitted to us that if we submit this proposition in the Constitution we shall shut the mouths of the opponents of it! Oh, I realize what a terrible loss it would be to the people of Utah to have some mouths closed [applause], and yet gentlemen, with a sense of appreciation that I have of my duty as a delegate, I am even willing to meet that terrible alternative and say that even if it be so I take the terrible consequences of it. I believe in putting this proposition into the Constitution. I believe it because it is right; I believe it because it is just; I believe it because it is expedient, and when men stand here in this presence and tell me that the people of Utah will reject the Constitution that we are framing on that account, I say, gentlemen, with all deference and respect to you, even to the prophetic utterance of my friend from Salt Lake when he says that this Constitution will be defeated, you do not know the people of Utah as well as you think you do, and if any man stands in this presence and tells me that that will be a stumbling block in the way of the executive of this nation, or any officer in this nation, in causing the admission of the State, I tell that gentleman, whoever he may be, that he is misinformed and I know whereof I speak. I say it is not only unjust, as was said by my colleague from Weber County in speaking of the chief executive of this nation, to say that he would be guilty of an act of tyranny that no man in a free government—no officer was ever guilty of—I say that that is not only unjust, but it is untrue, and I know it is untrue and so I tell you, gentlemen, that these fears held up before you are like the night visions of a dream and they will vanish like the mists before the sunshine in the light of experience. And now, before I sit down, I want to read you one more testimonial in favor of equal suffrage, a telegram that was received yesterday by his Excellency, Governor West, from Governor Richards of Wyoming:

(Reads.)

Your letter miscarried. Just received. Woman's suffrage has been in successful operation in Wyoming for twenty-five years. Its tendency is to elevate politics, and secure better public service without any bad social effects.

And with all the talk that has been had during the discussion of this question about the effect upon the home, who has ever pointed to one family that has been disrupted by it? Now, gentlemen, I say this is a part of our duty. We are here to frame the Constitution. These people did not send us here to make a Constitution and a separate article for equal suffrage. I am for this plank in the Constitution, first, last, and all the time, and I ask that we adhere to the regular order.

The PRESIDENT. Mr. Varian claims the right, which will be granted under the rule, to close the debate.

Mr. CANNON. Mr. President, I have been somewhat surprised at the tone of the gentleman from Davis County in advising the republicans of their duty. I was pleased, however, at the way in which he appealed to the republicans, for whereas he appealed to the democrats in the way of a threat and told them what dire calamity would fall upon the party; when he did appeal to the republicans, it was to their patriotism and to their honor. At the same time, I do not recognize the right that that gentleman or any other gentleman has upon this question to say how, as republicans, we shall vote. In that which the gentleman has presented from time to time he has assumed the position of being absolutely pure himself; of having the highest motives, and every other man was bound by some paltry party pledge. Every other man has been bound by something which appeals only to his political ambition, and he alone of all who have appeared here has stood out filled with honor and integrity. Why, in looking at the position that he assumes, I almost could exclaim with Job——

Mr. BUTTON. Mr. President, I arise to a point of order. I do not think there is any use of one man abusing another in this debate. He is not speaking to the motion in any shape or manner. He is talking to another gentleman upon this floor.

Mr. CANNON. The gentleman can make his speech after I am through.

Mr. BUTTON. I make a point of order.

The PRESIDENT. The gentleman has not any right to castigate any member on the floor.

Mr. CANNON. How is that?

The PRESIDENT. One member should not cast personal reflections on the floor on another member.

Mr. CANNON. What is the ruling of the chair?

The PRESIDENT. The ruling of the chair is that these personal reflections that have been going on are not proper.

Mr. CANNON. That being true, and nothing personal having been said in the past by any one, I shall discontinue my remarks upon that particular subject.

Mr. FRANCIS. Mr. President, I was going to ask a question. Should not this delegate be allowed the same latitude as Mr. Roberts and others have upon this position? Those men were not asked to sit down or stopped when they were talking this way.

Mr. ROBERTS. Let him go on.

The PRESIDENT. Gentlemen of the Convention, I look upon this matter as somewhat serious. Mr. Roberts has made no personal mention of anybody here. It is true, his remark was a general one upon the whole Convention, but Mr. Cannon takes Mr. Roberts or mentions him almost specially in this matter, and points him out and speaks to that end, and I think it is an improper thing for us to do. These matters have gone too far in that direction already. [Applause.]

Mr. CANNON. I say, this having been the first time that personal allusion has been made by any member in this debate, I withdraw my remarks. [Laughter.] One thing, however, Mr. President, has been said, and that is, that the people of Utah have never had this question before them on its merits, that it has never been discussed. Now, for the first time we have wise men who appear and who consider this subject. Is that a fact? I deny the assertion, and I say that he who asserts it casts a reflection upon the men who, in the past, granted to women in the Territory of Utah the right of suffrage. I claim that in the body of men who gave first the right of suffrage to the women of Utah were men who were the peers of any man upon this floor, were men whose wisdom, whose knowledge, if not their oratory, whose works, as evidenced by that which

they performed for this Territory and this commonwealth, will compare with any who are here, or probably any who shall come after, and when the assertion is made, that those men thoughtlessly, without due consideration, gave to women the right of suffrage, I deny the assertion and declare that it is absolutely untrue. I claim that, as has been asserted before, the sentiment which has been aroused in this community at present, is one which arose principally from the statements made upon this floor; that it was here that the sentiments originated, and that while, perhaps, in the breasts of many outside, that feeling lay dormant, and that it has only been awakened as has been stated, at the same time, I claim that the proceedings that have taken place here have aroused it, and that there are still causes as well as those which appear upon the surface. The gentleman from Salt Lake County who spoke this morning in favor of deferring this matter, takes a different position from that which he assumed the other day. When this record is made of that which is said, my speeches placed side by side will read alike, and will not contradict each other. The gentleman declared the other day that he had heard from his constituents, that upon the stump in the twenty-seven precincts of this county, he had stood before the people and had advocated equal suffrage, that the sentiment was satisfactory to his constituents, and yet to-day he gravely rises in his place and says he has not heard from his constituents and desires to wait to hear from them.

Mr. JAMES. May I ask the gentleman a question?

Mr. CANNON. Certainly.

Mr. JAMES. Did the gentleman from Salt Lake make the statement that he raised those questions in the twenty-seven precincts in this county? I understood you to say so.

Mr. CANNON. The gentleman stated that in the precincts where he stumped in this county, and that was nearly all of them, he took the position that he favored absolutely the granting of woman's suffrage.

Mr. JAMES. Did he make the statement on this floor?

Mr. CANNON. Yes, sir; and a reference to his speech will show it.

Mr. EVANS (Weber). I will submit—the gentleman is right here. He is not making any denials of it.

Mr. SQUIRES. I trust the gentleman will not be interrupted. I will reply to him woen he gets through if I have permission.

Mr. CANNON. I claim it is not at this time only that which appears upon the surface, and while I favored yesterday, and favor to-day, deferring this and going into the committee of the whole, because by so doing we would not displace it in its position on the calendar, at the same time, I would not favor this motion to recommit. There is an element in this community, as there is in every community, which takes a stand and seeks to entrench itself, that which has been referred to before as the liquor element; and I have it from a member upon this floor who stated to me that he knew a man who deals in liquors who had said that he would be willing to write his check for five hundred dollars if woman's suffrage could be defeated in this Convention.

Mr. HART. Mr. President, I am opposed to the appointment of this special committee, in the first place, for the reason that if it is recommitted at all now, it should go to the committee on elections and suffrage, the gentlemen who have had this question under consideration since their appointment. They were some nineteen days, Mr. President—or until the nineteenth day, at least, of this session before they made their report upon this question. Now, the gentleman comes in here with a proposition to undo this work and to

refer that matter back to them with instructions to come in and report on something entirely different from what they have reported. The gentlemen upon this floor claim that it is only fair to them to do this work, for the reason that they have an opportunity to vote in favor of submitting the article in a separate proposition. I ask the gentlemen if they will not go on record now when they vote for committing this proposition directly upon the proposition of a separate submission of this article? I am glad they will have an opportunity to place themselves on record in this way. I take it that every person that votes for this will vote in favor of separate submission, and as that is the absolute instruction to the committee, and whether it goes to the committee on suffrage or to a special committee, they would have to make the same finding and same report in line with the instruction of this body.

Mr. BOWDLE. May I ask the gentleman a question? How would that put us on record as opposing—simply voting for a resubmission?

Mr. HART. Why, that is the very issue, Mr. President, that we vote upon, is to instruct them to come in with a separate article. If that is not a sufficient way to put you on record when you vote either for or against this main proposition on the ayes and noes, you can go on record there. You can defeat that proposition if you wish to there and then have the proposition come up in a different way. Why, Mr. President, they talk about the advantage and disadvantage of this situation in putting themselves on record. I ask you what would be the result if this committee are appointed and instructed to bring in a proposition for separate submission? Why the result would be simply this: After we voted it down we would then have no report before us. We would have nothing to act upon, and we would have to go to work and go over this whole ground from beginning to end. I am, therefore, Mr. President, opposed to the separate submission.

The assertion has been made at numerous times upon the floor of this house that there has been no discussion of this question. If there was no discussion of the question last fall, it was the entire fault of those who are opposed to woman suffrage. It was not because of those who favored it. One of my colleagues from the county that I come from, referred yesterday to the fact that he had not heard the matter discussed in our county. I want to tell him that this issue was talked from every platform in every precinct in our county. I never made a speech during my canvass as a delegate for this Convention, but that it was made a prominent feature of the evening, and not one dissenting voice was heard to my knowledge upon this question. The gentleman from Davis asks why should men shrink from the issue? I ask him who it has been that has been shrinking from this proposition all along? I hold, sir, that it is in poor taste coming from the other side of the house to talk about shrinking. If it had not been for a cowardly shrinking upon this question, there would have been more discussion upon this proposition last fall, and the only reason that it was not discussed was because there was a shrinking. I do not refer to the gentleman from Davis County as being one of the shrinkers, or shirkers, but I say even in his case, that this proposition might have been sprung, that this Coxey movement might have been agitated and brought on a little earlier in the day, and not have waited until the eleventh hour. The gentleman has arraigned the motives of myself and of every other democrat upon this floor. In the first place he has arraigned the motives of the democratic convention, as well as the republican convention. He says that the democratic convention put that plank in its plat-

form for mere claptrap and expediency purposes. I want to say that I was a member of that convention. I know a great many other gentlemen who were members of that convention, and I know their motives. I know the motives of the gentlemen, many of them, who were on the committee that framed this proposition.

There was Captain Ransford Smith (honor be to his name and to his memory), who was in favor of this proposition, because he believed in it and as he expressed it, because he had always believed in the proposition. Mr. Thurman and other gentlemen were members of that committee, and while I am not prepared to speak as to the private motives of the members of that convention, I do know the motives of some of them, and I know that they voted for it as a proposition in that platform because they believed in it. The gentleman goes further. We have given him so much rope in this Convention and have submitted so long to his arrogance that he comes in this morning and denounces his democratic associates here as peanut politicians, as I understand it, and he says we are holding back here for the purpose of putting republicans in the hole. I deny it, sir, and I say for one that I have no such purpose and I have not seen anything in my democratic associates to make me believe that they entertain any such idea. I ask, Mr. President and gentlemen of this Convention, "Upon what meat doth this our Cæsar feed, that he has grown so great?" as to come here and challenge the motives and purposes of members on this floor and of the democratic party of this Territory? Why, gentlemen have actually had to come upon this floor as I have and deny that they had improper motives. I say, Mr. President, that it is a shame that any member of this house should be called upon to stand here and deny that unworthy motives have actuated him in the stand that he has taken.

Mr. LOW (Cache). Mr. President, I desire to say a few words in regard to my opposition to the propoosition presented by the gentleman from Salt Lake (Mr. Varian), for consideration this morning. First, I deem it irregular, as explained by my colleague from Cache County, who has just taken his seat. Second, it passed the committee of the whole with just such a form of rider in different language from that which was presented by the honorable gentleman from Salt Lake and was defeated by a large majority in that committee. If that committee had seen fit to offer its opinion upon this proposition, it would have referred or recommitted or recommended it to the Convention, with a suggestion that it be recommitted to the committee in which it originated. That committee having been ignored in the form of this motion presented this morning, it is irregular.

If there could have been any objection to the proposition it might have been put in a regular form, gone through the regular routine of business to the committee who rendered the majority report on the 19th day of our session, just two weeks ago. I call your attention to the fact that they could have had this question referred back, as was the question from the committee on education, for simplification and modification, but there was not that consideration given to it. The zealous defenders of that report attempted to have a special day set for the consideration of their report out of the regular order. The gentlemen who were considered to be fair on the floor of this Convention, should have been willing in their zeal to pass upon the question that it should come up in its regular order. Gentlemen, the committee submitted to this with very good grace. It did not come before the Convention for consideration for seven days. In that time there was ample time, I say, for the consideration by the opponents of this question to

raise the issue which is now sought to be raised upon this floor. We had a substitute or an amendment to this question when it was in committee of the whole, which denied all suffrage to the female sex.

A majority of this Convention promptly repudiated any such an amendment, as did they also the attempt on last Monday to introduce here a substitute providing that this question should go for separate consideration to the people for their acceptance or rejection. I too have heard with a great deal of wonder the expression that has been made upon this floor that gentlemen who were elected by the votes of the people of this Territory as delegates to this Convention have not heard the question discussed during the campaign. I want to state to the gentlemen who have made these assertions that the very question which they have denied having heard was the question which I cut out of the newspaper at the time—the two clauses referring to this question of equal suffrage to women, and placed them in my hat, and I want further to call the attention of gentlemen upon this floor, who have come from other counties from that from which I came, and in whose counties I was permitted to speak from the rostrum in favor of woman's suffrage, and the differences of opinion between the two national parties, if it was not a question for immediate and ample discussion before their constituency? If I am wrong, if they can state that I evaded the question in their own counties, I desire that they shall rise upon this floor and make it known. On the other hand, I state here, without fear of contradiction, that it was made the issue. Because gentlemen like the honored and eloquent gentleman from Davis County had preceded me in different sections of country, representing the same party that I represented upon the stump, and covered questions of importance and difference between the two parties nationally. It was only left to me, at the suggestion of the chairman and members of the county committee, from which I went, that I should follow with something different and they themselves—not of my own choice, but they themselves assigned the difference of position assumed by the two parties on the woman suffrage question, and it was made an issue with not less than two meetings a day for a whole week. That is my position upon that matter. I can also reiterate what my colleague from Cache County has stated, that when I had the opportunity of presenting it before my constituents in the county from which I came, I there told them my position on this matter. That was the opportunity to deny me the privilege of representing them in this Convention, if they so chose.

Oh, how have the mighty fallen, Mr. President? The able champion of one proposition here was compelled to resort to a subterfuge in a suggestion that has been made—the first argument that we have presented by his eloquence on this floor was against suffrage for woman at all. Now, we have the same question championed by the same individual that it should come before the people as a separate clause. I object to it more particularly because the gentleman has assumed to change his position in the least, and furthermore, I wish to further the expression given vent to by the gentleman from Davis County, that had the position of the two parties, as far as the majority is concerned upon this floor, been reversed, I express my personal opinion, Mr. President and gentlemen of the Convention, that this question would not have hung fire so long as it has. He appealed to the gentleman of the majority—appealed to their patriotism, when he said "You will not lose anything," hoping that from that majority this question would be pushed through, because there was a force and power in the majority against the minority. I am against the ques-

tion being submitted as proposed by the gentleman from Salt Lake.

Mr. HEYBOURNE. Mr. President, I move we take a recess until 2 o'clock.

Mr. EVANS (Weber). I move as an amendment to that motion, that we do not take a recess until this motion be disposed of.

The question being taken on the motion for a recess, the Convention divided and by a vote of 48 ayes to 51 noes, the motion was rejected.

Mr. MURDOCK (Beaver). Mr. President and gentlemen of the Convention, I realize this great fact, that I am surrounded with critics, and I only crave earnestly the voice and the language of some of my colleagues here upon this floor. But it is, I believe you will agree with me, as I stated when I was on the floor perhaps a week ago, that this was a very important question. I so regard it to-day. That I do not think the time is thrown away in looking at it and investigating this matter, and that the committee on finance—perhaps there may not be another man upon the floor that will be in harmony with me, but that his suspicions may be relieved, I am willing to spend my time gratis upon this question from first to last, so that if we have thrown away time, I am willing to throw away mine. I do not know whether there is any one else that will do so or not. I am opposed to the motion that has been presented here this morning, for this reason: I am pledged to my constituents. I am one representing in connection with my colleague one county, and I know what their minds were then, and I have not heard anything to change it from them yet, and I am opposed to it, because they are opposed to it and got my pledge that I would not accept a separate bill to be placed before the people and voted upon, but that they wanted it in the Constitution. I was willing to give my pledge that it should be placed in the Constitution. I also pledged myself that I should labor in the interest of equal suffrage with all, both sexes, irrespective of sex or any other thing that might be brought forward, and as we investigate this matter we find that it becomes a very important matter.

It has been stated here that this feeling that now exists throughout the county is something that has sprung spontaneously in the minds of the people. There is always a starter for anything that amounts to any importance, and it is started upon this floor, gentlemen. It started right upon this floor—this opposition, and the friends of those opposed have talked for and against, and it has gone broadcast throughout the country, and of course people are taking sides now. There are many people that are led away with fine speeches. I realize this fact, but that does not make a truth. A truth may be told in very mild and very easy and very unimpressive terms, and there are many people perhaps it would not affect, but nevertheless it is a truth, and I do not care in what eloquent terms a matter may be set before a people nevertheless it may be an error, although it may impress those that have been here. Now, I was at both conventions. I was at Provo and the building was as full at it possibly could be, both in the gallery and on the floor, and what was the feeling there manifest? They endorsed it with a rush, with a zest that is uncommon in most meetings, but it was nevertheless here in the theater, here in Salt Lake, perhaps a week afterwards. I was at that as well, and everybody was there that could get there. The house was jammed from garret to the parquette, as full as it could be got, and the people there partook of the spirit that was manifested, and what was the main feature? One of the main features in both conventions was the woman's suffrage, and then for men to come here and tell that they had heard but little or nothing about it; it was put into their papers throughout the length and

breadth of the land, and that instead of opposition, and every man that has spoken in the southern part of the Territory, his attention was especially called to that feature of the situation, and it is upon that ground that I was nominated and was elected to come here and serve the people, and there is no feature, gentlemen—there is no feature that womankind admires more than a brave man, and there is no feature that I admire more than I do a brave man. I am not afraid of opposition. I am not afraid of contest. If anybody can fetch anything that is reasonable to overcome me, why I am willing to submit as I have said—give an error for a truth.

We have heard from the different states where they have had woman's suffrage and it is all in favor of woman's suffrage. There is a terrible hue and cry because it happens to be brought forth here in Utah. It is not new in Utah. We understand how the matter stood years ago, and we understand very well how it will exist now. We cannot help any—either men or women from acting foolishly when they get the ballot in their possession. We cannot help that, but I say it is equal and I say it is debarring one portion of our community of going forth and taking part in the interests of the common country. Are not the women equally interested in the family circle and in everything that goes to build up a state—are not they as much interested as are the men, the fathers, the sons, the brothers? Are they not? I say they are, and they should have a voice, and when we talk about intelligence, we are willing to admit that they are equal——

The PRESIDENT. Mr. Murdock, you are getting away from the question. The question is to commit this thing.

Mr. MURDOCK (Beaver). Well, I am not in favor of it [laughter]. When it was sought to give the colored man his franchise, was there a proposition sprung that they should have the privilege of saying whether they wanted their franchise? No. It was given to them without asking them. There was a declaration made that they should have their franchise, and I say we could certainly pay as much respect and repose as much confidence in the woman part of our community as was bestowed upon them, and for this reason, and I say emphatically that the excitement that has circulated among the people has sprung from this floor. Here is where the seeds were planted, and here is where that started from.

And, as I saw in the paper that is printed in one of the adjoining counties, an individual rose up in a meeting and said that if that went into the platform—woman suffrage—what would he do? He would go to Washington and he would use his utmost influence to defeat the statehood bill. That is the feeling I presume amongst many men. I am for statehood and I am for equal rights, and I want both parties, both male and female, to have equal rights in this matter, and if they have got intelligence, let us use it, it is ours, we should have it. Are we afraid of numbers of voters? Perhaps it might augment our numbers to double the number. That is to-day, and what would that amount to? Perhaps eighty thousand voters. Are we not associated with states that have their millions of voters and they are controlled proportionately—reasonably, and I say I am opposed to the bill to postpone or to put it into the hands of any other committee. It would be paying great disrespect to the majority report that was brought here, and consequently I am thoroughly opposed to such a move. I am not afraid of the arguments that are brought forth. I do not care how eloquent they are, but I am in favor of justice; I am in favor of right, and I am in favor of bringing my wife, my mother, my daughter, up to my side and giving her a fair show, and if she is ready and willing to act reasonably and consistent and not ask more than

what would be consistent in her condition, why I will risk her. I will risk her with men.

Mr. ROBINSON (Kane). Mr. President, I have somewhere read: "If days should speak the multitude of years would teach wisdom." There is a little more there. Some might say I should apply it to myself. I am sorry, gentlemen, that the people sent men here to represent them that did not know the people and that did not know the sentiments of the people. I came thoroughly acquainted with the feelings and ideas of my constituency, and I have since received letters from a representative body of women in mass meeting asking that a clause be inserted in the Constitution of the new State of Utah granting women equal suffrage the same way that they have an equal right to pay taxes with men. The proposition seems to be, Mr. President, that the members want to put themselves on record as voting for or against woman suffrage, not as it stands as proposed by the committee on elections and rights of suffrage, but they want it to be submitted. I will propose a plan. If there is any friend here of that proposition, that they move to strike out the first three lines of section one—the word "sex," and insert the word "all" in the place of both and strike out the words "and female" in the fourth line and then propose by a separate proposition that the vote be submitted on a separate article to the voters in regard to woman suffrage. Then they will get this question before the meeting and can vote on it at once and pass on, and we will not waste so much time as we have been doing. They can state their feelings and sentiments in that way. This idea of delaying it is preposterous.

Mr. HAMMOND. Mr. President, I am opposed to this proposition. I have listened and kept my seat nearly during all these days of this discussion, sometimes with pain and sometimes with pleasure. More often with pain. I think that it is well that we cease playing to the gallery and the gods and come down here and play to actual men and women, that have this matter before us to dispose of. Now, I submit this, that the light comes from the south in this hemisphere. I have been where I had to look north for the sun, but in this latitude we look south for the light. Now, if they will hearken to the voice of San Juan [laughter] they will come to the light; there will be no trouble at all, but this dark shadow that has arisen in the north seems to have paralyzed a great many of the people and some members on the floor of this Convention. I remember in my boyhood that the gunners on Long Island had to go out in their little batteries and stick out a whole lot of stool ducks to decoy the ducks flying from the east, and down they would light on those stool pigeons or ducks, and every last one of them was killed. So I look upon this largely. It is a stool pigeon set up to decoy the ducks, whether they are democrats or whether they are republican ducks, they calculate to kill them. Now, I submit we close this thing up and go into business and do something to justify our positions here upon this floor.

Mr. HOWARD. Mr. President, I am opposed to the article presented here submitting this as a separate proposition to the Constitution for the women to vote on separately, and I will give a few of my reasons. As my friend Mr. Creer, said, this question of woman's suffrage has been before the people for the last seven months. I know it has been before the people of Emery County, and was constantly kept before them by the uncertainty of the political complexion of this Convention, even up to the organization of the Convention. And if the people of Salt Lake or any other important center have lost sight of it, it is their own fault and not the

fault of the people of the Territory. It is said now that this question has not been discussed; I know better. It has not only been discussed by the people, but was discussed in the papers. The Herald claimed the proposition in the democratic platform was emphatic and meant just what it said, and that the few words put in the republican platform did not mean anything. The Tribune came to the rescue and said that they meant just what they said and were just as emphatic as the democrats dared make it, and that the women of Utah should have the right of suffrage. We are asked in an excited manner to pause for a few days to be heard and that it would be an insult to the ladies not to wait on them. I claim, Mr. President, it is no insult to go ahead and do our business and our duties, but on the contrary it is an insult from those who are agitating this question to ask this Convention to stop and wait, I think. It is child's play to come in now and say, "I forgot all about it, and we demand that you wait on us." It is said by the opposition that it will endanger statehood. I do not believe it. I believe the people of Utah are sincere in their demand, and if all could be heard from, we would have an overwhelming majority in favor of it, and the song that has been sung for the last twenty-five years about here, is out of place at the present time. Those who are against woman's suffrage are insulted if they are asked to change their minds on this question, but they demand in excited terms that those in favor of it do change theirs. I am opposed to submitting this question as a separate article, and shall vote against it.

Mr. PIERCE. Mr. President, I move we take a recess until 2 o'clock.

Mr. EVANS (Weber). Mr. President, I move as an amendment to that, that we do not take a recess until——

The PRESIDENT. The motion before the house is to take a recess until 2 o'clock.

Mr. EVANS (Weber). An amendment is in order.

Mr. VAN HORNE. Mr. President, I arise to a point of order.

The PRESIDENT. I do not see how it is possible to amend a motion to take a recess.

Mr. EVANS (Weber). I am only amending it as to time.

Mr. WHITNEY. Mr. President, I thought it was already decided that we should not take a recess.

The question being taken on the motion of Mr. Pierce, the roll was called and showed the following result:

AYES—44.

Adams	Lewis
Bowdle	Lund
Button	Mackintosh
Christiansen	Maloney
Crane	Maughan
Cushing	McFarland
Eichnor	Page
Eldredge	Peterson, Grand
Emery	Peterson, Sanpete
Gibbs	Pierce
Goodwin	Ricks
Green	Roberts
Haynes	Ryan
Hill	Sharp
Hyde	Shurtliff
James	Spencer
Johnson	Squires
Kiesel	Stover
Keith	Strevell
Kerr	Van Horne
Kimball, Weber	Varian
Lambert	Wells.

NOES—52.

Allen	Kimball, Salt Lake
Anderson	Larsen, L.
Barnes	Larsen, C. P.
Boyer	Lemmon
Buys	Lowe, Wm.
Call	Low, Cache
Cannon	Maeser
Chidester	Miller
Clark	Morris
Coray	Murdock, Beaver
Corfman	Murdock, Wasatch

Creer	Murdock, Summit
Cunningham	Partridge
Driver	Peters
Engberg	Preston
Evans, Weber	Raleigh
Farr	Richards
Francis	Robertson
Hammond	Robinson, Kane
Hart	Robison, Wayne
Halliday	Snow
Heybourne	Symons
Howard	Thompson
Hughes	Thoreson
Ivins	Thurman
Jolley	Whitney.

ABSENT—10.

Brandley	Nebeker
Evans, Utah	Thatcher
Kearns	Thorne
Lowe, Peter	Warrum
Moritz	Williams.

The President declared the motion to take a recess lost.

Mr. CHIDESTER. Mr. President, I move to lay this motion on the table.

Mr. VARIAN. Mr. President, I rise to a point of order. That requires a suspension of our rules.

Mr. ANDERSON. Gentlemen, I had the floor before that motion was made.

The PRESIDENT. The gentleman had the floor.

Mr. VARIAN. The point of order takes precedence of a discussion.

The PRESIDENT. The gentleman's point of order is, I think, well taken.

Mr. ANDERSON. Mr. President and gentlemen of the Convention, I am certainly opposed to this proposition submitting this clause back to a special committee. The committee that had this under consideration considered this question well. The same proposition was suggested and we considered it well, and that committee was composed of fifteen members, and twelve out of the fifteen reported in favor of the article as it is presented to us, and now this proposition is to refer it to a special committee, instructing them to draft an article for the very purpose of submitting this to the people. Well, I am opposed to submitting this to the people, because I think that it will intensify and prolong this bitter acrimonious feeling that has been engendered throughout this discussion. I claim that it has been before the people, that they have had ample time to consider it. As it has been stated, it was contained in both platforms of the parties. We are all of us elected on that very platform. Upon that very principle we were elected, with the very expectation of putting that into the Constitution, and just so long as it was thought to be a foregone conclusion that it would be incorporated in the Constitution, there was no opposition.

I claim that we were sent here for the very purpose of inserting that in the Constitution, and if we do so we will have done our duty, and all of this feeling, all of this bitterness that has been engendered, will cease. Those that are opposing it will accept the situation, but if we submit this to the people, why, it will only intensify it. It will keep getting worse and worse and probably the very fears that are expressed, they might be the means of accomplishing; if these fears are well founded we do not deserve statehood. We do not want it. I say, put this into the Constitution and if the fears are well founded, vote it down. We do want statehood, but I claim that we were sent here specially upon that platform. It has been before the people. They have considered it, and I, for one, every place where I spoke, specially pledged myself, and besides this, I think it is right by conviction and I can consistently take no other course. The opposition appeal to the very worst attributes of our suspicion and distrust. I do not think that they believe the fears that they have expressed themselves. It is being most bitterly fought by those who are opposed to prohibition, probably because they think that the vote of the

women will endanger them, but they dare not express that fear, but they try and work upon the suspicion and distrust of the people. I am opposed to this proposition and in favor of the original article and will vote against any amendment and all substitutes that may come up.

(The President here called Mr. James to the chair.)

Mr. KIESEL. Mr. President and gentlemen of the Convention, Mr. Creer has alluded to absentees. I was at home several days. I was ill, I did not, as he intimated and insinuated—am I right, did you allude to me on account of absence? I was away several days.

Mr. CREER. No, sir; not specially, I was speaking of members from Salt Lake.

Mr. CANNON. Mr. President, I arise to a point of order.

Mr. KIESEL. That was in your mind, wasn't it?

Mr. CANNON. My point of order is that it is desired of the Convention not to have any personalities.

The PRESIDENT pro tem. Mr. Kiesel, do you rise to a question of personal privilege—some explanation?

Mr. KIESEL. All right.

The PRESIDENT pro tem. You must be in order.

Mr. KIESEL. The gentleman has alluded to absentees. I am one of those absentees, and I want of course to set myself right before this Convention.

The PRESIDENT pro tem. You have the privilege of proceeding, Mr. Kiesel, under that.

Mr. KIESEL. I was at home on account of illness. I did not agitate. I did not attend any convention at home. Another gentleman already speaking probably had received already garlands and flowers, but the sentiment has undergone a change in all this discussion that we have had here in this Convention; why gentlemen claim and parties claim for themselves that all these matters have been discussed, I have yet failed to see. There is not one of them that has admitted and said that women are in favor of it. I hold that the women of Utah are not in favor of it. I admit that there is a society existing in Utah—a very estimable body of ladies—the Female Relief Society, an adjunct of the Church of Jesus Christ of Latter-Day Saints, and those are the ladies that have worked up sentiment, while on the other side there is a large body of ladies that do not want, and are not in favor of woman's suffrage.

Mr. FRANCIS. Mr. President——

Mr. KIESEL. It is no use mincing matters. This is the sentiment that prevails in Utah, and I simply give expression to it.

Mr. FRANCIS. I wish to say that this gentleman is proceeding to a great latitude under question of privilege.

Mr. EVANS (Weber). Oh, let him do it, let him do it, Mr. Francis.

Mr. KIESEL. The sober second thought is asserting itself in Utah, and gentlemen dare not—on the other side they dare not submit it to the vote of the people. I challenge them—they dare not do it. They know they would get beaten. The sentiment in Utah I have asserted is undergoing a change. It was never discussed from the stump in Ogden, and gentlemen here in Salt Lake admit the same thing, so far as Salt Lake City is concerned. In the centers of population that was simply not taken any notice of. Now, we desire to have it submitted as a separate article, and I am certainly in favor of having it thus submitted. As one of the committee on elections and suffrage, why, I am not taking any exceptions because this matter is not referred back to our committee again. I think our committee now, after all the discussion that has been had here, should not act in this matter. I am in favor of leaving it to the president to appoint a committee of five. Consequently, I am endorsing Mr. Varian's proposition, and will so vote.

Mr. JOLLEY. May I ask the gentleman a question? I understood you to say that Relief Societies of a certain denomination in Utah were the ones that agitated this woman's suffrage, and ask the question if you have attended any of those meetings, or have you any statistics in your pockets to show to this Convention that that is the case?

Mr. KIESEL. No; I have not, but then that is admitted generally, and I do not suppose the ladies themselves will deny that, because most of the ladies that appeared on this floor here, I believe, belonged to that very estimable body of ladies, who have been doing a great deal of good in a charitable way and I am afraid who are now getting into deep water of going into politics.

Mr. JOLLEY. That is your own suspicion.

Mr. KIESEL. That is all, of course.

The President here resumed the chair.

Mr. ALLEN. Mr. President, I now move the previous question, except that Mr. Varian may have the opportunity to close this debate.

Mr. THOMPSON. I second the motion.

Mr. SQUIRES. Mr. President, I arise to a question of personal privilege. I sent a note up to the president some time ago, asking to be recognized in view of the fact that Mr. Cannon of Salt Lake criticised some remarks of mine in the Convention. I trust the gentlemen will listen patiently. I won't detain them long. I did say in a few remarks that I made when the question first came up for consideration that I had canvassed this county pretty thoroughly, and that in every precinct where I spoke I favored the question of suffrage for women. I have not in any manner changed my ground. I still believe in equal suffrage for woman. Now, I would like to ask the gentleman from Salt Lake a question. How many speeches did he make in this county during the campaign?

Mr. CANNON. I do not know; I made quite a number; I did not keep track of them. I could tell by going back and looking over our bills, perhaps.

Mr. SQUIRES. Is that your answer.

Mr. CANNON. Yes, sir. May I be permitted to ask the gentleman a question? I would like to ask Mr. Squires whether or not you did not say that had you not advocated woman suffrage you believed that other men would have been elected instead of those who were?

Mr. SQUIRES. I did that, sir.

Mr. CANNON. That is all.

Mr. SQUIRES. And I still believe that that thing might have happened in this county, but that is not the question at issue, Mr. President. The question that Mr. Cannon was raising was whether or not I knew the sentiment of this county and the district which I represented. I believed, sir, when I came here, that I did. I believed it as other gentlemen upon this floor now believe that they represent, as one gentleman said here, every man, woman, and child in his county. I believed that. I take occasion to say, sir, that since the first day that the debate opened upon this subject upon the floor of this house, I had not met until last evening a single man of all the men that I have met who favored the putting of this question of woman suffrage into the Constitution, except as a separate article.

Mr. RICHARDS. Mr. President, I arise to a point of order. The gentleman is not speaking to a personal privilege now, and the motion for the previous question is in order. He only got the floor for that purpose.

The PRESIDENT. I think the point of order is well taken.

Mr. SQUIRES. Very well, Mr. President, if the gentleman from Salt Lake desires to shut me off at this point I will cease. It is something that I can reciprocate later on, and the gentleman from Salt Lake will remember it.

The PRESIDENT. Shall the main question be now put?

Mr. WHITNEY. Mr. President, I have endeavored several times to catch your eye. If I had known it required a note sent up to the stand I should have begun my correspondence last night.

Mr. SQUIRES. Previous question.

Mr. ELDREDGE. Ayes and nays.

Mr. RICHARDS. I arise to a point of order, and while on my feet I desire to say as a matter of personal privilege——

Mr. SQUIRES. I call the gentleman's attention to the fact that he is out of order.

Mr. RICHARDS.——that when any gentleman on this floor arises to a point of order, he should not thereby put himself in a position, where he can be justly censured or accused of trying to choke any man off.

Mr. SQUIRES. I arise to a point of order.

Mr. RICHARDS. I have a right to state my position.

Mr. SQUIRES. The gentleman from Salt Lake is clearly out of order.

Mr. RICHARDS. Here is a motion for the previous question and I simply asked for that question. I simply say that it is unjust to say that——

Mr. SQUIRES. It is not debatable.

The PRESIDENT. Shall the main question be now put?

Mr. ELDREDGE. Ayes and nays.

Mr. ROBERTS. What is the question?

The PRESIDENT. The previous question.

Mr. CANNON. Mr. President, Mr. Varian reserved the right to close the debate.

The PRESIDENT. He closes after this question is taken.

The roll was called on the motion for the previous question and showed the following result:

AYES—51.

Allen	Larsen, L.
Anderson	Larsen, C. P.
Barnes	Lemmon
Boyer	Lowe, Wm.
Buys	Low, Cache
Call	Maeser
Cannon	Miller
Chidester	Morris
Christianson	Murdock, Wasatch
Clark	Partridge
Coray	Peters
Corfman	Peterson, Sanpete
Creer	Raleigh
Cunningham	Richards
Driver	Ricks
Engberg	Roberts
Evans, Weber	Robertson
Francis	Robinson, Kane
Hammond	Robison, Wayne
Hart	Snow
Halliday	Symons
Heybourne	Thompson
Howard	Thoreson
Johnson	Thurman
Jolley	Williams.
Kimball, Salt Lake	

NOES—39.

Adams	Lambert
Bowdle	Lund
Button	Mackintosh
Crane	Maloney
Cushing	Murdock, Beaver
Eichnor	Murdock, Summit
Eldredge	Page
Emery	Peterson, Grand
Farr	Preston
Gibbs	Ryan
Goodwin	Sharp
Green	Shurtliff
Haynes	Spencer
Hill	Squires
Hyde	Stover
Ivins	Strevell
James	Van Horne
Kiesel	Wells
Keith	Whitney.
Kimball, Weber	

ABSENT—15.

Brandley	McFarland
Evans, Utah	Moritz
Hughes	Nebeker
Kearns	Pierce
Kerr	Thatcher

Lewis
Lowe, Peter
Maughan
Thorne
Warrum.

The president declared Mr. Allen's motion lost.

Mr. Varian was excused from voting.

Mr. CANNON. Mr. President, inasmuch as this motion is clearly lost, to save time, I move we take a recess until half-past two o'clock.

Mr. EVANS (Weber). Mr. President, I move as an amendment to that, that we do not take a recess until we dispose of the motion before the house. There is plainly an attempt made here to delay this matter over to-day.

The motion of Cannon was agreed to, and the Convention then, at 12:43 p. m., took a recess until 2:30 o'clock p. m.

AFTERNOON SESSION.

The Convention re-assembled at 2:30 o'clock p. m., President Smith in the chair.

Mr. WHITNEY. Mr. President, in what few remarks I make I shall endeavor to respect the wise admonition of the chair and avoid all personal allusions. I certainly have no desire to use any acrimonious language. There has been too much bitterness indulged in already, and I shall say nothing to augment the stream of gall and wormwood. I would prefer to say to these troubled waves of thought and feeling, "Peace; be still." I disclaim all bitterness, so far as my remarks during these debates are concerned. What raillery or sarcasm I have used has been in the spirit of pleasantry. It was good-natured irony, and it was very far from my purpose to wound the feelings of anyone.

I am in favor of woman suffrage, and in favor of its being placed in the Constitution. That is where it properly belongs. It is a fundamental principle, and should have its place in the fundamental law of the State. It should not be left to be battle-doored and shuttle-cocked by succeeding legislatures. It should be a fixed star, not a comet, in the firmament of the commonwealth.

I am opposed to the motion to recommit. It means delay, and is not necessary. The current agitation against woman suffrage is merely local. Whether it originated on the floor of this Convention or outside, does not matter. The women of Utah understand what suffrage means. They are not as ignorant of the subject as some suppose. They enjoyed the elective franchise for seventeen years, and voted again and again. Can it be conceived that this could be, and the question of woman suffrage not be discussed upon its merits in their homes? Moreover, there is a woman's paper published in this city, one of the first of its kind established west of the Missouri river. For many years it has permeated the homes of most of the women of Utah. It keeps them in touch with the leading women of the nation—with the thoughts, acts and aspirations of the champions of woman suffrage the world over.

My experience in politics is limited, but I took an active part in the campaign which resulted in the election of you gentlemen and myself to this Convention. Woman suffrage was mentioned repeatedly by speakers, and it was approved and applauded when mentioned. I know that men are sincere when they arise here and say they feel bound by the pledges embodied in the platforms upon which they were elected. It is wrong to question their integrity, to accuse them of cowardice and impute to them improper motives.

I call in question the motives of no man. That is not my style of argument. I am not in favor of the motion of Mr. Varian, but I would not impute to him an improper motive in making it. I do not say that the object in view is to work unnecessary delay, but I do say that in my opinion that would be the effect of it. It would mean that this Convention must wait here, bound

hand and foot, until a few agitators had had time to get out among the people, work up an excitement in their particular locality, and bring such a pressure to bear upon wavering members that the anti-suffragists would gain a majority. It seems to me that these agitators are not half so anxious to hear from the people as they are to have the people hear from them.

The vote taken at a matinee at the Grand opera house in this city has been referred to as indicative of the popular feeling among the women of Utah upon this question. A majority of those present voted against woman suffrage. But what was the character of that majority? I have a little daughter ten years old who attended that matinee. She came home and told me she had voted against woman suffrage. I asked her why she had done so. She replied, naively, "Because a woman told me to." [Laughter.] That is how they obtained the majority. Some lady anti-suffragist acted as a steering committee for these little, innocent children, who did not know what they were doing. It reminded me of the schoolboy who was asked: "Which is the largest city in the world?" "Chicago," he answered, and when asked for his authority, said a Chicago man told him so. [Laughter.]

But I realize that I have no right to argue. I am lacking in "the logical sense;" I am not a philosopher, but only a poet, I am told. I do not claim to be even a poet. I am only a lover of poetry, but one, I trust, who has a proper appreciation of the poetic faculty. Poets, gentlemen, are not mere rhymsters, not mere sentimentalists. A poet is one who sees into the the heart of things, and is capable of leaping by intuition to a correct conclusion, while the philosopher, or mere orator, is groping in the mazes of his own fallacy. [Applause.]

Again, I am compared to a mountain peak, "the proudest of them all." I disclaim that honor also. I am only a humble foot-hill. But there are mountain peaks, towering intellects, in this Convention, to whom I defer and with whom I fraternize. For them I accept the comparison. And let me remind you that it is the mountain peaks that catch the first glimpses of the rising sun, while the valleys, where stand the anti-suffragists, are still shrouded in darkness. [Applause.]

They tell us that woman suffrage in the Constitution will imperil statehood. I do not believe it. But if it should, what of it? There are some things higher and dearer even than statehood. I would rather stand by my honor, by my principles, than to have statehood, if I must sacrifice my honor and my principles to obtain it. If Utah is to be immolated for standing by her principles, for enlarging the borders of liberty, let the sacrifice be made, let her be bound upon the altar, let the high priest of tyranny come forth and plunge the knife into her breast. She cannot perish in a nobler cause than that of freedom and equal rights. But the dagger that strikes at her heart shall be fashioned into a scepter for her hands, and the blood of her martyrdom shall rise as an offering to offended justice and become the seed of her future glory.

Mr. ELDREDGE. Mr. President, I favor the granting of the desire that has been expressed to recommit upon this ground: I was in favor yesterday of extending the time that was asked and fixing a day for which this question should be heard. It matters not how small a minority may be. The smaller the minority the more tenacious I would be in regard to granting to them the same rights and the same privileges that I would ask if I was in like circumstances. It would have not been unreasonable, in my judgment, to have granted the request yesterday, and I look exactly from that standpoint relative to the motion that is now before us, that it would not be unreasonable

or inconsistent to grant the motion. We will lose nothing by it. I presume that there is no gentleman upon this floor that is any more firmly fixed in his purpose than I am and I do not fear the arguments of my fellowmen or any thing that may be brought to bear, and I look upon all other gentlemen upon this floor just exactly in the same line, and as we had a vast amount of work before us that we could have given our attention to and used the time that we have spent parleying over this question profitably, and allowed a small courtesy to those who asked it, I felt that we could not consistently refuse it, and it is upon this ground, Mr. President and gentlemen on this floor, that I favored the proposition yesterday, and it is upon this ground that I favor it to-day; and there are gentlemen in this hall that have seen me upon other occasions when the minority asked privileges that I was ready to accord it to them, to a reasonable extent; and in fact I am willing to go in the interests of a minority a little beyond reason, that they may not say that there has been any influence brought to bear that curtailed their rights. One or two or three days would not jeopardize the question that we have under consideration, or a week would not jeopardize it, nor it would not delay us in our deliberations when we saw fit to go into committee of the whole and consider that which we have upon the calendar. I think that when we talk about consuming time and wasting time, that we can look to the opposite of the house. When we begin to talk in a belligerent sense upon this line that there has been more time used in discussing this question by the opposite side of the house than what is known as the majority side, politically speaking. Therefore, in all fairness to the minority upon this proposition, I am going to commit, and trusting what the future may be, I am not afraid of the people, of the public, of the sovereign power.

I am not afraid of the oratory or the argument of the gentlemen of this Convention. I have my ideas and my views upon this. I have my ideas upon men's honor and upon men's pledges, and upon the pledges of the parties, and I hold it constantly before me, and with all of this I am in favor of granting the motion and I shall vote for it.

Mr. GOODWIN. Mr. President, if I may be given a minute now it will save explaining my vote. I have heard some very extraordinary things since I have been in this house, one of which was to the effect that if the people of Utah decided to defeat the Constitution because the clause of woman's suffrage was in it, that freedom would be wronged and that she would still rise up and be avenged. It seems to me, Mr. President, that we are wandering away from the subject. If there is anything on earth that American people believe in, it is the rule of the majority. It seems to me it would be no hardship to the people of this State for each one to decide through his ballot whether he wanted woman's suffrage or not, and if we could get a full vote of the men, we would be sure to have a full vote of the women, because the men would vote as the women at home would want them to. We were told just now that a little girl was overpersuaded by a lady in the theater telling her that that was the right thing. Men have been persuaded that way for six thousand years, by having ladies tell them the wrong thing to do, perhaps. Now, there is a great deal of principle in this and a good deal of politics. I think I made my own position clear, and I shall say to all these gentlemen, that if this then was to make a fair proposition to the voters of this State, that they should or should not endorse woman's suffrage, the result, when it was figured up, would show exactly the sentiments of the people of the State of Utah. Suppose a majority of them did not want suffrage. Would that be the

rule of the majority to force this down their throats or compel them to vote against the Constitution in order to bear it?

Now, the question to-day is simply on a postponement until Monday morning, in order to give those who want to at least cast their first vote for a submission to the people the chance to put themselves on record that way. The majority can do what they please, because the old law of might can be called in, the same law that governed in the old age before intellects of men began much to expand and before their hearts had begun to expand at all. Is it an unreasonable request? I think not. All around us there are murmurs that the people are dissatisfied. Perhaps there is nothing in it. What harm will be done if we wait until Monday morning? It is now 3 o'clock. We have two more hours this week. Why not take up the regular order and let this thing go by until Monday morning? I will agree for one that I won't say a word if it comes to a vote on Monday morning. I think I can pledge a great number of gentlemen here, although there are a good many gentlemen—and especially on the other side of this question—on the majority side who have spent hours and hours in telling how much time was being wasted here, and my friend from Weber County this morning tried to cap the climax when a motion was made for a recess for an hour and half, he interposed an objection or an amendment that we should remain here to all eternity. They are the fellows that are continuing this thing. It is not us. We do not want anything that is not fair, and when the final vote comes we will be found all right. And let me tell you it won't make a bit of difference. If you commit this, you can vote us down Monday morning as easily as you can this afternoon. It will have a look as though we had a little consideration. It will quiet the swelling clamors of this city, and that is worth while, because, let me tell you, Mr. President, this city controls the elections in this State. Parties are so nearly divided on the outside that this city is the place to look for a majority. I know what my friends on the other side think. They think by crowding this to an issue that a few republicans will fly the track and that they can go out into the country and say that the republican party did not keep its pledges. They will get fooled on that. That is all their anxiety is to-day, and I say the gentlemen that are trying to crowd this thing onto this Convention this afternoon give away the fact that in their hearts they have a fear to leave it to the people of this State, and that is not republican. That is not American.

Mr. EVANS (Weber). May I ask a question?

Mr. GOODWIN. With great pleasure. I will try to answer.

Mr. EVANS (Weber). Will you speak for your party and say that we can have a vote at any time on Monday next, if we will defer this matter?

Mr. GOODWIN. I will speak for this particular one of my party. That is all I have any authority to speak for, but I believe that nine out of ten will agree to the same thing this minute.

Mr. EVANS (Weber). If an agreement can be reached by which a vote can be taken——

Mr. GOODWIN. Without debate on Monday morning?

Mr. EVANS (Weber). Yes, I would be very much pleased to do that, but I would even be willing to give you until Monday evening if you would say that then you would bring this matter to a vote.

Mr. GOODWIN. Mr. President, I made that proposition to keep my friend from Weber making four or five speeches on Monday, but I want to state how I feel first and to say that I believe at the same time it will save a great deal of heartburning, it will save some recriminations and eloquence, if we agree to

grant this postponement to-day and come in Monday morning and make a final vote—give us all a chance to vote how we feel first and if you are strong enough (and I have no doubt you are) why press the thing? Then we will have the chance to say to our constituents—"we tried to do the right thing all the way through. We tried to keep our pledges in the platform. We tried to do our duty to the constituents. If you do not like that the next time you have a constitutional convention, get some one to serve you that will do it better." That is all we ask for. Private—this is an executive session—let me tell you, Mr. President, my honest opinion, that this motion if it is permitted to go until Monday morning will be voted down then and the other motion will be carried, and if it should be left to the people and they should adopt the Constitution and refuse to place woman's suffrage in it, it would not take more than one month to cure the evil, because I think the first Legislature of the State would give it to the ladies with an overwhelming majority. So we are really fighting windmills. This thing is coming. It is only about eight months off. Do not take any chances, let us have a square deal and go out or in as we can, like honorable men and like Americans, keeping in mind the fact that majorities in this country ought to rule. If we ever lose sight of that, if we ever have enough people to tell somebody else what to do, as the little girl was told in the opera house, and they do it, we will have trouble. Leave it to the whole people. Let them have their say upon it—at least on this proposition. Give us out of courtesy to the weaker party—out of courtesy to the public sentiment of this city, only two hours to-day, for you have only two hours more to work to-night of this week.

Mr. EVANS (Weber). Mr. Chairman, I asked the gentleman a question, and he simply has given me the answer, that so far as he is concerned, he is willing to bring this matter to a vote on Monday morning. Of course, I do not take that as being spoken——

Mr. GOODWIN. Mr. President, I had no authority to speak for any gentleman here except myself.

Mr. EVANS (Weber). Mr. President, I take that as not being authoritative for the party which the gentleman represents. What I meant was submitting the proposition on Monday morning, was to submit the whole proposition, that this question might be voted upon at that time, and as the gentleman does not speak for his party, but only for himself, I shall address myself, Mr. President, a few moments to this house. And I say now, that so far as I am individually concerned, with me this question, which is now before the house, is a question or contest of endurance. I purpose to yield no further. I purpose to stand now upon the very platform upon which I was elected, and I ask no indulgence from any gentleman, neither do I expect him to ask any from me. I say now, that so far as I am concerned, there is no gentleman in this house who can say that I have voted to cut off debate; or that I have ever done an act which would stifle free speech. Neither can any gentleman say that I have impugned the motives of any man, whether he be against this proposition or not. I honor the judgment and honest opinion of all mankind, but this matter has reached this point where we must act. If we cannot act this afternoon, the debate will be continued until we do act, if men who are friends of equal suffrage will stand by me upon this proposition.

Mr. ELDREDGE. May I ask the gentleman one question?

Mr. EVANS (Weber). You may.

Mr. ELDREDGE. Did I understand the gentleman to say that he had not voted to cut off debate?

Mr. EVANS (Weber). I never have except——

Mr. ELDREDGE. May I then ask

you how you voted on the previous question, the last time it was called in this house?

Mr. EVANS (Weber). I believe the gentleman is right. On that question I did, because I thought everybody was through except Mr. Varian.

Mr. ELDREDGE. And that is the reason why I ask. I see you recorded as voting that way.

Mr. EVANS (Weber). That is right, Mr. Eldredge. I am speaking on general propositions, and I did vote—I say it frankly, I did vote for the previous question upon that occasion because I believed that everybody was through except possibly myself, and I voted to cut off my own debate, rather than that of any other gentleman. So far as I am individually concerned, I desire to say that there has been upon the part of the opposition some imputation cast upon those delegates who favor equal suffrage. It has been done very cunningly, so that it could be scarcely discovered that an imputation was being cast upon those who stood firmly in the interests of equal suffrage for men and women. I desire now to refer a moment, not personally, or specially, to the argument of the gentleman from Davis—the hero of the hour, he toward whom all eyes have been turned. Two or three times he has made some sort of allusion to somebody, I know not whom it might be. He has spoken in one instance of scurvy politicians and in another instance something respecting peanut politicians. I do not know, gentlemen, whether he means you of the republican party or not. I take it that he does not, because he calls you patriots. So that the reference must be made to some upon this side of the house. Why the necessity of making of remarks of this kind? What is it the gentleman wishes? Does he desire to elevate himself here before the people of this Territory as a perfect Lucrece of virtue? Does he desire to spread the impression that he strides the earth like a Colossus and that all ordinary beings peep between his huge legs to find themselves dishonorable graves? Does he mean to insinuate that men who favor striking the last shackle of political slavery from the limbs of women are scurvy and peanut politicians? I have stood this thing long enough. I care not whether it be the gentleman from Davis County or any other, it makes no difference to me. I stand upon this question upon principle and I am ready to vote upon it. The gentleman says, "wait a little while. Let us hear from the people." I referred to that upon yesterday. To-day I saw the gentleman get into a barouche, drawn by a pair of white horses, with some ladies, and I presume he went to the theater for the purpose of edifying them. I noticed upon his table, which he had the courtesy to show me, a set of resolutions which he had prepared presumably for that meeting.

Mr. ROBERTS. Excuse me, I did not prepare them.

Mr. EVANS (Weber). I asked you if they were yours.

Mr. ROBERTS. I did not tell you I prepared them.

Mr. EVANS (Weber). Anyway the resolutions were prepared in advance, and I doubt not those resolutions which were lying here upon this table will be adopted verbatim, and what does it all mean? Are we not here as delegates under oath for the purpose of casting our votes honestly and conscientiously upon this question? Must we refer from this dignified body of men a question which we have had under consideration so long to the people in this uncertain way? What would we know—what can we know if the secretary's desk be lumbered up with petitions, remonstrances, and memorials for woman's suffrage? How do we know—are we to appoint a canvassing board for the purpose of determining the question as to whether they are honestly gotten up or not? Are we to determine

the question as to whether the ballot boxes have been stuffed? Are we to determine the question as to whether the particular individuals who signed these petitions and memorials did it from their honest judgment? Are we to go in this particular question in this unauthenticated manner for the purpose of determining what our action shall be here? The only way by which people can determine the wishes of their constituents is in the regular manner, in the regular order, in our primaries, and in our conventions, and the sentiments of the people as we found them at that time, and then act upon it. Gentlemen, you can see that this thing will lead to interminable trouble and turmoil, heartburnings, and charges, criminations, and recriminations. Upon the one hand, as I stated yesterday, there will be positive assertions that the people of Utah favor woman's suffrage, and upon the other hand, there will be a denial of it. After all, we are here as men upon oath. Shall we not act upon our best judgment? If any man desires to be absolved from his political pledges let him vote upon his conscience and disregard his platform, but to postpone action for the purpose of securing the sentiment of the people in this unauthentic manner is a thing which is unheard of in the annals of history in dignified legislative bodies.

But gentlemen say it is fair and proper that this matter should be submitted to the people separately for the purpose of securing an expression of opinion. To what people? Those who are already enfranchised? A convention is in a limited sense a revolutionary body congregated together for the purpose of forming a new government, by which the people of the particular locality might act. Suppose we submit the proposition separately to the people. Who votes upon the proposition as to whether women shall be enfranchised? Is it not the men? Women have no voice, but they must submit to the majority of the opposite sex. Is this right? It seems to me that the whole question recurs to the proposition, is it right that women should vote? If it be right, why not insert it in the Constitution? If it be wrong, why not vote against the insertion of it in the Constitution and likewise vote against the submission of it to the people?

Now, I want just for a moment to refer to a remark which my colleague from Weber County (Mr. Kiesel) made. He said that the reason why he was not here on yesterday was because he was sick. That was true. I know that he was ill. I went home with him on the evening that the meeting was held at Ogden. He was feeling ill. He did not attend the meeting. He spoke truthfully respecting that matter. He did not go home for the purpose of dodging any issue. But just why he should have made the remark that another gentleman from Weber County went home for the purpose of receiving garlands and flowers is something that I am unable to understand. He knows me as well as I know him. He knows that it was not my expectation to go home for that purpose. He knows, and every man knows, that I did not favor the holding of meetings for the purpose of an expression of opinion upon this question, because I knew the uncertainty of it, and the only advice I gave that meeting was to adjourn and go home and permit the delegates of this Convention to act upon their conscience and upon their honor.

Mr. KIESEL. I want to ask the gentleman a question. I am glad that Mr. Evans is setting himself right here, but he knew that I could not be at the meeting and as his colleague here he also knew that I was lampooned by a shyster lawyer up there in Ogden and he did not have the manhood to stand up and remontrate.

Mr. EVANS (Weber). Mr. Kiesel need not say that. He need not say that at all. It is not fair and it is not

called for. I was not called upon to stand by any one, neither did I do it.

Mr. KIESEL. I would have stood by you.

The PRESIDENT. I think this is wholly out of character in the Convention here. The proposition before us is the question of recommitting.

Mr. EVANS (Weber). Now, there is one other thing which I desire to refer to and I do that for the benefit of gentlemen from Weber County. It was stated by my colleague (Mr. Driver) the other day upon the floor of the house in something of an excited manner that he understood that only two parties were standing in favor of suffrage. At the time that statement was made it was appalling to me. I did not think it could possibly be correct, but I find after all that he did not miss the mark very far. Aside from another venerable gentleman who has spoken upon this floor, I believe he and I are the only ones who have given any evidence in this Convention of being in favor of the right of women to vote, and to those gentlemen who have departed from their party pledges, and who believe that they have heard the voices of their constituents, I desire to say, before I take my seat, that I hold in my hand a letter just received from Weber County, in which I am informed that eighteen hundred people up to this date in Weber County, demand that a clause giving equal suffrage to women should be inserted in the Constitution. Only a a little more than one hundred less than those who voted for either one of us who now stand upon this floor representing that county—about 1940 was the average vote for each delegate, and they are receiving these signatures daily, and announce that in a short time the number will be very largely augmented. But I care nothing for this even. I only call their attention to it; but I want to call their attention to something else and that is the party platform upon which they and I were elected. I want to read it again. I want to remind them of it, "the democrats of Utah are unequivocally in favor of woman suffrage and the political rights of women equal with men, including eligibility to office, and we demand that such guarantees shall be placed in the Constitution as will secure to the women of Utah these inestimable rights:" and in connection with reminding my colleagues from Weber County of this party pledge which we made and which we advocated, I say, many of us, upon the stump, and even some of those gentlemen to-day who stand here asking that this matter be inserted in a separate clause stood side by side with me upon the stump in the political arena and advocated the same rights which I advocate here, they know it and cannot deny it. If they desire to break their party pledges, if they desire to dishonor themselves, it is all right with me. They do it simply because they believe that in the locality from whence I come the sentiment of the people is against woman suffrage.

Mr. KIESEL. You did not see me there.

Mr EVANS (Weber). I am not referring to Mr. Kiesel. I will say of Mr. Kiesel, that he is consistent in this matter. He told me after his nomination that he was against woman's suffrage. I will never misrepresent any man knowingly, and I believe that he was against it honestly and conscientiously, and he has never heard a word of censure from me respecting that matter. But I want to call attention now in connection with this matter to the able champion against woman's suffrage, and I do it now as though I were talking to democrats. You remember, gentlemen, that in 1892, I believe it was, a political platform was adopted by the democratic national party at Chicago, in which there was a declaration in favor of tariff reform. An election was held, a democratic administration was ushered in. The lower house

of Congress passed an act reforming, as we call it, the tariff, the senate McKinleyized the Wilson bill. The chief executive of the nation wrote a letter to a distinguished gentleman in which, at that time, he branded the act as one of perfidy and dishonor; at that time the able champion against woman's suffrage, agreed with the chief executive of the nation, and so did every democrat throughout the land, among the people, and votes of censure and resolutions denouncing a few democratic senators who stood with the republicans in McKinleyizing that measure were passed. What difference is there between that question and the one we have here now? Is not it an act of perfidy and dishonor, I say, to make pledges, and go before the people and tell them we stand upon those pledges, and then come upon the floor of this house and seek to manufacture sentiment against it—and not only against that, but to manufacture sentiment which will still keep political rivets and chains upon the limbs of women—a sentiment keeping in political slavery the female citizens? Gentlemen, it is the sentiment of the age to throw off the traditions of the past, to give as full and complete measure of liberty to one citizen as to another. Every taxpayer, whether it be man or woman, is entitled to a voice in the government of this country, especially when it comes to the question of taxing her property or incurring public indebtedness, and yet the oratory which has been displayed upon this floor seems to have disturbed the minds of people. A bare fear pervades the locality where we now are. We seem to have forgotten to accord to mankind that which is right and honorable for a mere sentiment. That if it be accorded, forsooth statehood will not be given to Utah. I will not discuss the merits of this question at all, but I want to say this, that I am against the substitute, and against it for the reasons which I have given. I am against it because it is an insult to the committee on elections and suffrage. It is equivalent to saying to them, "You are incapable of reporting to this Convention an article suitable and acceptable to us. We desire the president of the Convention to appoint another and separate committee for the very purpose of doing that which will violate every pledge which we have made."

I have been informed that my constituents are very much displeased with my course privately as well as publicly. I say to them now that so far as I am concerned if they do not want me here they can send somebody else, but when they sent me upon promises which I made, and ask me not only to violate my pledges and promises, but my conscience, I say to them that I will not obey their commands, and it makes no difference to me what they may think about it. Whether a scurvy or peanut politician, I care not, I shall do that which I believe to be right. I shall not pursue a course here which is irregular to secure the sentiments of people hither and thither and everywhere at irregular and improper elections and methods of expressing opinions. Here upon the streets of your city the bootblacks have petitions of the form which I read yesterday, hailing everyone passing by, asking them to sign that petition for separate submission. What kind of an expression of opinion is that? How are we to determine how many times each individual who is against woman's suffrage is voting in that manner or expressing his opinion? Why, gentlemen, you know when it comes to receiving an expression of opinion of the people, guard it as closely as you may with returning boards, sworn judges of election, with penal laws, punishing violations of the elective franchise—with all that, many of you upon the other side of the house believe that there was very much corruption in the returns of members of the Utah Commission for delegates who are to-day sitting upon this

floor and yet to here pause and wait for an unauthentic expression of opinion to come, how can we guard it when we receive it? What guaranty will there be that it is authentic? Who can say that the returns were not stuffed? Who can say that it is an honest expression of the people? Gentlemen, that is utter folly—utter folly. Permit it to go on if you will. I am informed that a caucus of the republican party was held this noon day and that woman's suffrage lost some three or six of its friends. Whether that be true or not, I do not know and will not charge, but permit this matter to go on if you will from day to day and the first thing you know you will have the people of this Territory all by the ears. I warn you now to act upon your consciences if you do not believe in your pledges. Do that which you believe to be right and honorable, but do not delay this cause for the purpose of receiving information from the people in the manner which is desired by some members of this Convention.

Speaking to the question of the gentleman from Summit just a moment—he believes in according the utmost courtesy to the minority, however small. That may be true. It seems that he desires it now. I remember, however, in the beginning of this Convention, that his sentiments were not just as they are at this time. [Laughter.] And I am utterly astonished at the other gentleman from Salt Lake who now advocates a submission of this question to the people after the speech which he made; and the criticisms of Mr. Cannon upon him were deserving and right. Let that speech be transcribed and it will show that he was in favor of inserting this clause in the Constitution, and no other construction can be placed upon it. Gentlemen, search your own hearts. Look to yourselves and you will find many of you exactly in the same situation.

Mr. LOW (Cache). May I ask the gentleman from Weber a question?

Mr. EVANS (Weber). Certainly.

Mr. LOW (Cache). As a prelude to the sentiments expressed, I desire to ask if it was not your statement that the gentleman from Weber (Mr. Kiesel) volunteered information to you that he was opposed to the woman's suffrage question, notwithstanding it was in the democratic platform, is that correct?

Mr. EVANS (Weber.) Mr. Kiesel did voluntarily tell me that, yes.

Mr. LOW (Cache). Is it your opinion then, Mr. Evans, that he would have given expression to his sentiments, had he not known that it was an issue in the minds of the people, as some gentlemen upon this floor would seem to deny?

Mr. EVANS (Weber). Well, so far as that is concerned, I do not desire to enter into the private conversation between Mr. Kiesel and myself. That would not be proper, but suffice it to say that upon the stump in Weber County in almost every precinct and in the Grand opera house, I advocated equal suffrage for women and every one of these gentlemen knows that I did.

Mr. THURMAN. Did Mr. Kiesel speak against it?

Mr. EVANS (Weber). Not a man spoke against it—not a single one. And what astonishes me more than anything (and I refer to it again), are those friends and colleagues of mine who stood by my side advocating it just as I did, and who are here to-day covertly seeking to defeat it.

Mr. DRIVER. May I ask you a question?

Mr. EVANS (Weber). You may.

Mr. DRIVER. Mr. Kiesel told you and he also told me as you stated, but he took special pains I believe not to go out upon the stump and deliver lectures that he was opposed to it. If he had he would not have been here to-day.

Mr. EVANS (Weber). To do justice to Mr. Kiesel, I will say that he told me that he was against it after he was elected. He never did before.

Mr. KIESEL. You said after I was nominated.

Mr. EVANS (Weber). If I said after you were nominated I was mistaken.

Mr. KIESEL. And I told you before I was nominated.

Mr. EVANS (Weber). I believe he was always opposed to it before he was elected, but he never told me until after he was elected. Now, gentlemen, as I stated in the very beginning, with me this is a question of endurance. I purpose to stay here until this matter be disposed of.

Mr. LEWIS. Mr. President, I do not know whether the gentleman who has just taken his seat——

Mr. CHIDESTER. Mr. President, I arise to a point of order. He has spoken once.

Mr. LEWIS. No, sir; I have not spoken on this question.

The PRESIDENT. He has not spoken on this question.

Mr. LEWIS. I had not intended speaking again, and should not again arise to speak, were it not for some of the utterances of the gentleman who has just taken his seat. When he refers to his colleagues upon the stump in the last campaign, whether he has reference to me or not, I do not know, but I think that I was not present at a single meeting during the campaign, with the gentleman from Weber, and I challenge him——

Mr. EVANS (Weber). I did not mention anybody's name, did I?

Mr. LEWIS. No, sir; I am just merely defending myself. You referred to colleagues from Weber.

Mr. EVANS (Weber). I will absolve you, if that is what you want to reply to. You were not present with me, but other gentlemen very near you were.

Mr. LEWIS. And I will further state since the statement was made in general of the colleagues from Weber County——

Mr. THORESON. Mr. President, I do not think the gentleman is talking to the question before the house. I make the point of order.

The PRESIDENT. The question before the house is the recommittal of the proposition to a special committee.

Mr. LEWIS. Mr. President, I propose to come to the question, if not directly, indirectly. I want to place myself properly before this Convention after the attitude that I have assumed. Talk about criminations and recriminations, there have also been insinuations, and I do not propose to stand under a single insinuation, if I have the privilege of placing myself properly before this Convention. I defy any gentleman to refer to a single instance, either in private or public, where I stated that my personal convictions were favorable to female suffrage. I have not so stated my convictions. When the democratic party to which I belonged placed this principle in their platform, I accepted it. I came here, gentlemen of the Convention, prepared to vote for that principle being firmly fixed in our Constitution, and my mind did not fluctuate nor change upon the proposition until I heard that some of my constituents in Weber County had changed their sentiments and that if they were so pronounced in favor of female suffrage being placed in the Constitution proper, they now favored the presentation of this subject to the people in a separate article. Hearing this statement, I concluded that I was not above the people. I did not come here to this Convention to represent my sentiments and my views alone. I came here to represent the sentiments and views of my constituents in Weber County, or more properly speaking, in Ogden City. If the people of Ogden, even after they had voted in November in favor of this proposition—if they had occasion to change their sentiments and their opinions in regard to this matter for fear that something would come up by which the Constitution would be voted down, I concluded and took the position yesterday, and take the posi-

tion to-day, that it is right to wait to find out and to know what the opinion of the people of Weber County is. As I stated, I am not above my party. I do not consider my opinions superior to the opinions of the people whom I represent, and if I can know their sentiments and their thoughts to-day, I stand here prepared to vote that thought and that sentiment, no matter what my convictions are. I have stood upon this floor and stood the opprobrium of being charged with cowardice, but I stood it simply because I found that I was in the same position with the great R. E. Lee of Virginia, when the question of secession came up in 1861, and the question was presented to him; said he, "Gentlemen, if you move forward in this line and undertake to withdraw this state from the Union and to establish the doctrine of secession, you are ruined. I am opposed to it." Still, having been trained and indoctrinated in the idea of state rights and the power of the state, he said, "Notwithstanding these are my convictions, I will prove true to my duty and I will stand by my state."

There is an instance where a man, contrary to his convictions, contrary to his intuitions, contrary to every conception of the result of the step that his people were taking, cast them all aside to do his duty. I stand here upon the same platform to-day, and if the people of Utah Territory—if my constituency want female suffrage established in the Constitution, I am prepared to-day to vote for it, and let the consequences be what they may; but if my constituency prefer to have it presented to the people in a separate article and not endanger the Constitution, I stand here prepared to vote for that to-day, and I challenge any man or set of men to question my honor upon this question or upon this proposition.

Mr. EVANS (Weber). I desire to ask Mr. Lewis a question. Do you contend that your constituents are those who live at Ogden, or do you regard yourself here as a representative of all the people of Utah?

Mr. LEWIS. I consider that I am the direct representative of the people of Ogden City, and I measure the sentiment of the people of Utah Territory by the sentiment of the people whom I directly represent. I let other men from other counties represent their constituency and I represent my own. I am here to represent the people who elected me. I am to represent their thought, and if that thought is not the major thought of this Convention, it will go down. If the thought of my constituency represented by me is the major thought of this Convention, it will triumph; but I want you to distinctly understand that I am not putting my opinions and my ideas above my people. When I am called upon to vote my convictions I stand firm and true to my convictions, but when I stand to represent the people, so long as God gives me breath and power I purpose to stand by them and vote their ideas, their thoughts, and their sentiments. This is what I understand by representative democracy. I did not intend, gentlemen, to make any further remarks upon this question, I merely did it in defense of insinuations which were cast out in regard to the representatives from Weber County, and I thank you for your attention in listening to me.

Mr. HOWARD. Mr. President, the question before the house is on submitting this as a separate proposition——

Mr. SQUIRES. Mr. President, the gentleman has spoken once on this question. I tried to speak the second time this morning and was shut off. I do not think he should have the privilege that was not accorded to me.

Mr. HOWARD. I am through now. I just want to ask a question that I have written here——

Mr. SQUIRES. I submit the gentle-

man is just as much out of order as I was this morning.

Mr. HOWARD. I rise to a question of personal privilege.

The PRESIDENT. You may state it.

Mr. HOWARD. Suppose two prominent lawyers were in court arguing an important case before a jury and one of them, afraid——

The PRESIDENT. To whom are you addressing that question?

Mr. SQUIRES. Addressing it to the Convention.

Mr. HOWARD. Mr. President, excuse me——

The PRESIDENT. The gentleman is out of order.

Mr. HOWARD. I was addressing it to Mr. Squires.

Mr. SQUIRES. The gentleman is out of order.

Mr. HOWARD. Mr. Squires made the remark here this morning that I wished to ask him the question on.

The PRESIDENT. All right, ask Mr. Squires the question.

Mr. HOWARD. I will ask him the question.

Mr. SQUIRES. I submit, Mr. President, the gentleman is not in order.

The PRESIDENT. Mr. Howard has the floor, Mr. Squires.

Mr. HOWARD. Suppose two prominent lawyers were in court arguing an important case before a jury and one of them, afraid he was going to lose his case, would leave the jury and go out upon the street and appeal——

Mr. IVINS. Mr. President, I do not wish to be captious about this matter, but I insist this is entirely out of order. Mr. Squires has not got the floor. I would like to see the rule applied to one man as well as to another.

The PRESIDENT. The gentleman will take his seat.

Mr. HOWARD. Now, I ask this question as a matter of personal privilege.

The PRESIDENT. The gentleman will take his seat.

Mr. KIMBALL (Salt Lake). Mr. President, I would like to make a few remarks before this subject is closed. I will state in connection with four other representatives on this floor, I represent about 1200 voters, and possibly 3000 constituents, and I have mingled among those people ever since I took my seat on this floor, and I have not heard so much as a single word yet in remonstrance against this proposition. I am opposed to recommitting this for the many reasons that have been explained on this floor. I consider that we have been very lenient indeed to the minority and have listened here several days to their discussions and allowed them to stir up a local opposition, for I maintain that it is only local. I have investigated carefully the sentiments of the gentlemen on this floor from the outside counties and I have failed as yet to find any constituency outside of Ogden and Salt Lake that ever made any complaints as to the action of the majority of this Convention. Now, I am not going to insinuate on the people of Salt Lake, but I do say that I represent a large portion of them—of the quiet, peacable, respectable citizens, and I have listened on this floor to gentlemen from the fourth precinct who represent a large constituency of the same class of people. I have listened to other gentlemen on this floor and I find that the only complaint or remonstrance at all against this proposition is from a local and central opposition. And as for Ogden, it seems to me that the honorable Mr. Evans has answered every opposition when he stated to us that something like 1800 voters favor the position that he has taken. And now I wonder that Park City and a few of the mining camps have not sent in their remonstrance or asked the honorable Mr. Roberts to intercede in stopping this proposition.

Mr. SQUIRES. They are on their way.

Mr. KIMBALL (Salt Lake). Well,

then, we are not going to wait for them, if I have a vote on this floor. [Applause.]

Mr. ROBERTS. Would the gentleman permit me a question?

Mr. KIMBALL (Salt Lake). Yes, sir.

Mr. ROBERTS. I did not catch your last remark. I would like to have you repeat what reference you made to me.

Mr. KIMBALL (Salt Lake). I suggested with all due respect that I wondered why they had not asked you to intercede in stopping this measure.

Mr. ROBERTS. I will just inform the gentleman that I have the protests of the ladies on that subject in my hand, just this moment come.

Mr. KIMBALL (Salt Lake). Well, we will hear from them possibly after a little. It looks to me as though it was undignified indeed for this Convention to wait for members on this floor to go out and stump in the various meetings and go out and ask the people to assist them in stopping and deferring this important subject. I have taken my position, and that is in favor of woman's suffrage, and I expect to stand by it. Gentlemen, I am ready to vote at this moment, if necessary to put this thing through, and I maintain, though I may be censured by the people of this Territory for haste, that we have been patient until patience has ceased to be a virtue.

Mr. STOVER. Mr. President, I wish to say the gentleman alluded to the mining camps not having sent in remonstrances. I wish to say that I represent a mining as well as an agricultural county (Tooele), and I wrote to them, asking them if they had any petitions to send in to send them to me in a day or two. I expect them to-morrow or perhaps Monday, and I know this, that my constituency—all of the mining districts, the western part—the eastern part of Tooele County is entirely opposed to female suffrage, especially to its being put into the Constitution. I believe they are nearly unanimous. All that I have heard from have informed me to that effect, and if it is put into the Constitution, they will vote against it. They have expressed themselves so freely to me on this subject. I had not intended to say anything. I have had a sore throat for several days, but when a fair proposition is made like Mr. Varian's proposition, to wait until Monday only, whereby we will lose no time, having plenty of business before this Convention, I have been astonished at the manner in which this question is made paramount to the whole Constitution. It is made paramount. They have forgotten that there are other great questions for us to consider—education, irrigation, and everything else, but this has been thrust upon us by the majority, supposing that it would be nearly unanimous, and there were only a dozen opposed to it last week. They are beginning to open their eyes—the people are, and the people of this city and the great cities of Utah should be heard, and also the mining districts, and I tell the people that they will miss it, terribly, if they do not, because I want to see us have a Constitution that there is not a very great probability of its being defeated. There are several reasons why the people will vote against it if we place things in this Constitution that should not be there, and I claim that this is one. It should be submitted a separate matter, and if the gentlemen will only stop and think—do be honorable about this and let Mr. Varian's proposition pass. You lose no time, because on Monday I for one should say, the first question on Monday morning, that we shall take a vote.

Mr. HOWARD. Mr. President, I wish to now just read a few words here as a matter of argument. I will not put it as a question—if I have the privilege.

Mr. SQUIRES. I object.

The PRESIDENT. There is an objection.

Mr. HOWARD. I have spoken once on this question only.

The PRESIDENT. There is an objection, you having had the floor twice.

Mr. BUTTON. I would like to ask the question, Mr. President, is it the rule on this question that a man cannot speak but once?

The PRESIDENT. No, sir; but he cannot speak twice until the rest of the members have had their chance.

Mr. BUTTON. If there is not anybody else wanting to speak, can't he speak the second time? That is what I am after.

Mr. HART. Mr. President, rule 11 settles this matter, and I think it settles it in favor of Mr. Howard. (Reads).

Now, if there is any other gentleman that has not spoken that desires to, I think they should have precedence over Mr. Howard, but inasmuch as there is no other person, Mr. Howard should have the right to speak.

The PRESIDENT. If there is no other gentleman, Mr. Howard will speak.

Mr. HOWARD. I do not wish to occupy the time of the Convention very long. I will just read this now that I was going to say. Suppose two prominent lawyers were in court arguing an important case before a jury and one of them, afraid he was going to lose his case, would leave the jury and go out on the street and appeal to the people, what would you lawyers think of him?

Mr. GIBBS. Mr. President, I arise to a point of order.

Mr. HOWARD. What would you members of this Convention——

The PRESIDENT. Go right on, Mr. Howard.

Mr. GIBBS. I do not think Mr. Howard is speaking to the question at issue at all.

The PRESIDENT. You cannot determine, for he has not got through with it.

Mr. HOWARD. I am speaking to the question now of delaying this matter.

The PRESIDENT. Go right on, sir.

Mr. HOWARD. Commence at the commencement?

Mr. HALLIDAY. I move the gentleman be allowed to proceed.

Mr. HOWARD. All right. Suppose two prominent lawyers were in court [laughter] arguing a case before a jury, and one of them, afraid he was going to lose his case, would leave the jury and go out upon the street and appeal to the people, what would you lawyers think of him? What would you members of this Convention think of him? Answer it, yourselves, and yet is that not just the way the proposition of woman's suffrage now stands? Members of this Convention have been appealing to the excited feelings and prejudices that they themselves have made of a few of the people from the deliberate vote and study of the members of this Convention. I say shame on them. [Laughter.]

Mr. MORRIS. Mr. President, I object to delaying this matter for various reasons, or to referring it to the committee or the Legislature either on this ground. When we were elected as delegates to different conventions we were sent there as agents or representatives of the people to do that business for them. I attended a Convention in Provo when they placed that plank in the republican platform, and I do not remember of a single voice of objection to that plank. Since that I read the plank of the platform of the democratic party, which went two or three better than the republicans. Some have said here that that plank was placed in the platform at Provo to catch flies—for an object. I declare here I did not understand it so. I believed that they were sincere in their sentiments in placing that plank in the platform, and they declared there that they were in favor of giving suffrage to the women of Utah equal to the men. They were willing—that convention was willing, that party was willing, and we found the same sentiments in the democratic party

as well, that they were willing and not only willing, but as a party, as we have heard the plank read here just now—that they demanded as a democratic party that they were going to give suffrage to women.

Now, I will ask you gentlemen on this floor if we are going to defer it to the future and to the election and to the coming Legislature? How can we give it to the people? We claim to give it as a Convention and not leave it at the risk of the future to place it in the Constitution and spike it down, that it cannot be taken out again, and I cannot see how we can be consistent as a people, as intelligent men, as men that claim honor, to try and switch off from this matter at this late day. Hence, I am in favor of taking a vote upon this and decide the question and stop fooling as we have for several days, that we may go on with our business and get through before the year gets through.

Mr. L. LARSON. Mr. President and gentlemen, so far as the main question is concerned. I do not intend to switch on that. I expect to stand by this. I intend to vote for woman's suffrage. I intend to vote to have it put in the Constitution; but it appears that there is such opposition and things have taken such a shape at the present time that it is almost a wonder to me, and I am astonished at very many points that have been brought before this Convention. Now, I am willing to be generous. So far as I am concerned personally, all the talk and all that has been said and done does not change my mind on the main question, but being that there is such opposition and the gentlemen say that they expect to hear from their constituents and so on (I am not looking for any information from mine; I have not asked for any, I do not intend to ask for any), but I am willing to concede thus far to give them a little time if they want to have it, as the gentleman from Salt Lake said, he would be ready. I hope they will all be ready Monday morning, then to go ahead to work like men.

Mr. THURMAN. May I ask the gentleman a question?

Mr. L. LARSON. Yes, sir.

Mr. THURMAN. Do you understand that in voting on this question, that we are about to vote on, or that we will, after Mr. Varian speaks, that you are voting for a submission of a separate proposition to the people and not for woman's suffrage in the Constitution?

Mr. VARIAN. Oh, no, no.

Mr. THURMAN. Don't you understand that is the fact?

Mr. L. LARSON. If the proposition they present does not suit me, I am under no obligation to vote for it.

Mr. THURMAN. Permit me to ask the question so that it may be distinctly understood, for I may be in the wrong myself. Don't you understand that the proposition here is to vote for this to be referred to a committee with instructions to bring in a proposition to submit to the people, and that the effect of this vote is to vote for submission to the people rather than to vote for woman's suffrage in the Constitution? Don't you understand that?

Mr. L. LARSON. I also understand that when the time comes that we have a right to vote it down. They ask for this permission, and I feel willing to grant it to them.

Mr. THURMAN. You understand the question, do you?

Mr. L. LARSON. Yes, sir; that is all I wish to say on the question. I am willing to concede them this.

Mr. PRESTON, Mr. President, as far as I have kept account I stand alone in this assembly as the only one that has not spoken to this question. [Laughter.] There may be others.

Mr. CALL. There is one more.

Mr. PRESTON. But I am opposed to this proposition that is before the house entirely. We have been chawing

over this question now for some ten days and we have been considering all the time the wishes and the feelings of what seems to be the minority on this question. And it seems to me that we have considered it long enough. I have been ready to vote for this proposition to be placed in the Constitution for the last several days and there has been nothing made, nothing accomplished, no argument brought forward to prove to me that it ought not to be in the Constitution. I have been in favor of it, it seems to me ever since I was born—for free suffrage to all mankind. I was born and reared in the south amongst slavery. I was opposed to that as soon as I was big enough to think and know what it was, and I was glad when it was done away with. I look upon this restraint and restriction upon women, not having the privilege to vote, in the same light, that it is their right to vote and to take part in the government of the country in which we reside—that it is their right given to them through the Constitution of our great country that all men were created free and equal and that men always embrace the women [laughter], and so I have held it from then until now that they have this right. That it is inherent within them. It is their's by right and that there is nothing made or accomplished by this delay here—and may I say filibustering? I do not know scarcely what that means; I have heard of it in Congress and all that kind of thing. It seems to me that we are taking a little bit of a lesson in it now, and hence I am ready to vote upon this question now and here at this time, and I want the gentlemen to understand that I am in earnest about it. I am terribly in earnest on this question, and let us have it now.

Mr. ROBERTS. Mr. President, I ask unanimous consent to have read the resolutions adopted at a large mass meeting assembled in this city this afternoon. Adopted by a unanimous vote.

Mr. CHIDESTER. I object.

The PRESIDENT. I do not think it can come up properly.

Mr. ROBERTS. I ask for unanimous consent.

Mr. BARNES. I object.

Mr. EICHNOR. Mr. President, have I the floor?

The PRESIDENT. Yes, sir.

Mr. EICHNOR. Hand me those resolutions. I will make them part of my remarks.

Mr. RICHARDS. Before Mr. Roberts yields the floor, I would like to ask him a question, and that is if he is not mistaken about these resolutions having been unanimously adopted?

Mr. ROBERTS. No, sir; there were but three votes against them, and as I passed through the door a gentleman explained to me that a subsequent canvass of the matter proved that those who did vote against them mistook the question. That is why I say they were unanimous.

The PRESIDENT. Mr. Eichnor has the floor.

Mr. IVINS. I desire to ask the gentleman a question.

Mr. RICHARDS. I would desire to ask the gentleman——

Mr. ROBERTS. I speak from information, as I was not there when the resolution was adopted.

Mr. RICHARDS. I know the gentleman would not intentionally misrepresent the matter and I therefore desire to call his attention to the fact that I am informed that there were scores of ladies present who voted against these resolutions, and a number of them are present in this building now.

Mr. IVINS. I want to ask the gentleman a question. He says that a subsequent canvass shows that these few opposing votes did not understand the question, and that they reversed their votes. I would like to know if any canvass was made to determine whether all the ladies that voted for this understood what they were voting for?

Mr. ROBERTS. I think the folly of the question will preclude any reason for answering it.

The PRESIDENT. Mr. Eichnor has the floor.

Mr. EICHNOR. Mr. President and gentlemen of the Convention, this is a matter that comes very close home. Now, I ask in all fairness and as a personal favor, irrespective of party or any other condition, to have this read without being compelled to inflict a speech on you. Mr. Chidester, you are chairman of the committee, will you object to it?

Mr. CHIDESTER. Yes, sir; I do.

Mr. THURMAN. Read it yourself.

Mr. IVINS. I suggest the gentleman has a right to ask the clerk to read this as a part of his remarks.

Mr. EICHNOR. I ask the clerk to have this read.

The PRESIDENT. The secretary will read for the benefit of the gentleman.

Mr. EICHNOR. As a part of my remarks, and I shall say nothing further.

The secretary then read the following:

The women of Salt Lake City and county, in mass meeting assembled, hereby adopt the following resolutions:

Whereas, a Convention is being held in this city for the purpose of framing a Constitution for the proposed State of Utah; and

Whereas, The question is being considered by said Convention of incorporating in said Constitution a provision for woman suffrage; and

Whereas, No opportunity has been afforded the women of this Territory to manifest their opinion upon the matter; and

Whereas, By the adoption of a plank in favor of woman suffrage in the platforms of both political parties, no opportunity was afforded to the citizens of this Territory to indicate their approval or disapproval of the proposition; and

Whereas, It is conceded alike by the advocates and the opponents of woman suffrage that in all intellectual attributes and attainments the women are entitled to vote, and if this is true, then they possess the necessary intelligence and attainments to enable them to determine for themselves whether they desire this privilege, and they should be given the opportunity to decide this question for themselves; and

Whereas, From the published statements of a majority of the delegates of the Convention, it appears that they are supporting the proposition of equal suffrage, not from personal preference or conviction that it is right, but because they feel obliged to do so from the fact that they have been elected upon platforms favoring woman suffrage; and

Whereas, It would be better to remain disfranchised than to have the privilege extended to us through compulsion; and

Whereas, it has been repeatedly stated upon the floor of the Convention and in the columns of the public press, and has been reiterated on every hand, that if a provision in favor of woman's suffrage is inserted in the Constitution it will prevent the adoption of the Constitution by the people or by the President of the United States; and

Whereas, We do not desire to see the possibilities of early statehood jeopardized by the efforts to extend to us the privilege of suffrage, when the same end can be obtained by other means; and

Whereas, A matter of such great importance, and one that affects the interests of all to such a great extent, and that imposes upon women duties and responsibilities of such a great and weighty nature, should not be adopted without a full, free and fair expression of all the people to be affected thereby; and

Whereas, If the measure is incorporated in the Constitution itself or submitted as a separate proposition at the time of the election for the adoption of the Constitution, women will not be legally qualified to vote upon the question; and

Whereas, The question of woman suffrage can only be voted upon by women after the adoption of the Constitution and the admission of Utah as a State, and only then under provision of the Utah Legislature; therefore be it

Resolved, That it is the sense of the women of this, the largest city in the Territory, in mass meeting asembled, that the question of woman suffrage should be left undetermined until provision can be made by the State Legislature for the submission of the question to a full, free and unprejudiced popular vote of the people of the new State, at which election provision shall be made for the women to vote upon the question, and that the first State Legislature be authorized and directed to call an election for such purpose, and that they be given the power to qualify the women to vote at such election; be it

Resolved, Further, that the Constitutional Convention be and they are hereby requested to substitute in lieu of the provisions that were adopted by said

Convention as a committee of the whole in favor of woman suffrage, the following:

Section 1. Every male citizen over the age of twenty-one years, possessing the following qualifications, shall be entitled to vote at all elections:

First. He shall be a citizen of the United States not less than three months before he offers to vote.

Second. He shall have resided in the State or Territory one year immediately preceding the election at which he offers to vote, and in the county, city, town, ward or precinct such time as may be prescribed by law; provided, that no person shall be denied the right to vote at any school district election nor hold any school district office on account of sex, nor shall any person be denied the right to vote on account of sex at any election hereafter to be held, as herein provided, for the purpose of determining whether women shall be entitled to vote.

Section 2. The General Assembly shall, at the first session thereof, and may at subsequent sessions, enact laws to extend the right of suffrage to women of rightful age and otherwise qualified, according to the provisions of this article. No such enactment shall be of effect until submitted to the vote of the qualified electors at a special election held for such purpose, at which election women of the age of twenty-one years and over, and otherwise qualified according to the provisions of this article, shall be entitled to vote upon this question, nor shall such enactment be of effect unless the same be approved by a majority of those voting thereon.

Mr. EVANS (Weber). I want to ask Mr. Eichnor a question. Is it not true that this set of resolutions were the ones which were prepared prior to the holding of that meeting and which were lying here on the table this morning?

Mr. EICHNOR. I know nothing about it.

Mr. EVANS (Weber). I would like to ask Mr. Roberts that question.

Mr. EICHNOR. I know nothing about it.

Mr. ROBERTS. Mr. President, I arise to a question of personal privilege.

Mr. EICHNOR. Excuse me, I had not finished my remarks yet.

Mr. RICHARDS. I desire to ask Mr. Eichnor a question, and that is, if there are no other signatures to that petition besides those which were read?

Mr. EICHNOR. I think the clerk read them all.

Mr. RICHARDS. I desire to know of Mr. Eichnor if he will answer, how many people that petition represents, if he knows?

Mr. EICHNOR. Mr. Richards, I do not know. Permit me to explain here I introduced it as my remarks. The ladies live in Salt Lake City and as a matter of courtesy that every gentleman should have on this floor, I introduced them as my remarks, and I am not ashamed of it, either.

Mr. RICHARDS. I think we all understood the reason why, but I think it is fair that it should be known to this Convention what the real facts are.

Mr. EICHNOR. I do not know.

Mr. RICHARDS. I desire to say to you that I am informed that there was a very large vote in opposition to these resolutions which were introduced here as having been adopted unanimously.

Mr. EICHNOR. I do not know anything about that.

Mr. ROBERTS. Mr. President.

The PRESIDENT. Mr. Eichnor has the floor.

Mr. LOW (Cache). I desire to ask the gentleman a question regarding the sentiment expressed in this article that has just been read. Are they expressive of your sentiments—that is, your sentiments?

Mr. EICHNOR. No; I differ with them in this respect, that I believe the better plan would be to put it in a separate article and place it in the schedule to be voted on.

Mr. LOW (Cache). Then, that is not to be considered as part of your speech?

Mr. EICHNOR. Considered as part of my speech. I have another part here.

The PRESIDENT. Mr. Eichnor will proceed with his argument.

Mr. EICHNOR. I ask the secretary

to read two petitions signed by ladies and gentlemen of Salt Lake City. I think there are 139 names on the list—simply to read the headings of the petitions.

Mr. CHIDESTER. Mr. President, I now arise to a point order; that this is not the time to introduce resolutions or motions. We are in the middle of a debate and I object to any more being read or the headings of any other article. There is a time when these things can be introduced. Under the first item of business that should come before a Convention is the presentation of petitions and memorials. Now, I do not want to be——

The PRESIDENT. The gentleman is out of order. The gentleman presents them as his speech.

Mr. CHIDESTER. I maintain that that that is out of order. That that is equivalent to introducing here a petition and a memorial, and that it is out of order to do so.

The PRESIDENT. It seems to the chair that this is a peculiar manner of making a speech on a question involving the consideration of the motion of Mr. Varian, and it seems to be wholly irrelevant to this proposition.

Mr. EICHNOR. Can I ask for information?

The PRESIDENT. Yes, sir.

Mr. EICHNOR. If I have the floor and am recognized by the President, cannot I read from some manuscripts and state that the matters can be resubmitted?

Mr. CANNON. Mr. President, I arise to a point of order. My point of order is that the gentleman cannot read anything or have anything read which does not apply to the question before the house. You this morning declined to allow the gentleman to make remarks on the question——

Mr. EICHNOR. Mr. President, I arise to a point of order. The president is not to be castigated here by a member on the floor.

Mr. CANNON. I desire to finish my remark on the subject.

Mr. EICHNOR. Mr. President, I arise to a point of order. Let him state his point and not make a speech.

Mr. CANNON. I am stating my point of order, Mr. President, which is that it is no more relevant to read manuscript or read from manuscript and introduce matter foreign to the subject than it would be to speak extemporaneously.

The PRESIDENT. The chair rules the point of order well taken so far as that is concerned.

Mr. EICHNOR. I appeal from the decision of the chair.

Ayes and noes were called for.

The decision of the chair was sustained.

Mr. EICHNOR. I appeal to you as a matter of fairness, is not an appeal from the chair debatable after it is submitted to the house?

The PRESIDENT. The chair submitted it. Without there is a reconsideration of it called for—the chair will entertain a motion to reconsider this.

Mr. EICHNOR. Have I the floor?

The PRESIDENT. You have the floor and proceed in——

Mr. CANNON. Mr. President, I arise to a point of order. My point of order is that the ayes and noes have been demanded and that during that the gentleman cannot interrupt it at all.

The PRESIDENT. The ayes and noes have been called for on this question.

Mr. EICHNOR. Mr. President, I arise to a point of order.

The PRESIDENT. State your point of order.

Mr. EICHNOR. The chair had declared a decision. It is too late to call for the ayes and noes.

The PRESIDENT. The gentleman is correct. The gentleman will take his seat.

Mr. EICHNOR. Have I the floor?

The PRESIDENT. I recognize the

gentleman. He may proceed with his speech on this question.

Mr. EICHNOR. Now, Mr. President and gentlemen of the Convention, after a little skirmishing I think I will accomplish what I intended to accomplish. Mr. Varian's motion is to recommit this until next Monday, or to have it reported on by next Monday. At present I have heard from my constituency, of which we have heard so much—about constituency. Right here are petitions that aggregate possibly five or six hundred names that ask that the question of woman's suffrage should be submitted in a separate proposition, and still they come. Here is one hundred or two hundred more. Now, gentlemen of the Convention, we ask nothing that is unfair. We simply ask you to recommit this question to be reported next Monday, and I will say with Judge Goodwin, that I will be ready to vote on Monday. It is merely a matter of courtesy——

Mr. CANNON. May I ask the gentleman a question?

Mr. EICHNOR. Certainly.

Mr. CANNON. Will you introduce a resolution providing that it be the sense of this meeting—modifying Mr. Varian's motion that it be recommitted and that when it comes it shall be decided by vote without debate on Monday?

Mr. EICHNOR. I won't say without debate, but I am willing to say that I will vote on Monday, that I will try and press the matter to a vote on Monday.

Mr. CANNON. I understand Mr. Goodwin's proposition to be that it shall be without debate.

Mr. EICHNOR. He made his speech to-day, and I think that every republican on this floor will be ready to vote next Monday. I am not speaking for the party, but I am only guessing at it.

Mr. GOODWIN. I think that if that be submitted that the republicans present will agree to vote without debate.

The PRESIDENT. What is the statement of the gentleman?

Mr. GOODWIN. I say that if the matter can be submitted to the republicans on this floor, I think they will agree right now.

Mr. EICHNOR. I will.

Mr. GOODWIN. If this motion can prevail to-day, that they will proceed to a vote Monday morning without debate.

Mr. SPENCER. Mr. President, I move that we now adjourn until Monday morning at half-past ten o'clock.

Mr. VARIAN. Mr. President, I move to amend that that we adjourn for five minutes; that is debatable, and I want to say something on it. I did not put this motion in here this morning for the purpose of filibustering or consuming this day. I want it voted on to-night, because I want the proposition as embodied in this motion before the house on Monday, so that I can have an opportunity to vote my convictions on this question, and if you adjourn until Monday the effect of my motion is gone. There is nothing left for it to operate on. I want the vote if I can have it to-night. If you should determine it in the affirmative, then on Monday morning we will have this separate proposition side by side with this proposition, and those of us who do not like the proposition of the majority will be enabled to vote as we choose. If you adjourn we are just where we started this morning, and if we desire to accomplish the purpose sought for to-day we will have to introduce a new motion on Monday to recommit, in order that the object may be accomplished. I withdraw now, with leave of the second, the motion to adjourn for five minutes.

The PRESIDENT. The question before the house is on adjournment.

Mr. GOODWIN. I ask permission to file with the secretary some matter which is left with me and which is very precious, and which I do hope will be

read—if the secretary could read the matter by title and refer it I would be very glad.

The PRESIDENT. The question is on adjournment.

The motion to adjourn was rejected.

Mr. ROBERTS. Mr. President, I arise to a question of personal privilege. The statement that I made here that the vote at the mass meeting was unanimous has been questioned. I hold in my hand a statement from the reporter who was present and polled the vote, and he says, "I was at the mass meeting, I polled that vote, and there were five who stood up and voted against the resolution."

Mr. CHIDESTER. Mr. President, I make the point of order. I object to his proceeding.

Mr. EVANS (Weber). Let him proceed.

Mr. ROBERTS. That is all there was to it, Mr. President. I wanted to put that fact before the people.

Mr. CHIDESTER. It is simply reading a proceeding of a meeting that has been ruled out here. It is not proper.

Mr. ROBERTS. I wish to state, Mr. President, that it is not reading what was done at the meeting.

The PRESIDENT. I think the point of order of the gentleman was well taken. I do not think it ought to go in here—a statement of that kind.

Mr. RICKS. Mr. President, I have been trying to get the floor for the last three or four hours. We have been discussing this question now several days, and this is the first time I have undertaken to get the floor, believing that some men were more conspicuous by their silence than other men were by their blab. I have noticed and listened to the reading of these various petitions and I haven't seen one yet from Sevier County, produced against the submission of woman's suffrage to the people either in the Constitution or as a separate article. I came here, Mr. Chairman, pledged to support woman's suffrage, and up to the present time, notwithstanding the great eloquence and many eloquent speeches that we have had for the last ten days, I have failed of being converted to an opposite position. I am opposed to the motion of Mr. Varian, or the substitute offered by Mr. Varian, for the reason that I believe if that proposition succeeds and is submitted to a special committee, it will come in here Monday morning and be read the first and second times by title and referred to the committee of the whole. It will come up in the committee of the whole and probably ten days hence we will be right where we are now, with the chances in favor of being mobbed out in the meantime, if the arguments of the future are to be in a line with the arguments of the past, and I am opposed to a further delay of this question.

Last fall, previous to the election in our county, especially, as all over southern Utah, this question of woman's suffrage was discussed by the speakers in both political parties. I cannot say it was discussed upon its merits, because there was none found to champion the opposition—nowhere, but it was discussed by those who were favorable to that proposition. When we came here every intelligent man and woman in Utah knew that we were coming here with the intention of submitting to the people the question of suffrage for women, and we never heard one single remonstrance until we had been here in session nearly one mont, hand not then, Mr. Chairman, until the opposition to that question was sprung in this Convention. Then it was agitated here until the public mind was wrought up to a pitch almost of frenzy. It commenced to be heard of from the outside. The last two or three days we have had many remonstrances, but they have been signed only by a few people of this city and probably of Ogden. Not one single remonstrance has come here from the people. [Laughter.] Not

one single remonstrance—I should say from the people of the outside counties. Not one single remonstrance has come here from Sevier County, and notwithstanding every woman in the county of Salt Lake may oppose woman's suffrage and may petition this assembly not to incorporateit in the Constitution, it would not change my mind, because I am not here to represent Salt Lake County, but I am here to represent Sevier County, and I expect to represent it until I know that the majority of the people there do not want suffrage. Then I would think that I ought to change as their representative. I am opposed again to any further delay, unless, Mr. President, a proposition could be brought in here that would give a delay until Monday—but I am not in favor of submitting it to any special committee,or even recommitting it again to the old committee. I want it settled by this Convention, and if it could be arranged by unanimous consent to go over until Monday, with the understanding, Mr. President, that when it came up it would be voted upon, without debate, I would not oppose a proposition of that kind.

Mr. LUND. I would like to ask the gentleman a question. Aren't you now quite as conspicuous as anybody else on this floor?

Mr. RICKS. I decline to answer that question.

Mr. SNOW. Mr. President, I wish to call attention to the fact that this mass meeting, the result of which has been represented upon this floor, was called for the expressed purpose of protesting against the incorporation of woman suffrage in the Constitution. The call as issued reads: "The women of Salt Lake City and county who are opposed to equal suffrage being incorporated in the Constitution are hereby cordially invited——

Mr. JAMES. What has that got to do with it? I arise to a point of order, what has that to do with the question before the house?

The PRESIDENT. The gentleman is called to order on the proposition.

Mr. SNOW. Well, we have had a good deal to say about it whether it is before the house or not, and we have misapprehended it; we have been begging the question all the time.

Mr. JAMES. I call the gentleman to order.

The PRESIDENT. The gentleman has the floor.

Mr. SNOW. And this comes from those who are opposed to it. It has been interjected into this debate and into the proceedings of this house, and by those who are vehemently opposed to woman suffrage. They have had all the favor, all the courtesy, that have been extended to members upon this floor, and when one member gets up and asserts his right, he is immediately called to order. Mr. President, I am emphatically of the opinion that all this demonstration on the outside against woman suffrage has originated in this house, and that the members have been stirred up by members upon the floor of this house in a way that they could never have been stirred up by any other means.

Mr. ROBERTS. May I ask the gentleman a question? I would like to ask him, what of it—if this agitation did start upon this floor?

Mr. SNOW. I have this to say of it, that it is a manufactured sentiment that is not real. [Applause.]

Mr. ROBERTS. I would like to ask the gentleman another question, if he will permit me. Does he know of any sentiment but what is manufactured and is the result of agitation? [Applause.]

Mr. SNOW. I know this, that there is nobody who desires more than I a free expression of the people. I believe in the democratic principle that a majority should rule, but I do not believe, Mr. President, that anybody should be

coerced by fear, by threat, by menace. I know that the majority of this people have been so accustomed to fear, to acting from motives of fear, that they have almost been accustomed to silence their hopes and their aspirations because of fear. [Applause.]

I say again, Mr. President, that I am of the opinion that the embers have been stirred up by members upon this floor in a way that could never have been accomplished in any other way or from any other source. I am of the opinion that had it not been heralded by the public press that a certain gentleman, renowned in this Territory, would take a firm stand in this opposition, and that there had never been any agitation of this question by this Convention or by the public press of this Territory—these two principles were put in the political platforms of the parties who presented themselves for the people's suffrage last fall, and the public press of this city, that is the representative organs of the two parties of this city and this Territory, vied with each other in explaining to the people the sincerity of the plank which represented that they were in favor of giving equal suffrage to women. Mr. Chairman, it has been stated time and time again, but I will repeat it again, that up to the time of the sitting of this Convention no paper in this Territory—no club, no association, no corporation of individuals, whether it be commercial, social, or political, have raised one iota or one single voice or sentiment against what was incorporated in these party platforms. The people had settled down to the firm conviction that women in Utah were to have every right that is had by men, that equal suffrage hereafter was to be a reality in Utah. Mr. President, the press of the east has noted it; it has been talked of. It has been read about, and everybody had settled down to the conviction that it would come, and to all intents and purposes they were satisfied with the inevitable. I say that if that article when it was first read had been read now, conditions that existed up to the time of the meeting of this Convention, that it would have gone through in five minutes, and the people of this Territory would have said amen, and there would have been no demonstration such as we have been compelled to listen to. But because members have stirred up old scores and old fears, and spoken of men being insincere and criticised here with honest convictions of being peanut politicians, scurvy politicians, men who knew not the minds of themselves or their constituents, and especially of their constituents—I know the feelings of my constituents, and I want the reporter of the Deseret News, if he is here, to put me down in favor of woman's suffrage, and not give an opposite meaning to what I say, as was done in the remarks I made a few days ago upon this question.

I did not intend to speak. I have tried to keep cool. I have seen so much heat manifested upon this floor, but I saw such desperate means employed by some of the members on this floor to carry their point and to criticise everything in opposition as insincere and even untruthful that I felt that I wanted to defend my position here and the position of my constituents. [Applause.]

Mr. EICHNOR. I would like to ask Mr. Snow a question. Have you ever read the call of the woman's mass meeting that met this afternoon at the Grand opera house in this city?

Mr. SNOW. I just read it.

Mr. EICHNOR. You gave the impression on the floor—at least I took the impression from your remarks, that it was the ladies opposed to equal suffrage.

Mr. SNOW. They were opposed to incorporating it in the Constitution.

Mr. EICHNOR. Submitting it as a separate article?

Mr. SNOW. I was barred out from reading the call. I want to emphasize the

fact that they came to protest and they have protested. It is no wonder it was unanimous.

Mr. VAN HORNE. Mr. President, there is only one promise, or one expression of intention that I have made with regard to the question of woman's suffrage before the Convention, and that was that I did not intend to make a fight on the question of woman's suffrage on the ground of principle, although I was opposed to it on principle. I have not made a fight on the ground of principle against the question of woman's suffrage. The only fight that I have made has been on the method of submitting the question to the people.

I believe that we can well afford to listen to our sovereigns when we come to deciding what we shall put in the Constitutional Convention. I will trust the people of Utah to make their decision as to what they want if we give them a chance to do it, and they will decide rightly. Gentlemen come here from away down in the country and speak about their being the representatives of the people. Aren't we the representatives of the people also? Gentlemen say that sentiment has been manufactured since this Convention met. Do they know what the sentiment was before the Convention met in the localities where they do not belong? There may have been no sentiment against equal suffrage for women, in Sevier, or Sanpete, or Washington. I know nothing about that. I know there was that sentiment in Salt Lake County, an integral part of the sovereign people. I know that before this Convention met there was man after man who said that they did not believe that anything ought to be done except to submit it to the people and let them determine whether or not they would have woman's suffrage. I know now that what we have heard and seen is just a little ground swell before the storm of sentiment that those towns will show and that other communities will show if we insist upon putting this thing to a vote without giving them time to express their opinions before us. [Applause.]

Gentlemen say, let there be peace on this question, but there is no peace if people are not permitted to voice their opinions, to let themselves be heard on what they may think on this question. Peace may be called for, but it will be called for in vain. The mutterings of the storm only have been heard now. You will hear the full burst of thunder when we come to submit to the people the proposition of voting for woman's suffrage, or you cannot have any Constitution. [Applause.]

Mr. MILLER. We accept the challenge and when it shall come to a test, the gentleman from Salt Lake City will realize that the outside counties carry some force. [Applause.]

The PRESIDENT. If there are no other speeches, Mr. Varian will have the floor.

Mr. VARIAN. Mr. President, we have been wandering all day in the doubt and uncertainty of a labyrinth until I for one have become almost lost in its mazes. Fortunately we held in our hands the parliamentary thread that may enable us, if we follow it closely, finally to reach a safe and sure standing ground.

I am not going to detain this Convention long. It is my desire and intention, however, to remove if I may all this matter that is clouding the question before the Convention, and which evidently has caused nearly every member here who has spoken to entertain a misapprehension of what has been before us and what we are considering. I had no purpose at all to resurrect this general discussion upon the question of woman's suffrage. I had not supposed that it would follow, when I early this morning introduced the motion which is the pending question. My purpose was to present before the Convention

the subject in such a shape that those of us who do not agree fully with the majority might have an opportunity of voting our convictions upon this question, and in doing so I have not departed, sir, in the least degree from the position which I have taken since the election, and now that I at least am pledged to submit in some way to the voters of this Territory the question of equal suffrage. But the proposition which is embodied in my motion namely, to recommit with instructions, to report the subject in such shape that it may be voted upon by this Convention as to whether or not it shall be submitted separately to the people, is not new with me, either. I believe the gentleman from Washington (Mr. Snow) made the statement a few minutes ago that until the meeting of this Convention, no question was ever made upon that matter. I beg to say to him and to others that over two months before the meeting of this Convention, or about that time, I submitted that proposition to the bar association of this Territory. It was published at the time and could have been read by any person who desired to read it. That was my conviction then; it is my conviction now.

Now, let us see if we may, just how this question stands here to-day. A report from the committee on elections and rights of suffrage presents for the consideration of the Convention an article governing and controlling that subject. That article has passed through the committee of the whole. It is now upon the calendar of this Convention for its third reading. It has been ruled by you, gentlemen, in the might of your power—ruled on yesterday that no amendment looking towards the separate submission of this proposition, or the submission of this article to the people by way of a separate article, was germane to the subject, and you crushed it out as you remember, so that the question was eft in this situation. The reading of this article must be proceeded with until it should be completed and then debate having ceased, no amendment such as I proposed and such as will be necessary in order to enable me to vote as I want to vote, could be accepted, but the vote must be taken and under our rule no further amendment could be made to that article, except it be to change its dress—its form of expression, correct it errors of grammar or rhetoric or punctuation, if any there should be. It was and would become a fixed and settled fact. So that I and others who agree with me must be compelled either to vote aye or vote no, and I do not wish to do either as it stands, without at least first having an opportunity of voting upon the same article with the added proposition to submit it as a separate vote for the people to vote upon. Now, in order to correct that, I brought in this motion this morning, which gentlemen have been pleased to term irregular. I ask, gentlemen, how irregular? I am ready to be corrected. If gentleman can instruct me upon that question and convince me that this is irregular, I am willing to withdraw the motion. I do not ask the consent of this body to press an irregular motion. I had supposed and I certainly believe now that it is not only regular, but that it is the only motion that could be made here under parliamentary law which would enable me and those who agree with me to accomplish the purpose sought. A motion to recommit with or without instructions to a standing or a select committee is always, under every and all circumstances, as I understand it, a perfectly regular and proper motion upon the third reading and final passage of any bill or proposition. But, yet, I am willing, if I shall be convinced that it is irregular, and the regular and proper way shall be pointed out to me—I am willing to accept the regular and the proper way, because I say to you, I did not make this motion for delay. I

believe in submitting to the will of the majority of this Convention, and I will not wish it to be voted down, or wish it to be carried; when we shall have ascertained the will of the Convention upon it—I will not for one lend myself or my vote to any measures of delay or obstruction.

Mr. Jolley was by his request excused.

Mr. CHIDESTER. May I ask the gentleman a question?

The PRESIDENT. With his consent, yes.

Mr. CHIDESTER. Is it not true that under rule 19, it would be necessary when a report is presented by this special committee to have this printed and referred to the committee of the whole?

Mr. VARIAN. No, sir. The proposition to which the attention of this proposed select committee is to be directed is a proposition for insertion in the Constitution. That is just what I am trying to get at. It is a proposition to be submitted separately, and the rule only applies—and you have no other rule that is applicable to propositions which are to be submitted in the Constitution, and in reply to the gentleman from Weber, who undertook to take up the cudgels of defense for the committee on elections and rights of suffrage, although no member of that committee seemed to feel chagrined or in any degree hurt because the motion did not include the reference to that committee, I will say this, that the reason why it was not proposed to be referred to the standing committee was because the motion contemplates nothing but ministerial action. It does not contemplate leaving to the select committee any discretion whatever. And why? Simply because we desired to get back here in proper form the proposition in such a shape that it would be in order to move for its substitution, and so we could vote upon that question. If it shall carry, on Monday morning, the select committee will embody a command of the Convention in this report, and the proposition will be back here and will come up on the third reading with this and it may then lawfully—even I believe under the rule laid down by my friend, Mr. Thurman, from Utah County, be a subject of proposed amendment to the pending question, and you have them both side by side. Gentlemen seem to have been under the misapprehension that this motion contemplated taking away from them the question now pending. I do not understand it so. I never intended it so. I simply meant in this way to get an opportunity to make a lawful proposition to amend so that we could vote upon it, and not have it disposed of with a ruling under a point of order being made as it was made on yesterday.

If the gentleman had let his point of order, go by yesterday and if the yeas and nays had been taken on the proposition of amendment, this motion would never have been made. I should never have made it. I would have accomplished all that I seek to accomplish. If it should have been voted down, as I doubt not it will be, I should have said, and I will say on Monday without debate, so far as I am concerned, without another word upon this subject, "If you shall return that proposition here and let us vote upon it, I will not vote in any way to obstruct you in your desire to reach a conclusion upon this question." And I say to you now that in some shape or other I purpose to vote for woman's suffrage in this Convention. Gentlemen, I do believe that you mean all that you say when you talk as if this question had taken up so much time that the time was wasted, that you were being dealt unfairly with. Surely, if you stop to reflect, you will know at once that of necessity you must expect men to differ with you on all public questions. You may expect that particularly on a question of this kind, and more especially as to how the matter shall be submitted to the

people. Your minds are made up, it is true. You are perfectly satisfied, and if fifty-four of you voting reach the conclusion that your convictions were so secure and so matured that you never would change them, you would have the power perhaps to crush out all opposition, bring everything on and have it your own way, and you would probably justify it to your consciences by saying "Well, I know it is right," but remember that the person in the minority would not feel that way. It is grand to have power, but it is superb to use it generously. Now, you cannot pass this article to-night. Let it go to this special committee. Let the matter come back on Monday morning from the committee. Let the proposition come up as we desire it by a motion to amend or by way of substitute, and vote it down if you will, and I for one promise you that no other motion will I make, no other vote will I cast tending in any degree to delay you in the accomplishment of your wishes upon this question.

And now, sir, while there are some things unsaid that I intended to say, out of respect as well as charity for the feelings of the Convention, after this long laborious session, I call for the yeas and nays upon this motion.

Mr. HART. Will the gentleman permit a question? I would ask whether this question would come up on Monday under the motion to commit as it now stands—whether to-day would not be excluded from the account and Tuesday would be the earliest day that it could get back into this Convention?

Mr. VARIAN. Saturday, Sunday, Monday. The last day is counted in and the first day excluded. I am willing if there is any doubt about it, and you will allow me, to instruct the committee to report on Monday morning at 10 o'clock.

Mr. EVANS (Weber). Question on the motion.

Mr. HART. I would like to ask the gentleman whether if this motion prevails the effect of it would not be that we would have no question before the house to insert directly in the Constitution, and if the position would not be exactly reversed and the only question before us would be whether we would submit this as a separate article or not submit it all?

Mr. VARIAN. I will answer that. Perhaps I ought to have made that more clear before. This committee, under this resolution, is to report a separate article to be submitted with the Constitution. It is also to report the article as you have it now pending, with such revision as should be necessary in case the separate proposition should prevail. That is to say, instead of the article reading now for the equal suffrage of men and women, it would simply provide for male suffrage, because the other proposition having to be submitted separately would not control the question until the vote of the people should have determined it. There it is, one proposition in two parts. The gentleman will remember that on yesterday Mr. Thurman made the point that you have to revise this whole article in order to get an amendment such as was suggested by Mr. Eichnor and make it germane.

Mr. HART. Just one more question, whether this proposition would not lose its place on both our calendars and go the foot of the calendar of the committee of the whole?

Mr. VARIAN. I have given my idea about it; it does not go to the committee of the whole at all. It goes on the third reading. It comes right up with this on Monday when we reach it.

Mr. BUTTON. Cannot you add to your motion that it will be the first thing taken up on Monday after the regular order?

Mr. THURMAN. That is not in order.

Mr. EVANS (Weber). Question on the motion.

The PRESIDENT. The secretary will

read the motion so that every gentleman may understand what he is doing.

The secretary read the motion of Mr. Varian.

Mr. JAMES. I suppose Mr. Varian would accept Monday in place of three days.

Mr. VARIAN. I would like consent to have that changed to read, with instructions to report Monday at 10 o'clock.

Roll call on Mr. Varian's motion to recommit the article on elections and right of suffrage, showed the following result:

AYES—42.

Adams	Lund
Bowdle	Mackintosh
Button	Maloney
Clark	McFarland
Crane	Murdock, Summit
Cushing	Page
Eichnor	Peterson, Grand
Eldredge	Peterson, Sanpete
Emery	Pierce
Gibbs	Roberts
Goodwin	Ryan
Green	Sharp
Haynes	Shurtliff
Hill	Spencer
Hyde	Squires
James	Stover
Kiesel	Strevell
Keith	Thompson
Kimball, Weber	Van Horne
Lambert	Varian
Larsen, L.	Wells.

NOES—52.

Allen	Kimball, Salt Lake
Anderson	Lemmon
Barnes	Lowe, Wm.
Boyer	Lowe, Peter
Brandley	Low, Cache
Buys	Maeser
Call	Maughan
Cannon	Miller
Chidester	Morris
Christiansen	Murdock, Beaver
Coray	Murdock, Wasatch
Corfman	Partridge
Creer	Peters
Cunningham	Preston
Driver	Raleigh
Engberg	Richards
Evans, Weber	Ricks
Farr	Robertson
Hammond	Robinson, Kane
Hart	Robison, Wayne
Halliday	Snow
Heybourne	Symons
Howard	Thoreson
Hughes	Thorne
Ivins	Thurman
Johnson	Whitney.

ABSENT—10.

Evans, Utah	Moritz
Francis	Nebeker
Kearns	Thatcher
Kerr	Warrum
Larsen, C. P.	Williams.

Mr. Jolley and Mr. Lewis were paired.

The president declared the motion to recommit lost.

Mr. CHIDESTER. Mr. President, I move the previous question.

Mr. VARIAN. What is the previous question?

Mr. CHIDESTER. On section 1.

Mr. VARIAN. Mr. President, I arise to a point of order on that. We do not call the ayes and noes until we get through with the reading.

The PRESIDENT. Through with the reading of the entire section.

Mr. VARIAN. Once will do, won't it?

Mr. RICHARDS. I move that section 1 of the article on elections and rights of suffrage be passed.

Seconded.

Mr. RICHARDS. I move the previous question on it.

Seconded.

The PRESIDENT. All that are in favor that the main question be now put will say aye.

Those opposed, no. The ayes seem to have it.

(Division called for.)

(Ayes and nays called for.)

The PRESIDENT. The secretary will call the roll.

Mr. EVANS (Weber). I would ask of

Mr. Richards if he would not withdraw that motion for the previous question. There may be some gentleman who desires to offer some amendment. It will simply consume a lot of time.

Mr. RICHARDS. I am willing to withdraw it if some gentleman desires to speak. I desire to say that the reason why I called for the previous question was because I assumed from the remarks made on the other motion that there would be no further opposition to the vote. I am willing to withdraw it if any gentleman desires to offer an amendment.

The PRESIDENT. If there is no objection the gentleman shall have the privilege of withdrawing the motion.

Shall we proceed with the reading of the article?

Mr. BUTTON. Mr. President, I move we adjourn until Monday morning at 10 o'clock.

Mr. EVANS (Weber). Mr. President, the question now is on the passage of section 1.

Mr. SQUIRES. Mr. President, a motion to adjourn is in order.

Mr. EVANS (Weber). I know it is; we can vote it down, though.

The PRESIDENT. The question is the adoption of section 1 of the suffrage article. All in favor of its adoption——

Mr. SQUIRES. Mr. President. I heard a motion here to adjourn, which is always in order.

The PRESIDENT. I did not hear it. There has been a motion to adjourn, gentlemen.

The question being taken on the motion to adjourn, the Convention divided and by a vote of thirty-four ayes (noes not counted) the motion was rejected.

The PRESIDENT. The question before the house is on the adoption of the section.

Mr. ROBERTS. I would like to hear the section read. There has been so much clamor I have most forgotten how it did read.

Section 1 was read by the secretary.

Mr. Lambert offered the following amendment:

Every citizen of the United States, not laboring under any of the disabilities named in this Constitution, of the age of twenty-one years and over, who shall have resided in the State one year, and in the county six months, and in the voting precinct sixty days, next preceding any election, shall be entitled to vote for all officers that now are or hereafter may be elected by the people, and upon all questions submitted to the electors at such election, except as herein otherwise provided.

Mr. THURMAN. Mr. President, I move to lay that amendment on the table.

Seconded.

Mr. HART. The question is whether that would not take the main proposition with it.

Mr. THURMAN. I will withdraw it.

The PRESIDENT. Gentlemen, there is a proposed amendment before the house.

Mr. LAMBERT. Mr. President, I would like to talk to that amendment. In 1882 or previous to 1882 the women of Utah had the right of suffrage. In 1882 a constitutional convention was called in Utah, and after due consideration of this question, after weighing it in every way, the article that I have sent up was what was submitted. In that constitution for Utah in 1882 it covered the ground then and it gives to-day all that the women of Utah ask. The women of Utah to-day are not asking to be policemen, are not asking to be constables, are not asking to be sheriffs, are not asking to sit as justices of the peace, are not asking to be forced into the jury box.

Gentlemen of the Convention, we should consider this question. Last summer I visited Wyoming. The people in Wyoming to-day admit that they have bit off more than they can chew. They admit that though they have these same sections that are offered here in their constitution, that it is inoperative, and I am anxious to see the women of Utah have the right of suf-

frage, but I am not anxious to see our Constitution burdened and hampered and our future legislatures hampered and hindered in the performance of their duties. Gentlemen, this is a grave question. It is a question that comes to our homes. Men here tell what their constituents have said. My constituents ask me for suffrage, and there for it to stop. I have taken particular pains to visit through the second precinct of Salt Lake City, the largest voting precinct in Utah Territory. I have conversed with leading women of that precinct, and I have found not one who is anxious to fill these offices, but they simply ask a limited franchise of the right to vote on questions that interest them and deeply interest them, and gentlemen, I affirm that this gives them every right that they can ask for, every right they want, and it should be considered.

The amendment of Mr. Lambert was rejected.

The roll being called on the adoption of section 1, the vote was as follows:

AYES—75.

Allen	Larsen, L.
Anderson	Lemmon
Barnes	Lewis
Boyer	Lowe, Wm.
Brandley	Lowe, Peter
Buys	Low, Cache
Call	Maeser
Cannon	Maloney
Chidester	Maughan
Christiansen	McFarland
Clark	Miller
Coray	Morris
Corfman	Murdock, Beaver
Crane	Murdock, Wasatch
Creer	Murdock, Summit
Cunningham	Partridge
Driver	Peters
Eichnor	Peterson, Grand
Eldredge	Peterson, Sanpete
Emery	Preston
Engberg	Raleigh
Evans, Weber	Richards
Farr	Ricks
Francis	Robertson
Gibbs	Robinson, Kane
Goodwin	Robison, Wayne
Hammond	Shurtliff
Hart	Snow
Halliday	Squires
Heybourne	Strevell
Howard	Symons
Hughes	Thompson
Hyde	Thoreson
Ivins	Thorne
Johnson	Thurman
Kimball, Salt Lake	Wells
Kimball, Weber	Whitney.
Lambert	

NOES—14.

Haynes	Pierce
Hill	Roberts
Kiesel	Ryan
Keith	Sharp
Lund	Spencer
Mackintosh	Stover
Page	Van Horne.

ABSENT—12.

Adams	Moritz
Evans, Utah	Nebeker
Jolley	Thatcher
Kearns	Varian
Kerr	Warrum
Larsen, C. P.	Williams.

Messrs. Bowdle, Button, Cushing, Green and James were excused from voting.

During the roll call the following explanations were made:

Mr. BOWDLE. Mr. President, I wish to be excused from voting on that proposition, and I wish to state my reason for it. I am in favor of woman suffrage being submitted, and had I had the opportunity of voting on that proposition here, and it had gone down, I should now be prepared to vote on this; but I shall not vote if the Convention will excuse me.

Mr. BUTTON. Mr. President, I wish to be excused for the same reasons stated by Mr. Bowdle.

Mr. CUSHING. Mr. President, I wish to be excused for the same reason.

Mr. GIBBS. Mr. President, I would like to be recorded in that way. I vote aye in favor of women having the suffrage, but I would like to vote no on it going in the Constitution.

Mr. GOODWIN. Mr. President, I still expect that a wave of solid American common sense will come over this Convention before it adjourns, and that they will put this plank in as a separate measure to submit to this people; but for the present I want to say that while I have given my reasons, I think it is a dangerous experiment to give suffrage to women indiscriminately, even as it has been to give it indiscriminately to men; under my ideas of duty I am going to record my vote aye to-day; still thinking that some of my misguided friends will have some American common sense come to them before we adjourn, and we will come to a reconsideration.

Mr. GREEN. Mr. President, I wish to be excused from voting on this question. I wish to state further, that I wish to vote on a separate article, as I am thoroughly in sympathy with that way of doing—give the people a fair chance to express their opinion upon it.

Mr. JAMES. Mr. President, I wish to be recorded as declining to vote on a proposition that does not permit me to vote my honest convictions; my honest convictions are that this matter should have been submitted so that I had an opportunity to vote for a separate article to go before the people. This Convention has seen fit to refuse me the privilege of casting my vote in that way, which is the free born right that belongs to every American citizen, and I do not wish to vote.

Mr. CANNON. Mr. President, I would like to explain that Mr. Jolley expected to get back in time to vote on this. He did not anticipate the vote would be taken so soon. He told me he would vote aye if here.

Mr. LAMBERT. Mr. President, I want to be recorded aye on that, with a privilege of asking for a reconsideration.

Mr. MAUGHAN. Mr. President, I want to be recorded aye on this proposition, with the right that if there should ever a wave of common sense come——

Mr. HART. I call the gentleman to order. No one has a right to reflect upon the judgment of this body of men, and say that they are not exercising common sense.

Mr. MAUGHAN. I did not think I had made any such a statement.

Mr. HART. I so understood the genman. I call him to order, any way.

Mr. MAUGHAN. If this wave should come, I will record my vote no, and vote for separate submission.

Mr. McFARLAND. Mr. President, I wish to be recorded as favoring a separate article, but will vote aye on this.

Mr. PAGE. Mr. President, I would gladly have voted for the submission of a separate article, granting woman the right of suffrage, but as this ques came up, I feel it my duty to vote no.

Mr. RYAN. Mr. President, the people of my district are opposed to woman suffrage. They were willing, however, that every delegate should vote for it, if it was a matter of keeping party pledges; and the people or the Convention were in favor of it. They want a separate article. So do I. I feel that this is somewhat forced—the vote on the article, and I shall be compelled to vote no.

Mr. SPENCER. Mr. President, I desire to explain my vote. I intended to vote no, and I only have one request; that is, that the chairman or president will instruct the secretary to underscore that no.

Mr. IVINS. President, I arise to a point of order. Under the rules no gentleman has a right to explain his vote unless he wishes to be excused from voting; and I object to the gentlemen explaining the reason why they vote either aye or no; if they want to ex-

plain, and be excused, they can do it under the rule.

The PRESIDENT. That is well taken.

Mr. HART. Mr. President, I would like to explain in behalf of Mr. Warrum, that he was unfortunately called away this afternoon, but he was in favor of woman suffrage.

Mr. BOWDLE. I call the gentleman to order. He cannot vote for somebody that is away from here.

Mr. EICHNOR. I shall vote aye, and when the wave of public sentiment sets in, as my friend Mr. Maughan says, I shall move to reconsider.

The PRESIDENT. The section is adopted, gentlemen.

Mr. VAN HORNE. Mr. President, I move that we do now adjourn until Monday next.

The PRESIDENT. It will be understood, gentlemen, that to-morrow is a holiday. The adjournment will be until Monday at 10 o'clock.

The motion was agreed to and the Convention then, at 5:45 o'clock p. m., adjourned until next Monday morning at 10 o'clock.

THIRTY-SIXTH DAY.

MONDAY, April 8th, 1895.

The Convention was called to order at 10 o'clock a. m. by President Smith.

The roll was called and all members found in attendance except Mr. Thatcher.

Prayer was offered by Rev. John D. Nutting, of the Congregational Church.

Journal of the thirty-third day's session was read and approved.

Messrs. Nixon, Farr and Davis were admitted to seats on the floor of the Convention.

The following petitions were presented asking that the question of woman's suffrage be submitted as a separate article to the vote of the people:

File No. 180, signed by Mrs. L. C. Trent of Salt Lake and 43 others, by Eichnor of Salt Lake.

File No. 181, signed by Oscar Maunburg of Salt Lake and 199 others, by Goodwin of Salt Lake.

File No. 182, signed by C. R. Aley of Provo and 18 others, by Corfman of Utah.

File No. 183, signed by C. E. Miles of Payson and 37 others, by Lemmon of Utah.

File No. 184, signed by R. G. Wilson of Eureka and 38 others, by Ryan of Juab.

File No. 185, signed by F. S. Hynds of Juab County and 35 others, by Ryan of Juab.

File No. 186, signed by E. S. Kirby of Salt Lake and 58 others, by Ryan of Juab.

File No. 187, signed by James McEvoy of Mercur and 120 others, by Stover of Tooele.

File No. 188, signed by R. C. McKinney of Ogden and 79 others, by Kiesel of Weber.

File No. 189, signed by W. W. Woodring of Mt. Pleasant and 50 others, by Page of Sanpete.

File No. 190, signed by Chester B. Marshall of Salt Lake and 29 others, by Stover of Tooele.

File No. 191, signed by John Egan of P. V. Junction and 28 others, by Thurman of Utah.

File No. 192, signed by Leslie Thompson of Salt Lake and 350 others, by Eichnor of Salt Lake.

File No. 193, signed by P. W. McCaffery, chairman of a workingmen's meeting held in Salt Lake City, by Eichnor of Salt Lake.

File No. 194, signed by John J. Donovan of Salt Lake and 154 others, by James of Salt Lake.

Ordered filed.

Mr. Peter Lowe of Box Elder presented a petition, File No. 195, signed by Mary Ann Hubbard and 139 others, asking that a section providing for woman's suffrage be adopted.

Ordered filed.

The following petitions were presented asking that the question of prohibition be submitted in a separate article to a vote of the people:

File No. 196, signed by N. C. Christensen and 37 others; by C. P. Larsen of Sanpete.

File No. 197, signed by Rasmus Jensen and about 260 others, by Lund of Sanpete.

Referred to the committee on schedule, future amendments and miscellaneous.

Mr. WILLIAMS. Mr. President, I was not present when this motion was made to adopt section 1 of the article on elections and rights of suffrage. If it could be, I would like my name now to be recorded as voting with the ayes.

Mr. SQUIRES. It is not in order.

Mr. JOLLEY. Mr. President, unavoidably, I had to be excused at the last session in the evening, and I got Mr. Lewis to pair with me on the vote of submitting to another committee the suffrage question. The vote was taken on the final question and section 1 was passed. Had I been there I would have voted in the affirmative, and I wish it recorded as such, because I don't want it lost——

The PRESIDENT. The matter has not been passed yet.

Mr. SQUIRES. Mr. President, all those gentlemen who were absent on Friday will have that opportunity when it comes to the roll call of the final passing of this article.

Third reading of article on elections and rights of suffrage.

The PRESIDENT. The chair will announce that section 2 of the article on elections and rights of suffrage is the matter now before the house for consideration.

Mr. ELDREDGE. Mr. President, I move that we suspend the rules and go into committee of the whole, in view of the vast amount of work that we have on the calendar of the committee of the whole. It will bring before the delegates work perhaps that they have not had their special attention called to.

Seconded.

Mr. CHIDESTER. Mr. President, I object to that motion and suggest that it is as important to go ahead with this as it is to go into committee of the whole and take up new business and bring it into the Convention. We have started on this and there is just as much importance to the balance of this bill as any other bill before the house. Inasmuch as we have started in on it, it would be proper to get through with it.

Mr. RICKS. Mr. President, I hope that that motion will not prevail. I don't see any necessity of leaving this article half finished. I think we ought to complete it.

Mr. HEYBOURNE. Mr. President, I am of the opinion that this is something out of the ordinary line to switch off in this business. I hope the gentleman's motion does not prevail. I do not think it is going to take this Convention but a very little while to consider this matter that is now before it. Then we can pass on to another. I should oppose the motion to go into committee of the whole.

The question being taken on the motion of Mr. Eldredge, the Convention divided, and by a vote of 25 ayes to 46 noes, the motion was rejected.

Section 2 was read.

Mr. PAGE. Mr. President, I move to amend section 2 by inserting the words "and none others" in the 6th line between the word "elections" and the word "shall;" that will do away with the necessity for section 5 that it was voted to strike out when it was up before.

Mr. EVANS (Weber). Mr. President, I would like to ask the gentleman from Sanpete if that is not as strong now as it would be if those words were inserted. It simply defines who may vote, and that would exclude all others.

Mr. PAGE. What was the remark of the gentleman?

Mr. EVANS (Weber). That is my view of it. That it would be just as strong as it now stands as it would be if your amendment prevailed. No persons can vote anyway except those enumerated in the section; I do not see the necessity of the amendment.

Mr. PAGE. Mr. President, at the time this was under consideration before, we voted to strike out the fifth section, and it was thought by some gentlemen that the first three lines of section 2 did not sufficiently describe the qualifications. The Legislature might, in their discretion, allow still others to vote that were not covered by this particular ground. I thought this was likely to do away with any question. I think it was my friend, Mr. Thurman, that raised that question, if I remember that right.

The PRESIDENT. According to the secretary's record here, the fifth section is not stricken out.

Mr. THURMAN. It was reinstated.

Mr. PAGE. The fifth section was stricken out, and then there was a motion again to reconsider, which brought it back to the condition in which it formerly stood.

Mr. VAN HORNE. Mr. President, it does not seem to me that there is anything in the objection that the section of this article is not sufficiently specific. There is a well known principle of law, that if you mention a qualification, it excludes any other qualification than those mentioned, and I think that by saying what the qualifications of the electors in this State shall be, the mere fact that the Constitution legislates upon that question excludes any others than those that possess that qualification from the suffrage of this State. I do not see that there is any necessity for the passage of section 2, that that section 5 should remain there, even without the words of the amendment.

Mr. THORESON. Mr. President, I have the same opinion of this matter as the gentleman who just preceded me, and we find that section 26 of the bill of rights covers this ground.

The amendment of Mr. Page was rejected.

Mr. STOVER. Mr. President, I move to strike out the word "sixty" in line 5, and insert "thirty," as the law stands now.

Mr. RYAN. Mr. President, I move to amend by striking out in lines 5 and 6 the words "and in the precinct sixty days," and inserting in line 5, after the word "county," the words "and precinct"—four months in the county and precinct. I would not make any distinction there.

Mr. VAN HORNE. I second Captain Stover's amendment.

Mr. JAMES. Mr. President, before you put the motion, I also want to second Mr. Stover's motion for this reason, that it will only work a hardship to some voters and be no protection to the balance, to make it sixty days in the place of thirty. You have put a provision in requiring a residence of one year, and ninety days a citizen. Now, that is the protection that will go to the ballot, outside of any regulations from one precinct to another, or merely inconveniences. Particularly if it is a long period before the day of voting. As we know, a great many men, and particularly as poor men, that do not own their own homes, and rent, and move from one precinct to another, and are just as qualified to vote as though they were men in their own precinct, but if this long period is fixed, it will, in many instances debar a legal voter from a vote.

Mr. VAN HORNE. Mr. President, I call attention of the members in this Convention to the fact that in Salt Lake City the change of precincts is often a change of simply moving across the street in the same city. For instance, from the first to the second precinct it is across Main street, from the first to the fifth precinct it is across Third South street, from the

fifth to the fourth precinct it is across South Temple street; from the second to the third, across South Temple street. A man simply moving across the street under this provision of living would be debarred of his suffrage. I think the United States law took that matter elsewhere into consideration, in fixing the period at thirty days. The intention is not to exclude any one from suffrage because of his change of residence, but it is simply to put the necessary check upon regularity of the vote. To say that we know this man is entitled to vote, because we know that he has lived here for a year in the Territory, and he has been where we could find him for thirty days preceding this election. That is the intention of the residence in the precinct, it is to identify the voter. Well, he can be identified by thirty days' residence as well as by sixty. The only thing is to have a check upon a legal voter, and that is done by thirty days as well as sixty.

Mr. THURMAN. Mr. President, I favor the amendment of the gentleman from Juab, Mr. Ryan, because I believe it insures a stable vote. I think it may be a little questionable whether this should aboslutely be tied up. The Legislature should have the privilege, under proper regulations, to provide for transfers of the right to vote, but I believe that a four months' residence in the precinct is little enough—the same residence in the precinct as exists in the county. Thirty days in a case of colonization is not a very great length of time to take votes of one part of the county into another. It might be a municipal election that people wanted to carry, and all they would have to do would be to go in the other precincts near by and colonize them for a few days in the city. I think everybody ought to want to guard against extending the right to vote to that class of voters, and we have had it in this Territory. It is said by most of the old parties that most of them resorted to it to the everlasting shame of the honest people. Let us provide in the Constitution for such an emergency as that in the future, and not leave it open so that it may done; while at the same time try to allow every man that has a right to vote a fair opportunity to do so.

Mr. EVANS (Weber). Mr. President, I am opposed to the amendment, and will give my reasons in a moment. In cities as large as Salt Lake, Ogden, and Provo, people frequently move from one precinct to another, those people who have lived there probably all their lifetime, and it seems to me that it would be improper to disfranchise a man simply because he goes from one precinct into another. Now, I could give an illustration of myself. Twice I have moved in Ogden, and yet I have lived there a good many years. Under a provision of this kind, I would not be entitled to vote; probably it would be just as well for me, but other people would like to have that right. I like the section just as it stands, or else would like the whole thing struck out and leave it to the Legislature.

Mr. RYAN. Mr. President, my object in offering that amendment is simply that I think it will give us the fairest elections, and it being the inception of political power, you will always have good elections. I would not make any other qualifications. I would strike out section 8 of this bill entirely, because I believe a poor man has just as much right to vote on school elections and for public indebtedness as a rich man, but I think we should regulate it at that point. I think this is the place to guard, and if you guard well here you will be right all through.

Mr. EICHNOR. Mr. President, I hope the amendment of the gentleman from Juab will not prevail If this Constitution is going to set the example, a poor man will have no chance in this Territory. It does not only affect Salt Lake City, but go out in the precincts where

the young men are—for instance, they work one place and then go to another place. If you are going to disfranchise these young men of Utah Territory, set the example.

Mr. RYAN. Will you let me ask you a question?

Mr. EICHNOR. Yes, sir.

Mr. RYAN. If this entire Convention was forever disfranchised, would the State suffer?

Mr. EICHNOR. I believe not. If you are going to legislate what you say we are doing here in the interests of the people that have their homes, why say so. If you want to give a little show to the poor man or a man who may have had property in his time and had it struck away by misfortune, why make the time reasonable time, but four months is an unreasonable time. I tell you, some of you men may have property at this stage of the government, but you do not know how long you may have it. You may be as poor as the rest of us.

Mr. CREER. Mr. President, I am in favor of the section as it stands. I think it is more conservative as it stands now, and probably it will obviate ourselves from the conditions of colonizations we have seen in the past. I think the section to allow four months' residence in the county and in the precinct, with the other qualifications here, it seems to me would put all the safeguards necessary in this matter, and I am in favor of placing it in the Constitution as it now stands.

Mr. STOVER. Mr. President, it has been a provision of our statute for a great many years, thirty days, and I see no reason now why it should be changed at this time. It would certainly deprive a great many people of the suffrage, because, as the gentleman has said, they change residence frequently, and it would deprive thousands of their suffrage. Therefore, I hope the amendment will prevail.

The amendment offered by Mr. Ryan was rejected.

The amendment offered by Mr. Stover was rejected.

Section 3 was read by the secretary.

Mr. VARIAN. Mr. President, it is quite possible, although I am not prepared to make a specific objection, but there might be some other occasion when electors ought to be arrested, except for breach of the peace. The Legislature might establish offenses against the election law which would not reach the dignity of felony, and this article would prevent any arrest as it stands. It seems to me it would prevent the arrest of a man guilty of such an offense when he ought to be arrested right at the time. It would not be a breach of the peace. I think that we had better consider that a little more. The truth is, I see no necessity for having the section there at all, but the Convention has passed upon it. A little reflection perhaps will convince us that there may be some offenses relative to the election laws which ought to be arrested at once, that is, to arrest the offense and arrest the offender.

The PRESIDENT. Does the gentleman make a motion in regard to this question?

Mr. VARIAN. If the Convention chooses to pass it I will endeavor to present it before they get through with the next two or three sections.

Mr. EVANS (Weber). Mr. President, I will move to amend section 3 by inserting after the word "felony," in line 2, the following words, "crimes against the elective franchise."

Mr. VARIAN. I think that would obviate the objection.

Mr. THURMAN. Mr. President, if that section is to be retained at all, I think it is safer and better to strike out the entire section and leave it to the Legislature to determine. I am opposed to the amendment. I do not feel ready yet to offer to strike it out. I am opposed to the amendment proposed by

the gentleman from Weber, for one reason, and that is, that the very object of this section in the Constitution is to guard the right of the voter on election day against trumped up charges made for the purpose of hurrying him, perhaps to prison, or away from the polls, by which he may lose his vote. Now, on election day there are a great many crimes ordinarily against the elective franchise—interference with voters and things of that kind. I do not think it was the intention—I do not think it is in accordance with the genius of our country and our institutions, that men on election day should be arrested for crimes of this kind if they are made by law merely misdemeanors. So I think it is unsafe to put in this sweeping clause proposed, and would be better still to strike the whole thing out and leave it to the Legislature.

Mr. EICHNOR. Mr. Chairman, the way the section stands, without an amendment, would that not afford protection for a repeater or a colonizer to vote—just the very evil of which you gentlemen spoke a little while ago?

Mr. THURMAN. Yes, it would deprive perhaps a man who is entitled to vote of his right to vote. Now, there are other ways of reaching colonizers, besides providing for it in this section, but this section speaks of election day. You want to deal with colonizers before election day comes on as much as possible, and see that they do not get their names on the list, and on election day of course there is still another opportunity, but this is a question here confined exclusively to the day of election, when the electors go to the polls to vote. If the charge can be preferred against him and he can be arrested and perhaps thereby deprived of his vote, it subjects him to a condition which might be very unjust. I wish to say this, while I have not dealt much in this kind of argument in this Convention—I wish to say that this I presume, as it stands here, is the most familiar, usual, and ordinary provision to be found in any of the constitutions of the states. I believe it is in effect in every constitution of the United States, just about as it stands here.

Mr. ANDERSON. Mr. President, I am opposed to the amendment, and hope that it won't prevail. I think that it would destroy the very object for which this section was passed.

On election day excitement generally runs high, and if this amendment, would pass, why it would make it possible for charges to be trumped up against a great many electors and thereby deny them a right to vote, and therefore, I am opposed to the amendment.

Mr. VARIAN. Mr. President, that is quite true. That always exists, that possibility. Charges may always be trumped up against a man. The question is in a case where they are not trumped up. Now, I doubt not if any respectable citizen has a charge trumped up against him at the polls will have little difficulty of finding means of immediate relief.

The objection in making the suggestion that I had in view, was not to tie up the hands of the Legislature in this matter. If we are going to legislate in the Constitution on this subject, it occurred to me we might at least broaden the section a little. There are many offenses against the elective franchise, which, of necessity, have to be dealt with summarily. This is one of the reasons why you are required to have officers at the polls. They do not reach the dignity of felony. They are misdemeanors, both in fact and in law. They ought not to be made felonies, and yet through a systematic effort and concert of purpose, a number of persons may be enabled to do just what these gentlemen are seeking not to have done—that is, prevent lawful voters from voting.

Mr. EVANS (Weber). Mr. President, I admit that the section is designed to prevent people being harassed when

they are going to the polls, by unauthorized arrest. But as the section now stands, let us see what can be done by a voter. A voter, if he so desires, could start on his way to the polls leisurely along, and might, under the laws of our Territory, as they now stand, purchase the vote of divers persons on his way and secure their assistance in casting a ballot. That would be nothing but a misdemeanor? He might secure the drunkenness of a lawful voter. That is, he might conduct himself in such a way as that voter should become intoxicated, so that it would prevent them from going to the polls, and, as Mr. Varian says, many things could be done under this section as it now stands, and he is right when he says the section is for the purpose of reaching a crime, not for the purpose of trumping up charges. If any individual trumps up a charge against a voter, he is liable for false imprisonment. He has that check upon him. It is only to meet that class of people who commit crimes against the elective franchise, and every expression I have heard upon this floor is to secure the purity of elections. If a person should go out upon the street when he is going to the polls and make a little noise, under this section he would be arrested, but if he should go out upon the street and secure by improper means the votes of other individuals by purchasing their votes, he would be exempt.

Mr. THURMAN. Would it not be a felony to do that anyway?

Mr. EVANS (Weber). No, sir; it is a misdemeanor under our statute. It is a felony to receive a bribe, but it is only a misdemeanor to give it, strange as it may seem. I had occasion to examine that and prosecute some people who have been guilty of these offenses.

Mr. EICHNOR. Impersonation, is it a misdemeanor too?

Mr. EVANS (Weber). Yes. If a man happens to be unfortunate enough to make a little noise, as I stated, he can be arrested while going to the polls, but if a man does the other thing, which strikes at the very foundation of representative government in improperly influencing a vote, he is exempt from arrest and he can go leisurely along to the polls and can stand about the precinct of the city and do these things, and if an officer comes up to arrest, he can say, "Hands off, the Constitution protects me. You cannot arrest me now. I am on my way to the polls to cast my ballot."

And he might make that assertion all day and vote late in the evening, and would be entirely free and exempt from arrest. And when the sun goes down and the polls close, probably that fellow has taken some underground railway, and has left the town and cannot be arrested at all. I may be mistaken, but it seems to me I have read in a good many of the constitutions provisions of a similar nature. I think it is a proper one to be inserted.

Mr. CREER. Mr. President, I am opposed to the amendment for the very reason that the gentleman has indicated in his remarks, that there are so many ways in which a person can violate the elective franchise, and it seems to me that it is a matter that ought to be left to the Legislature. There is no question but what that is a proper thing to legislate upon, but by this amendment placed in a general way, it would not suffice, it seems to me, to reach that dilemma; that of treason, which is very rare indeed, but felony is the universal rule in all of the states, and breach of the peace. We know that there should be order preserved notwithstanding the gentleman may say that merely making a noise—but the idea that there is order preserved at the polls, that is the object in placing this in there; and I think that is sufficient without particularizing and going into the matter of elective franchise. I am in favor of the section as it stands.

Mr. SQUIRES. I would like to ask

Mr. Creer a question. If this section is left as it now is, could the Legislature come in and legislate for those other offenses against the elective franchise?

Mr. CREER. Certainly they can.

Mr. SQUIRES. I do not so understand it.

Mr. CREER. Would there not be law still existing——

Mr. SQUIRES. If we make a restriction here I do not see how the Legislature is going beyond this.

Mr. CREER. It is not a restriction. It is silent as to that.

Mr. SQUIRES. I would be in favor of striking the last section out, leaving the whole matter to the Legislature. I move the whole section be stricken out.

Seconded.

Mr. VARIAN. Mr. President, we should take a vote on the other amendment first.

Mr. ROBERTS. Would that shut off remarks on striking out the section?

The PRESIDENT. No, we will put the amendment.

Mr. ROBERTS. Is the amendment offered by Colonel Squires now open for remarks?

The PRESIDENT. No; Mr. Evans, of Weber, made an amendment to it, which is the matter for consideration.

Mr. SQUIRES. I move to cut out the whole section.

Mr. ROBERTS. That is now open for remarks, I presume.

The PRESIDENT. Yes, sir.

Mr. ROBERTS. I certainly shall vote in favor of that amendment to strike it all out, because, sir, I take it that all such provisions as this section provides for, will not be necessary now, we having adopted the first section. We are going to have such purity in politics, and at the polls, that this section will not at all be necessary, and I am heartily in sympathy with the motion that strikes it out.

Mr. EVANS (Weber). Mr. President, I would call attention to some of the constitutions which have the same provision in. Mr. Eichnor has kindly furnished me with it. Kentucky has provided that voters in all cases, except treason, felony, breach or surety of the peace, or violation of the election laws, shall be privileged from arrest during their attendance at elections and while they are going to and returning therefrom. I think the gentleman from Utah, Mr. Thurman, will not dispute that authority. Also North Dakota has a very similar provision in it, and I did not have time to go any further, but I was satisfied that such provisions were found in the constitutions.

The amendment proposed by Mr. Evans was rejected.

Mr. SQUIRES. Mr. President, I move we strike the whole section out.

Mr. CHIDESTER. Mr. President, I see in the constitution of Maine that there is a provision that is worded the same as it is worded here, and in the state of Colorado there is one that is worded the same, and in California. I haven't had time to look for any more. It seems to me that if it has been found necessary in other states, it might be found necessary here. There is no valid reason why it should be entirely stricken out. I believe it is a proper provision to be in the Constitution.

Mr. BUYS. Mr. President, I certainly think we ought not to strike this section out? It is a guaranty to the people that they shall not be arrested on that day on trumped up charges, and to avoid disgraceful scenes that have occurred in some of the states. Nearly every state in the Union contains an article of this kind in the constitution, and it seems to me that we ought not to strike this out of our Constitution and let the bars down so that trumped up charges can be brought against any person and he be arrested and prevented from casting his ballot on election day, and I think that we will simply make a mistake if we leave this to the Legislature. The Legislature may make suitable provisions and they may not, and

we are left just in that condition until they do, and perhaps they will not do so, and I certainly think we are making a mistake if we strike this section out of our Constitution.

Mr. VARIAN. Mr. President, if this motion shall prevail, it will probably be incompetent to entertain the motion to insert. I will therefore offer this amendment. Strike out the section and insert the following:

The Legislature shall provide by law for the cases of exemptions of electors from arrest on the day of election.

That will leave the whole subject to be dealt with by the Legislature.

Mr. SQUIRES. I accept that as part of the other motion.

Mr. EVANS (Weber). I would like to ask Mr. Varian a question? What is the necessity of inserting that? The Legislature would have that power without it, would it not?

Mr. VARIAN. To meet the apprehension of many members that the Legislature would not act. I think we had better have a declaration in requiring the Legislature to act.

Mr. EVANS (Weber). Would that require the Legislature to act?

Mr. VARIAN. It says "shall." It says the Legislature shall.

Mr. EVANS (Weber). As a matter of constitutional law, would it? Would there be any power over a Legislature to compel them to act?

Mr. VARIAN. The same moral power that compels every state power to obey the constitution.

Mr. EVANS (Weber). About the same as a political platform?

Mr. THORESON. Mr. President, I am in favor of leaving this section just as the committee reported it. It is in harmony with many other constitutions of the different states, and it seems to me that it is a wise provision, and I think we ought to retain that section and vote down all amendments.

Mr. EICHNOR. I would like to ask Mr. Buys, of Wasatch County, a question. You spoke of trumped up charges. Is not it as easy to trump up a charge of felony as a misdemeanor?

Mr. BUYS. I think not. I think the section ought to stand just as it is, I think it just what we want, as I said before. The gentleman from Cache says we need some guaranty against arrest on that day, and we know now just as well as the Legislature will know about what we want, and I don't think that it will be a wise provision to leave this matter to the Legislature to put in there just what they wish. We have a better representation here of this State, of the future State, than we will ever have in the Legislature. There are more men here and know just as well what we want as the Legislature will know, and if this is not what we want let us make it what we want, but certainly have some guaranty in this Constitution guaranteeing the citizens of this State against arrest, and I think it is just what we want as it is, and I shall certainly vote for it.

Mr. THURMAN. I will ask you if you don't think it is altogether improbable that there will ever be as bright a lot assembled together again?

Mr. BUYS. Yes, sir; I do.

The question being taken on the amendment of Mr. Squires, the Convention divided, and by a vote of 29 ayes and 49 noes the amendment was rejected.

Mr. ELDREDGE. Mr. President, I move to strike out all of section 3 after the word "election," in line 3. It is only a repetition, I think, of what is already expressed in this section.

Mr. THURMAN. I would like to ask if that would not prohibit arresting a man on election day, no matter where he was, whether he was at the election or not?

Mr. BUYS. Mr. President, I certainly cannot see what object we would have in striking out that. All that we wish to bar people from being arrested for is to save them from losing their votes, and I cannot see why we should strike

that out and prohibit arresting a person anywhere, whether he was going to the polls or whether he was coming from them, or whether he had voted or whether he was going to vote. I think the section is right just as it is, and I cannot see any object in striking out that portion.

The amendment was rejected.

Section 4 was read.

Mr. VAN HORNE. Mr. President, it seems to me that it is a very queer provision. Suppose the government should deem it necessary to have the militia to quell a disturbance at the polls, a man could not be called on on the day of election to serve in the militia. I move to strike out the section.

The amendment was rejected.

Section 5 was read.

Mr. PAGE. Mr. President, I move to strike out that section.

Mr. VARIAN. The section was stricken out in the committee of the whole.

The PRESIDENT. It was not stricken out. The final declaration is that it was reinstated.

Mr. JAMES. Mr. President, then I renew my motion to strike out the section.

Mr. ANDERSON. Mr. President, I hope this motion will not prevail of striking this section out.

I think this provision is necessary. If we don't have this provision, any persons might vote who were not citizens, that is, the Legislature might pass laws allowing persons to vote who had not taken out, for instance, their first papers. I think it should be in there.

The question being taken on the motion to strike out section 5, the Convention divided, and by a vote of 38 ayes to 44 noes, the motion was rejected.

Sections 6 and 7 were read.

Mr. CRANE. Mr. President, I move to strike out, in line 3, the words "or his absence." A man might be called from his home—difficulties might arise at any time, as to how long it would be necessary to be absent for him to lose his right to the franchise. Temporary absence might be a month, six months or six years.

Mr. VARIAN. Mr. President, the view I take of it is this, this section is unnecessary in all its particulars. The law has always been as I understand it, that absence from a state, whether it be short or lengthy, does not apply to a man's residence. Absence on business of the United States or state, does not deprive a man of his residence. The question of residence, inhabitancy, etc., is determined by the intention. A man might hold a residence in Utah here for years and be abroad for most of the time. This is simply a restatement of what the law is. I move to strike out the entire section.

The motion was agreed to.

Mr. Christiansen was excused for the rest of the morning session.

Section 8 was read.

Mr. RYAN. Mr. President, I move to strike out section 8. It refers back to section 2. I think when the right of suffrage is once established, it should always remain on all subjects, and should be the right of the poor as well as the right of the rich in voting indebtedness, or on any other question, and that is my reason for being opposed to that section. And I will say here that I might owe an apology. I did not mean any criticism, I recognize the great ability of the members of the Convention, but in my question to Mr. Eichnor, a while ago, I simply meant to illustrate the insignificance of one person as a unit of a community, and not as a criticism of the members of the Convention. I don't think this section has any place in the Constitution. As I said, when you established a person's right to vote—a right to exercise the franchise, he should be left to exercise it on all occasions.

Mr. WELLS. Mr. President, I desire to call the gentleman's attention to the fact that in the bill of rights a pro-

vision was inserted, "no property qualification shall ever be required of any person to vote or hold office, except as provided in this Constitution." And this is the provision referred to. If this is stricken out there will be no provision anywhere. You will have to strike out the other if you strike this out.

Mr. RYAN. Mr. President, that is exactly what I would like to see done. I think the right to vote on all occasions should be the right of citizens after once being admitted to the right of suffrage.

Mr. CREER. Mr. President, I would like to ask the gentleman a question. I understand you take the negative position. That is, that no person who may be ever so poor will be deprived of voting; but what about persons in the school district, or in a city even, where they were voting upon bonds? Now, would it not be proper that the Legislature should provide that they may have an opportunity of voting under property qualifications on a special tax or for bonded indebtedness?

Mr. RYAN. I don't know that I caught all the gentleman said, but I think I have the substance of it. I do not hear very well. I don't see any reason why the man without any property or a little property should not have the same right to vote on school questions and the matter of public indebtedness, just as well as the other man; it has been my experience that the vicious votes do not always come from the poor. They often come from the rich. I would not exclude a man from the right of franchise on any question after once giving him the right, and with that view I tried to amend section 2. I think if you guard the right at its inception that you would be right all through.

Mr. SQUIRES. Mr. President, I am in favor of this section just as it stands, and for this reason above all others: The experience that Salt Lake County has had on the subject of voting bonds for the county. They have made three or four trials. In the first place, before we had indebtedness it was proposed here to bond the county for the purpose of putting up this building, and making other public improvements, and the vote was a general vote, and it was voted down. The county court, however, found that under the law they could go on and create this indebtedness, which they proceeded to do, and they were obliged, doing it in that way to have it cost the county a higher rate of interest than would have been the case had the bond been voted. Now, we come up to the time when the last movement was made for the purpose of taking up these outstanding warrants, which were bearing interest at eight per cent, and funding them in a five per cent bond, saving to the taxpayers three per cent on the indebtedness. The vote was general, and it was voted down. I don't believe any gentleman who is present here has any idea that if the taxpayers alone had been interested in that loan, and they alone had had the vote, that they would not have voted to save themselves three per cent interest of their indebtedness. Of course, the man who has not the property, has not the same interest in the matter as the taxpayer has, and I believe that in all questions where a special tax is to be levied for a special purpose the taxpayer alone—the man who has got to put up the money, should have a voice in the matter, whether it should go or not. I am in favor of the section just as it stands.

Mr. THORESON. Mr. President, I agree with the gentleman, I think the section should be retained just as it is. The bill of rights refers to this subject, that except creating indebtedness or levying special taxes, no property qualifications shall be required. In the article submitted on taxation and public lic debt we provide also that the electors

that are taxpayers shall have the right to decide whether or not the county, the State, or municipalities within it, shall have a right to vote beyond a certain limit in levying taxes or creating indebtedness, and I think of this subject, the taxpayer, the person who is liable for the debt, should be the person to decide by his vote whether or not such debt should be created. I believe in persons paying taxes being properly represented, but I don't believe that those that are not taxed should represent those that are in such matters as pertain to their property and the levying of indebtedness for taxes upon them. I think the section should remain just as it stands.

Mr. VARIAN. Mr. President, I am in favor of the principle of the section, and in offering to change it, I do so simply to have it in form with the context of the section. I offer this amendment for, or substitute for it: "The Legislature may provide property qualifications for electors voting at elections levying a special tax or creating indebtedness." As the section now stands, it is a negative form, and it is incongruous and inharmonious as a matter of construction, if nothing more, with the preceding sections. As for instance, section 2 declares affirmatively the qualifications for electors, that every citizen of a certain age with specified residence shall be entitled to vote. Now, if you are going to modify that, it seems to me it ought to be in an affirmative form and not in this negative way. The intention of course is that the reading of this should be made affirmative. The intention is that the Legislature may prescribe property qualifications in certain kinds of elections or for certain elections. Now, by changing it, it seems to me that you will correct any incongruity. I call attention also to "or hold office" in that section. It does not seem to have much meaning. There is some obscurity or doubt in this section as it stands. It does not read just right. The house will understand, of course, from my amendment that, I am in favor of this proposition, only I want it put in a little different shape.

Mr. THURMAN. Mr. President, I think there is a great deal of force in the idea advanced by the gentleman from Juab, at least so far as the phrase "creating indebtedness" is concerned. Now, I think, to levy a special tax the man of property to-day, who has to pay that tax, ought to declare whether or not the tax shall be levied by his vote and nobody else, but when you come to creating indebtedness to be paid twenty-five or fifty years hence, the young man of to-day, just entering upon manhood, without any taxable property whatever, will have to pay that debt. The bona fide resident, whether he has any property or not when we come to creating a debt to be paid a generation hence, it seems to me there is an injustice in saying that, because he does not happen to-day to be a taxpayer he shall not vote upon a matter that will prove of vital concern to himself, and the very men to-day who have the property, and who would be permitted to vote, may not have a dollar's worth when that debt is to be paid, and the man that we exclude to-day will probably be the man that will have to pay the debt, or pay his share of it.

Now, a special tax which means a tax for this year, is all right. A man of property would be sufficiently guarded, if he alone has the right to vote on a levy of a special tax.

Mr. LOW (Cache). Mr. President, I understand from the argument presented by the gentleman from Salt Lake, Mr. Varian, that he desires to change this from negative to affirmative, but by scrutinizing the substitute, which he read, I find it also negatives a sentiment which is contained in this section 8 entirely, and that is the office holding qualification is omitted entirely in the substitute, as presented, and that is why I shall vote against the substitute

and support the section as it now stands.

Mr. VARIAN. If the gentleman, before he takes his seat, will tell me what effect he can give the words "holding any office," if they have any effect—what effect they have? What does that mean?

Mr. LOW (Cache). As I view it, section 8 provides as follows:

(Reads.)

Mr. VARIAN. What meaning is to be given to the words "or hold office." In other words, how can an officeholder settle the question in a vote to levy a special tax or create an indebtedness? What has an office holder to do with that?

Mr. LOW (Cache). I understand the proposition now.

Mr. VARIAN. There was nothing lurking in leaving it out. I left it out because I couldn't see any possible effect of it.

Mr. VAN HORNE. I move to amend the substitute offered by Mr. Varian by striking out the words "or creating indebtedness."

Mr. VARIAN. I am opposed to that. While I am willing to admit there is some force in the suggestions made by the gentleman from Utah, yet, after all, you cannot deal with every detail in a great question like this. And it is true that as a whole the mass of voters everywhere who are not property holders, are not apt as a rule to give the proper consideration to questions of this kind as they would if they had a stake in the country.

Now, when you undertake to create a public indebtedness, state, county or municipal, you are practically putting a mortgage upon the property of the people. It is true that in most instances payment of that mortgage will not be had for a number of years, but who are the people at the time that have the general control, and ought to have the control of the administering of public revenue for the safety of the community? The majority of those who pay taxes as a rule.

Now, this principle involved in this section, it seems to me, is a good one, whether you levy a special tax or whether you authorize the issuing of bonds to create an indebtedness. The reason for it is to be determined, and should be determined by those who at the time are administering the affairs of the commonwealth. I am speaking of the financial affairs, and we all know how easy for persons who have no interest themselves for the time being, whatever they may possibly have in 50 years from now, in the financial affairs of the community in which they live—how easy it is for them to vote away other people's money, or to vote for the purpose of creating an indebtedness. They don't care. It is not brought home to them. I take the position that in voting to create indebtedness which those who come after you have to pay, you ought to be just as careful, just as circumspect, and act just as honestly and conscientiously in it as if you had to pay it yourself, and expect to pay it yourself with your property and that of your neighbor. Now, I do not agree with my friend from Salt Lake that the bond elections here are voted down by persons non-taxpayers. I think the taxpayers voted it down. They understood perfectly well that this pretense of eight per cent interest was all pretense. It wasn't legal. It never had any existence in law, and hasn't now. It seems to me that you will emasculate this section of much of its force and vitality, if you strike out the words, "or creating indebtedness."

Mr. IVINS. Mr. President, it is not my intention to occupy the time of the Convention but a moment, and I would not do this if I were certain that this section were not interfered with, but the hasty action we took on section 7—and I think it is a very great mistake, and if I had voted for it, I would certainly move to re-consider it—prompts

me to say a word on section 8. It seems to me the section is all right just as it stands. It provides first this: (Reads.) We restrict the Legislature to that extent, and then we provide that laws may be passed by the Legislature governing the right to vote upon questions where the levying of special taxes is at stake. So that I don't see anything will be gained by adopting the substitute or by changing this section from its present form. The Legislature will then have power to provide property qualification in special elections where taxes providing for indebtedness will be created, and they will have no power to provide a property qualification in general elections. I think that ought to be restricted in general elections and I think this gives them all the power they need for special elections. Those words, "or hold office," I agree with the gentleman that they seem to be perhaps necessary. I don't think they do any harm there. My opinion is we will not better it.

Mr. VARIAN. Mr. President, the gentleman understands I am not attacking the principle of this section. I simply took the view to change it from the negative to the affirmative form——

Mr. IVINS. I call the gentleman's attention to this fact, that if his substitute shall be put in here, there will be nothing which prohibits the Legislature from providing property qualification in a general election. There will be no prohibitory clause in this Constitution. I don't want that stricken out.

Mr. VARIAN. If that were so, I would concede to your premise, but it is not so. I call your attention to the fact that this is an affirmative declaration of what the Legislature may do in accordance with the affirmative declaration of section 22 as to qualifications of the electors. Certainly the Legislature could not go any further than that.

Mr. IVINS. Well, perhaps they could not. I am positive that they could not under section 8 as it stands, and it suits my mind better to leave it in that condition than it does to change it.

Mr. GOODWIN. Mr. President, I only want to say a word about this matter of a tax for creating indebtedness. There is a reason why that should be left that has not been stated that I have heard. There was a very strong following of that kind which says all taxes shall be levied on land. We don't know what fury will take possession of the people at some future time, and they might vote everyone who had a house and home out of that house and home. It is absolutely essential. It is simply a protection to those people who have a little property, and I hope whatever other change may be made in this article that that may be left as it is.

Mr. KIMBALL (Salt Lake). Mr. President, I happen to be a property owner here in Salt Lake County, and if taxes are increased any greater than what they are at the present time, I am satisfied it will pay me to sell out or close up my house and rent; and this indebtedness has been brought about by the promiscuous voting by unreasonable persons, I am satisfied, to a very great extent. I have figures here that were given to me yesterday by a man of authority on the subject, showing the indebtedness of Salt Lake City to be $2,580,000, the county $435,000, the school $825,000, and of the Territory, $700,000, making a total of $4,540,000. I have not figured the interest on this, gentlemen and Mr. President, but it seems to me that future generations for forty years to come will be born in debt. The property value of this county and city shall not be able to pay off this indebtedness. I should certainly vote to leave this clause as it is.

Mr. KERR. Mr. President, section 4 of the bill of rights, beginning on line 16, provides, "No property qualification shall ever be required of any per-

son to vote or hold office, except as provided in this Constitution." The exception I take is that which is covered by the substitute offered by the gentleman from Salt Lake. I think the objection to the substitute of the gentleman from Washington is provided for in this section of the bill of rights.

The amendment offered by Mr. Van Horne was rejected.

The question being taken on the substitute offered by Mr. Varian, the Convention divided and by a vote of 37 ayes to 44 noes the substitute was rejected.

The PRESIDENT. The question now recurs on the striking out of the section as proposed by Mr. Ryan.

The motion was rejected.

Mr. BUTTON. Mr. President, I move to strike out of line 2 the words "or hold office."

The motion was rejected.

Mr. WELLS. Mr. President, I move to amend the section as follows: To strike out all after the word "except," in line 3, and insert the following, "that in elections levying a special tax for creating indebtedness, the Legislature may provide property qualifications for persons to vote." I do not think as it stands now it is sensible at all.

Mr. CANNON. Mr. President, in the article on revenue, taxation, and public debt, a provision is made for a property qualification in case of certain elections. I think the article as it now stands is all right. I do not see any objection to it. There is nothing that prohibits the Legislature from providing such qualifications as may be necessary. and it is in conformity with the usages of other states, particularly as our friend, Mr. Eichnor, would say, in Washington.

Mr. GOODWIN. Mr. President, I move that lines 3 and 4 be transposed and begin the section so that it will read this way:

Except in elections levying a special tax or creating indebtedness, no property qualification shall ever be required for any person to vote or hold office.

The PRESIDENT. Is this an amendment to the gentleman's amendment?

Mr. GOODWIN. I beg pardon. I will withhold this.

The amendment offered by Mr. Wells was rejected.

Mr. GOODWIN. Mr. President, I move to amend the section as I stated.

Mr. EICHNOR. I would like to ask Judge Goodwin a question. Is not that the duty of the committee on compilation and arrangement to transpose as they may deem it necessary?

Mr. GOODWIN. I want to fix it here, because I know if it comes back from that committee it will take another hour and a half. That is all.

The amendment of Mr. Goodwin was agreed to.

Mr. Partridge was excused from the remainder of the day's session.

Section 9 was read.

Mr. SQUIRES. Mr. President, I move that we take a recess until 2 o'clock.

The question being on the motion for recess, the Convention divided, and by a vote of 34 ayes and 38 noes, the motion was rejected.

Section 14 was then read as follows:

After the adoption of this Constitution, all general elections, except for municipal, school and judicial officers, shall be held on the Tuesday next following the first Monday in November of each even year. Special elections may be held as provided by law. The terms of all officers elected at any general election shall commence on the first Monday in January next following the date of their election. Municipal, judicial, and school officers shall not be elected on any day when other officers are elected, but the time of their election shall be as provided by law.

Mr. ALLEN. Mr. President, I suppose that the intention is here to hold the election for school officers and judicial officers at the same time. Now, the intention of the people generally—the Legislature, has been to have school elections non-partisan. Of course we

would all like to have them. If they should be at the same time, it would be impossible to have them non-partisan, because I do not think we could have judicial officers elected in a non-partisan manner. Therefore, it would be a detriment to the school election. The gentleman from Salt Lake the other day said it would be a big expense on the Territory for special elections. You go to the people and tell them you would like to have a judicial officer elected in a non-partisan manner, they will say all very well; but if you tell them it will cost so many thousand dollars to do so, they will say, "Oh, well, boys, let us have it all together." Therefore I move you to strike out the word judicial in the 4th line, also where it appears on page 4 in line 10, so that it will read as follows:

"Except for municipal and school officers, shall be held on the Tuesday next following the first Monday in November of each year." Also line ten will read, "Municipal and school officers."

Mr. EICHNOR. Mr. President, before the question is put, I would like to ask the chairman of the committee on elections a question. Mr. Chidester, is the idea of section 14 that we should elect State officers every two years?

Mr. CHIDESTER. Well, I presume that has been the practice and would likely be remedied by the committee on schedule, I should think. I am not certain about that. But some other committee will likely regulate that.

Mr. EICHNOR. The executive department may have to be elected for four years, and there will be a conflict. This is 1895, and if we elect our State officers this year, we would have to elect State officers next year—1896.

Mr. GOODWIN. Mr. Eichnor, I want to suggest that there will be some State officers to elect every two years, and there will have to be a member of Congress every two years.

Mr. ROBERTS. I suggest that also members of the Legislature are to be elected every two years.

Mr. EICHNOR. I believe Mr. Thurman has an amendment to it.

Mr. THURMAN. Mr. President, I think there is something in the point raised by the gentleman. I had thought about it before. This says "all general elections for State officers," etc., shall be held "each even year." I think that means that all of those officers must be elected in the even years. It is a little awkward to make the amendment, but I would move to strike out "each even year," and insert in the place of it "the year in which the election for such officers is held." That will leave the Constitution in some other parts to fix the times and terms of officers, and this will comply with every case.

Mr. EICHNOR. I second Mr. Thurman's amendment.

Mr. BUTTON. Mr. President, if they are going to amend this section, I move we take a recess until 2 o'clock.

The motion was agreed to, and the Convention then took a recess until 2 o'clock p. m.

AFTERNOON SESSION.

The Convention was called to order at 2 o'clock p. m. by President Smith.

The PRESIDENT. Gentlemen, section 14 of the article on elections and rights of suffrage is before the Convention.

Mr. ALLEN. Mr. President, the way section 14 now stands, school and judicial officers are not elected at the general elections. It appears from the way it is stated here that the judicial officers will probably be elected at the same time, or if not, that there will be an extra election on that account. As far as school officers are concerned, we would like to have them elected at a non-partisan election, if possible, but it appears to me to be impossible to carry on elections for judicial officers and have it non-partisan, and besides that, a special election for judicial officers would create

expense that I think the people would not like. Therefore, I would move to amend section 14 by striking out the word "judicial," in line 4, and placing the word "and" just before the word "school," in line 4, and by placing the word "and" after "municipal," striking out the word "judicial" in line 10, so that the section would read as follows:

After the adoption of this Constitution all general elections, except for municipal and school officers, shall be held on the Tuesday next following the first Monday in November of each even year. Special elections may be held as provided by law. The terms of all officers elected at any general election shall commence on the first Monday in January next following the date of their election. Municipal and school officers shall not be elected on any day when other officers are elected, but the time of their election shall be as provided by law.

Mr. RICKS. Mr. President, is it still open to any further amendments?

The PRESIDENT. There have been several suggestions in the form of amendments. Mr. Thurman had an amendment pending when we adjourned, that has gone from my mind.

Mr. RICKS. It seems to me it is a very difficult thing to do anything with that section at this state of the proceedings, and I move to strike out the entire section and leave the matter to the schedule committee to adjust later.

Mr. VARIAN. I second the motion.

The PRESIDENT. Mr. Thurman, did you intend to present an amendment?

Mr. THURMAN. Yes, sir; I am writing it now.

The PRESIDENT. Yours would be out of order at present, Mr. Ricks.

Mr. Thurman proposed the following amendment:

Strike out the words "each even year," in line 6, and insert in lieu thereof the words, "the year in which the election is held."

Mr. EICHNOR. I second the amendment.

Mr. CANNON. Mr. President, I arise to a point of order. The point of order is that this amendment that is proposed is not an amendment to the amendment, and we should dispose of one amendment before the house first.

The PRESIDENT. I had it in mind that Mr. Thurman's amendment was first. The record shows that Mr. Allen made the first amendment. The secretary informs me that Mr. Thurman's is the only one on the records here.

Mr. ALLEN. I moved to amend first.

Mr. VARIAN. Mr. President——

Mr. CANNON. I arise to a point of order.

Mr. VARIAN. I would like to say it does not make any difference which one we vote on first. The amendments are not germane to each other.

The PRESIDENT. The question before the house will be upon Mr. Thurman's motion.

Mr. CRANE. Mr. President, is a substitute in order for all the amendments? I have a substitute that I would like to offer.

The substitute offered by Mr. Crane was read as follows:

After the adoption of this Constitution all general elections for State, district, county, precinct, municipal, school and judicial officers shall be held on the Tuesday next following the first Monday in November of the year in which the election is held. Special elections may be held as provided by law. The terms of all officers elected at any general election shall commence on the first Monday in January next following the date of their election.

The Legislature may provide for separate elections for municipal and school officers.

Mr. CRANE. Mr. President, my object in this is to do away with so many elections that would otherwise be held in the State. With the exception of the election to be held the coming fall, there would be no elections held in this State once in two years. If we elect the judges of a supreme court and the judicial officers of a Territory every other year, the State will be put to an expense

of probably forty or forty-five or fifty thousand dollars each year for elections that can just as well be held when the State officers are elected as the year next following that. It is for the sake of economy that I introduced that substitute.

Mr. EICHNOR. I would like to ask Mr. Crane a question. I see your substitute has the same expression that elections shall be held on the Tuesday next following the first Monday in November of each even year. Now, 1895 is an odd year. Do you intend they shall elect State officers in 1896 and 1898?

Mr. CRANE. No, sir. This year can be provided for in the schedule. This will be a special election this year. In the schedule an article can be introduced that State officers can be elected this year to remain in office either one year or three.

Mr. EICHNOR. Another question. "Each even year," when will that be?

Mr. CRANE. That will be 1896, 1898, and so on.

Mr. EICHNOR. Do you want the State officers elected every two years?

Mr. CRANE. Every two years or every four years. That can be altered by the schedule.

Mr. EICHNOR. I would like to ask Mr. Crane whether he will accept the amendment offered by Mr. Thurman, and embody it instead of "each even year," to have it read "the year in which the election was held"?

Mr. CRANE. Yes, I will accept that amendment of Mr. Thurman.

Mr. THURMAN. I would like to ask the gentleman, Mr. Crane, if you have any particular reason for naming all of these officers? Haven't you named all that can possibly be elected?

Mr. CRANE. I tried to.

Mr. THURMAN. Why not say, "all the officers made elective by this Constitution or the laws" instead of naming everything you can think of?

Mr. CRANE. Well, I wanted to put them in there so that there would be no mistake. As there seems to be a feeling that we should elect the judicial officers of the State in a different year from what the State officers are elected, my idea was to put them all in one election, and then give the people a rest for two years—have one year when there was no election held in the State. If you elect the school officers and the judicial officers every two years, and the State officers every two years, why the Territory would be put to an expense the coming year at least of forty thousand dollars. If there is a new registration taking place every year it will be a still further expense to the State, and my impression is that these officers can be elected just as well at one time as another.

Mr. THURMAN. Mr. President, of course I am not wedded to this section as it stands. It is a matter that a great deal of consideration was given to in the committee on elections, and we adopted it as it stands. The feeling of that committee was unanimous that at least school elections should be separated from the other elections, and that inasmuch as school elections would be separate anyway, with the same expense, or with additional expense at least, judicial officers could be elected at the same time. Now, it was suggested that there need not be a new registration, but the election could be held something as our school elections are held now, within a short time after the general election, so that the registration list would answer for the judicial and school election. I would not myself be in favor of going to the expense of new registration, just for the sake of trying to make these elections non-partisan, but if it does not require a new registration, I am in favor of having a different election. I do not believe that the election of school trustees, school county superintendents, and the superintendent of public instruction ought to be on the same day when the Legislature is elected.

Mr. CRANE. May I ask the gentleman a question. Why do you object to that?

Mr. THURMAN. Because I am satisfied that we will act with more coolness and fairness, and a disposition to get the best man, regardless of his politics. I don't believe in carrying politics into our schools. I don't believe they have any just place in our municipal elections, and I know they have none in the judiciary—ought to have no place whatever. I do not say——

Mr. CRANE. Let me ask you another question. You will admit that politics has been carried heretofore into our school affairs, as well as into our judicial affairs, and always will be?

Mr. THURMAN. No, I do not admit that—I will admit that if your amendment prevails, it always will be, and that is just what I would like to see defeated.

Mr. CHIDESTER. May I ask the gentleman a question? In your opinion, Mr. Thurman, in electing the judicial officers as mentioned in this section, in connection with school officers, would not that be just as apt to make it partisan?

Mr. THURMAN. I don't think so, but if so, then I say put the judicial officers to the general officers of the State, because I certainly want to keep politics, if I can, out of the schools. I have seen this question of politics carried in the schools so far that it got right down to the teacher, and the question arose, "what is the politics of that teacher?" I say, gentlemen, when it comes to that it is a shame. I will admit that is not a perfect scheme by any means, but it has a tendency in that direction. Why, down here in our county, after the general election last fall, the two parties had no trouble to agree on men to put up as candidates of the school—absolutely no trouble at all. The election was over. The intense party feeling had subsided. Men came to look upon things for the general good of the community, regardless of politics. They said, "now who will we have for our school board in Provo?" That was only one instance. We agreed upon our men, we put them up and the two parties voted for them, and politics, never entered into the question at all. I say, that we can do that if we would try, but gentlemen we cannot do it on the general election day, no matter how hard you try. We can do it if we will separate those days.

Mr. FARR. Mr. President, it is evident that we ought to have an eye now under our laws to the saving all the expense we can, and, to me, I have not seen or heard any valid reason advanced here why we should separate the times of electing those different officers. I never claimed to be much of a politician. But I am more of the policy man than the politician, and I am more for the man that is capable of filling the office than I am for anything else. That has always been my policy. I have not been able to see anything yet to hinder a man from voting at any general election for the man he wants, and the man that gets the highest number of votes is the person declared elected, or should be. And why should we argue the point of politics? What has it to do with it? Vote for the men we want, irrespective of politics. I cannot see any propriety of bringing any politics into this at all. I don't hear any argument in favor of it.

Mr. ROBERTS. Mr. President, if this question had come up before we adjourned this morning, I think very likely I would have voted to have had one general election cover all the cases that are enumerated in the substitute offered by the gentleman from Millard, but after devoting some consideration to that subject, during the intermission, I have come to the conclusion, sir, that I would prefer to see some of these elections separated. And one of my reasons for wishing that so is this: That if you

have municipal elections and school elections at the same time that we have our general election for representative to Congress, for members of the Legislature, you will have the local issues, and fitness of these men for positions in municipal and school elections, so overshadowed by the general topics that up in a general election, that proper consideration for the local officers to be elected and the fitness of the candidates would be entirely overlooked. Another thing that occurs to me as being against this proposition is that you fix by this proposition in the substitute, all the municipal elections and all the school elections at two years. The term of office in all those cases must be two years. Now, I take it that in the municipal government, perhaps that might not always be desirable, and that the people of the municipality would prefer to have annual elections every two years. And in consequence of the fact that these local questions affecting these school and municipal officers would be crowded out of proper consideration by the general topics considered in the election—and for that reason I would prefer to see not only judicial elections, but elections for school officers, and also municipal elections held on a different date, at a different time than our general elections. I therefore trust that the substitute will not prevail in those particulars at least.

Mr. BUYS. Mr. President, I certainly am not in favor of the substitute. So far as school elections are concerned, we do not want to have our school elections mixed up with other elections, for several reasons—the reason set forth by the gentleman from Utah and also from Davis. And there is another thing that would interfere in the election of school officers. Our school year ends on the 30th of June at the present time, and it is certainly the best time that it could end, because the school commences in the fall and there is a continuous term from then until the next year. That is our school year, and the summer time is the best time for a vacation. Now, this would provide the school officers should be elected in the fall, and this was tried by the Legislature. The Legislature established that, and it was abandoned, and for very good reasons. The school officers would be elected in the fall. They come right into the middle of the school year—the middle of the term— and take hold of the school business. They don't know what arrangements the previous trustees have made, and if they do know they don't take much notice of the arrangements that have been made by the previous trustees, and it interferes with the school business. It interferes with the school system and the interest of our school, and I think that we should have the school officers elected in July and not in November. And we should leave that to the Legislature so that the Legislature can regulate it, and if they see fit to change the school system, then they might possibly change the election, but the election of school officers should be made at a time to fit the school system. And I certainly hope that the feelings we had here on our general election—and I have found invariably that this feeling is growing. I dislike seeing it in our school affairs, but we should study school economy and these elections should all take place at one time and not any oftener than once in two years.

Mr. THORESON. Mr. President, is an amendment now in order to the substitute?

The PRESIDENT. Yes.

Mr. SQUIRES. Mr. President, I would like to inquire how many amendments are before us.

Mr. EVANS (Utah). Mr. President, I arise to a point of order, that the substitute itself is nothing more or less than an amendment. It ought not to have been entertained, but I did not care to

take up the time of the Convention, but now I shall have to insist on the rule.

The PRESIDENT. I think the point of order is well taken.

Mr. VARIAN. Mr. President, I would like to know where we stand. I understand the rule to be that we have got to perfect this substitute if it is going to be voted in, before we vote on it. If the substitute is not in order, a vote may be taken on the other amendments until the substitute shall be in order, because I have an amendment to offer to that substitute.

The PRESIDENT. I think then we had better clear up some of these amendments.

The question then will be upon the amendment of Mr. Thurman.

Mr. CRANE. I would like the permission of the house to amend the substitute and add a few words.

The PRESIDENT. We will consider these other propositions first.

Mr. Thurman's amendment was then read.

Mr. EICHNOR. Mr. President, Mr. Crane accepted Mr. Thurman's amendment, and consequently it is merged into Mr. Crane's substitute.

Mr. THURMAN. Hardly. Mr. Crane offered an entirely different proposition, but on that particular part he was willing to accept the same language which I offered to the section, and the section as it stands here, in order that you may understand it, I will read it: "After the adoption of this Constitution all general elections for State, county, district, precinct, and municipal officers, except school and judicial officers, shall be held on the Tuesday next following the first Monday in November of the year in which the election is held." No matter whether they are elected for four years, six years or two years, or what time, the year in which the election is held for these officers, which will be on Tuesday after the first Monday in November.

The amendment of Mr. Thurman was agreed to.

The PRESIDENT. Now, the question recurs on the amendment of Mr. Allen to this section.

Mr. Allen's proposed amendment was read by the secretary.

Mr. VARIAN. Mr. President, I call for a division on that. It is impossible to put it all together. It is an amendment in two or three different lines.

The PRESIDENT. To strike out the word judicial, in line four, and place the word "and" before school, in line four.

The amendment was rejected.

The PRESIDENT. The next part of the proposed amendment is to strike out the word "judicial," in line ten.

The amendment was rejected.

The PRESIDENT. Now comes the substitute of Mr. Crane.

Mr. THORESEN. I now ask that my amendment to that substitute be read.

(The president here called Mr. Varian to the chair.)

The proposed amendment of Mr. Crane was read.

Mr. JAMES. Mr. President, the more I hear said and the more I hear read, the more I am in favor of the amendment of the gentleman from Millard County. I have had some observation regarding the elections in my time, and I say that any country that can avoid elections every alternate year is very fortunate. It is not only the expense of the election, but it is the distracting of our business affairs that elections cause in a community. It takes men away from their business. It engenders bad feelings, and it accomplishes nothing. Now, some of our speakers on the floor have enlarged on the propriety of keeping politics out of the judiciary and school affairs. Now, I agree with those gentlemen; that is true. But why not let us abolish politics from everything? Let us not have any more. Let us not elect any governors or any sheriffs, nor any mayors, nor any other officers

with politics. Let us abolish the whole business. Now, gentlemen, it is mere moonshine to talk such stuff. The government of the United States is controlled by two great parties. Sometimes we have a little side issue, but the history is it is two dominant parties that control this country, and I don't believe that this country would be one-half as great to-day as it is, had it not been for that system of government of this nation. It is one party watching the other. It is one party holding in check the other. That is the reason or the secret of the enforcement of nominating good officers, and of officers performing their duty.

The PRESIDENT pro tem. Mr. James, will you suspend a moment until I can get the whole question before the house? The question is on the amendment offered by Mr. Thoreson to strike out, where it shall occur in the substitute offered by Mr. Crane, the words "school and municipal," and add to the substitute "provided, that school and municipal officers shall not be elected on any day when other officers are elected, but the time of their election shall be provided by law."

The question will be on the amendment.

Mr. JAMES. Mr. President, I am opposed to the amendment. If it is the proper thing to do, then this matter should be left to the Legislature. Now, what is the use of encumbering our Constitution with a whole lot of laws that are of no avail and we cannot get rid of them? Now, if it is absolutely true, as has been argued on this floor, that you can separate these elections and prevent politics going into them, maybe that may do some good, but I claim it cannot be done. We have had lessons right here before our eyes—examples which were given to you here last November. We saw just as much politics in a bond election or in school election for trustees as we saw almost on the day that we elected our delegate to Congress. If you were around the polls in the fifth precinct, I say to you, gentlemen, you did. You saw the teams, the workers, the whole paraphernalia. that is brought to bear in any general election, there at that school election; and you cannot do it. But if it is true that you can do it, allow the Legislature to do it, so that they can do it specifically and in detail and in a way that they are not bound hand and foot, so that they have got to stick to some proposition whether successful or not. Consequently I am opposed to that.

Mr. HEYBOURNE. Mr. President, I am not in favor of the substitute offered by the honorable gentleman from Millard. I am rather disposed to favor the amendment that was offered by the gentleman on my right. I am opposed, Mr. President and gentlemen, to mixing political matters and feelings with our educational interests. I think that this should be avoided if possible, while at the same time I desire to study economy reasonably; but if there is any institution or interest in this Territory that we want to guard well it is that of educational matters. And while I understand the school law at present is working reasonably well in our Territory, I understand at the same time that the, school year ends in the summer season, sometime in June. I believe it is nothing but right and proper that we should adopt the amendment to the substitute leaving out our educational interest—I am not so particular with regard to the municipal affairs—and then allow the Legislature to make the necessary provisions for the holding of school elections. Therefore, I shall vote for the amendment to the substitute.

Mr. EVANS (Utah). Mr. President, I am opposed to the amendment to the substitute. I think that it ought to be left as has been suggested by the gentleman from Iron County, to the Legislature, but I take it that the substitute that was offered will reach that provis-

ion. As I understand it, it provides that the Legislature may provide by law for the holding of school elections as well as municipal elections, upon some other time than that of the general election. So far as I am concerned individually, I would much prefer that it have the municipal elections in it. I believe that it is one of the elections that has a tendency to engender more bitter feelings, that it is one of the elections that is fought harder than any election that is held in the Territory. I think that in the interest of economy—in business, in the interest of good feeling among our people, that our elections should come at the same time except as to school elections, and the substitute provides that the Legislature may regulate that. Now, sir, the expense of our school elections is very nominal, each district providing its own regulations. Under the present law the trustees act as the judges of election. It is something that is confined to each locality. It will not be necessary to stump this Territory from one end to the other, thereby creating great expense, but I am certainly in favor of holding our elections upon the self same day, beginning with the head of the State, down to the municipal, including the precincts, and all for the reason that has been stated by the other gentlemen, in the interest of economy.

Let the people rest at least one year, and not engender the feeling appurtenant to our elections since our division upon party lines; and I am certainly in favcr of this substitute. I hope it shall prevail. I hope the amendment will be defeated and that we shall incorporate right in the Constitution that article providing for the election of all the various organizations of this new State, upon the self-same day, leaving the question of schools and municipalities to the Legislature, for the reason that I believe their good wisdom and their good judgment having come from among the people, will suggest to them that that of the cities may be incorporated in the general election.

Mr. THORESON. Mr. President, I believe that my amendment is necessary in order to carry out the ideas that the gentleman has to the substitute as originally offered.

Mr. Crane's substitute was then read by request.

Mr. CRANE. Mr. President, I ask unanimous consent for the words "municipal and school" to be stricken out of my substitute.

Mr. THORESON. My amendment covers that ground. I wish to explain that the substitute just read is not the original substitute, but it has been amended by the gentleman since I offered my amendment to his substitute.

The PRESIDENT pro tem. The gentleman from Millard asked leave to amend his substitute some moments ago.

Mr. CRANE. I accept Mr. Thoreson's amendment, Mr. President.

Mr. EVANS (Weber.) Oh, no.

Mr. EICHNOR. Mr. President, the way I understand the amendment of Mr. Thoreson, that makes it imperative that municipal and school elections must be held on a separate day. The way I understand the substitute of Mr. Crane is, the Legislature may provide for a separate election of municipal and school officers.

Mr. CRANE. That is the way I understand Mr. Thoreson's. I would like to hear the amendment read.

Mr. Thoreson's amendment was read.

Mr. CHIDESTER. Mr. President, I would like to ask Mr. Crane a question. The substitute you offer now—if you understand that to provide that all the officers both school and municipal should be elected on the same day, while it may be provided that the school and municipal officers must be elected at the same day, is that it?

Mr. CRANE. The Legislature may provide different days if it sees proper

so to do. It puts it in the power of the Legislature entirely.

Mr. CANNON. Mr. President, are amendments still in order?

The PRESIDENT pro tem. One amendment is.

Mr. CANNON. I move that we strike out, commencing in the seventh line——

The PRESIDENT pro tem. Not an amendment to the section but an amendment to the substitute.

Mr. CANNON. I believe the language is the same, but I am not sure. The words, "the terms of all officers elected at any general election shall commence on the first Monday in January next, following the date of their election." I move that this provision be stricken out.

The PRESIDENT pro tem. Will the gentleman reduce it to writing? We cannot keep this at all correct unless you put it in writing. Send up your motion.

Mr. VAN HORNE. I second it.

Mr. EVANS (Utah). Might I ask Mr. Thoreson a question?

The PRESIDENT pro tem. One moment, if you please, until we get this.

Mr. CANNON. Mr. President, my reason for making this motion is that collectors in the various counties throughout the Territory assume the duties of their office about June or July. I think if you made it so that they are compelled to take their office on the first Monday in January, it would be very awkward. Taxes are not settled usually until about that time. I think it would be very awkward for the officer retiring to close up his books at that time. I think it can be still left to the Legislature. This is the reason I desire it stricken out.

Mr. THORESON. Mr. President, I believe the substitute of Mr. Crane, after adopting my amendment, leaves that out.

The PRESIDENT pro tem. The chair is of the opinion that Mr. Cannon's amendment is not an amendment to the section, but an amendment to the substitute, and the question will first recur therefore on Mr. Thoreson's amendment.

Mr. EVANS (Utah). Mr. President, I would like to ask Mr. Thoreson one question. Is it the intention of your amendment to provide that the Legislature must have the election for municipalities at a different time?

Mr. THORESON. Yes, sir; and school officers at another time.

Mr. EVANS (Weber). Mr. President, I am in favor of the substitute offered by the gentleman from Millard. I think we ought to hold our elections on the same day, except for school officers. If the substitute is adopted, I give notice that I shall offer an amendment to strike out the word "school" and have all other elections on the same day in order to save expense and give people a rest from political trouble.

The question being taken on the amendment offered by Mr. Thoreson, it was rejected.

The PRESIDENT pro tem. The question recurs upon the motion of Mr. Kimball.

Mr. KERR. Mr. President, the substitute offered by the gentleman from Millard was amended by——

The PRESIDENT pro tem. Mr. Thoreson's motion was lost.

Mr. KERR. Would that leave it optional with the Legislature as to whether school officers should be elected at the general election or not?

The PRESIDENT pro tem. If it is desired I will have it read or read it again, as it will be if this motion shall prevail.

Mr. Crane's proposed substitute was re-read.

Mr. KERR. I would like, Mr. President, to inquire if an amendment is still in order?

The PRESIDENT pro tem. An amendment to the amendment is in order. An amendment to the substitute can be reached after this motion is disposed of.

The question being taken on the motion of Mr. Cannon to amend the substitute the, Convention divided, and the amendment was rejected.

The PRESIDENT pro tem. The question now recurs upon the substitute.

Mr. EVANS (Utah). Mr. President, I move that the word "municipal" be stricken out.

The PRESIDENT pro tem. The house has just refused to strike out the word "municipal" in a prior amendment.

Mr. GOODWIN. Mr. President, I move that the amendment to the substitute be laid on the table.

Mr. FARR. Mr. President, I have a substitute that I wish to present, and they might both be laid on the table at the same time.

The motion of Mr. Goodwin was rejected.

Mr. FARR. Mr. President, I have a substitute for the whole section. I think, if read, it would answer the whole thing.

Mr. Farr's proposed substitute was read as follows:

All general elections shall be held on Tuesday next following the first Monday in November of the year in which the election is held. Special elections shall be had as may be provided by law. The terms of all officers elected at any general election, shall commence on the first Monday on January next following the date of their election.

The PRESIDENT pro tem. The question recurs upon the substitute of Mr. Crane.

Mr. FARR. My purpose in offering that is this. We are not making any laws to take effect until after the Constitution is adopted. Consequently there is no use saying anything about that. The law cannot take effect until after the adoption of the Constitution, and we are not making the law for any other state, but this State.

Mr. SQUIRES. Mr. President, in view of the prevailing practice in the Territory of having the county collectors of taxes begin their terms of office on the first of June of each year, I move to insert in that substitute of Mr. Crane these words, "except county collectors whose terms of office shall begin on the first day of June after the date of their election."

The PRESIDENT pro tem. Where would the gentleman insert that?

Mr. SQUIRES. In the second clause providing for the terms of office.

The PRESIDENT pro tem. I will state that this method of handing in amendments is liable to result in these statements of the propositions before the house. All amendments ought to refer with precision where they are designed to be incorporated, and the name of the mover ought to be attached, because it is impossible for the clerks to keep a correct record of it. We are in convention now, and there is a record to be kept of all of this. As a matter of necessity the chair will attempt to fix the place where this amendment shall be placed. After the word "officers" and before the word "shall," in line 4 of the amendment offered by the gentleman from Millard, insert "except county collectors whose terms of office shall begin as provided by law."

The amendment was rejected.

The PRESIDENT pro tem. The question now recurs upon the substitute of Mr. Crane.

Mr. BUYS. Mr. President, I move to strike out the word "school" in the 4th line, I think it is of the substitute.

The PRESIDENT pro tem. The house has already refused to strike out the word "school" on a prior vote.

Mr. HART. Not on this question. It was a different question. I beg the pardon of the chair for interrupting him. I have an amendment to offer to this section. I move to strike out the word "judicial"—I don't know the number of the line.

The PRESIDENT pro tem. It is on the 4th line.

Mr. HART. Strike out the word "judicial" in the 4th line, and insert it

in the 7th, making it possible for the Legislature to provide for a certain time for election for judicial officers as well as school and municipal.

The PRESIDENT pro tem. We will have to have it in writing. It is impossible to keep the record here at all unless you do. The question recurs upon the motion of Mr. Hart to strike out the word "judicial," in the 4th line, and insert the same after the word "municipal," in the last line of the section, so that, as proposed to be amended, the section would read, "After the adoption of this Constitution, all general elections for State, district, county, precinct, municipal, and school officers shall be held on the Tuesday following the first Monday in November of the year in which the election is held," and as inserted in the last line "the Legislature may provide for certain elections for municipal, judicial, and school officers."

Mr. HART. Mr. President, in view of the peculiar construction of the first part of that it will not be necessary to strike out the word "judicial" in the 4th line. I ask consent of the house to modify my amendment so as not to strike out the word "judicial," in the 4th line, but simply insert it in the last line.

The PRESIDENT pro tem. If there is no objection the chair will arrange the motion in that way.

The motion of Mr. Hart then is simply to insert the word "judicial" after "municipal," in the last line of the section.

Mr. CRANE. Mr. President, if this word "judicial" is stricken out it compels us to have a separate election throughout the entire State.

The PRESIDENT pro tem. There is no motion to strike out "judicial." The motion is to insert "judicial" in the last line.

Mr. CRANE. Well, it is the same thing. It provides for the general election for a judicial officer throughout the State.

Mr. SQUIRES. Mr. President, I am opposed to this amendment for the reasons already given, that we should hold all these elections on one day and save expense to the State of a separate election, which would be absolutely necessary if the Legislature should provide for an election of the judiciary at a certain election. When a municipal election is called the expense would be on the municipality, and there would be only a few cities in the State where such an election would be necessary, but a judicial election will be an election for the whole State, and it puts an additional expense on the State for registration and everything of that sort.

Mr. GOODWIN. Mr. President, it seems to me the Legislature might be entrusted with that. There are a great many here who are opposed to having judges elected on the same days with other officers. The extra expense in that event will simply be the election judges' salaries for that day, because the same registration would be used in the general election, and the Legislature would take care of it. I think it is all right as it stands. I think that should be included with the municipal elections and school officers. Of course, there are some offices to trade on if they are all elected on the same day, but there is a feeling in the community that judges ought to be above having a scramble in their elections; that the very best man ought to be elected judge, no matter to what party he belongs, and, at least, that the people should not be distracted in judging whom to vote for for judge by the turmoil of a general election day. Perhaps there is nothing in it but sentiment, but it is just as safe to leave that to the Legislature as it is to make an ironclad rule that the Legislature cannot avoid if they wish. I hope the amendment will prevail, and leave the thing back the way it was in the beginning, except that instead of

being mandatory in the Constitution, it will be in the province of the Legislature to change it if they want to.

Mr. VAN HORNE. Mr. President, I am fully in sympathy with the substitute. I think that probably the whole section might well go out as being legislation, and that the whole matter could be safely entrusted to the Legislature, and I am surely opposed to the motion that we are sitting here as a perpetual legislature, which shall be for all time, as the people of Utah, and wherever we can consistently leave to the people, through their representatives elected, the ordinary matters of particular details, I am in favor of it, and for that reason, I am heartily in sympathy with the substitute.

Mr. PETERS. Mr. President, is another amendment in order now at this stage?

The PRESIDENT pro tem. There can hardly be an amendment to this section because it is simply to insert a word.

Mr. PETERS. Or a substitute?

The PRESIDENT pro tem. It will be in order after the motion is disposed of; there is already a substitute to be passed upon.

Are you ready for this question, to insert the word "judicial?"

The question being taken, the Convention divided and by a vote of 39 ayes to 41 noes, the amendment was rejected.

The PRESIDENT pro tem. The question now recurs upon the substitute offered by Mr. Crane.

Mr. PETERS. Mr. President, if it is in order now, I wish to offer my substitute.

The PRESIDENT pro tem. There are two substitutes then pending for the first section. I will have them both read.

The proposed substitute of Mr. Farr was read as follows:

All general elections shall be held on the Tuesday next following the first Monday in November of the year in which the election is held. Special elections shall be held as provided by law. The terms of all general officers elected at any general election shall commence on the first Monday in January first following the date of their election.

The proposed substitute of Mr. Peters was read as follows:

After the adoption of this Constitution, all elections shall be held on the Tuesday next following the first Monday in November of each even year: provided, that the Legislature may provide for special elections for school officers.

The PRESIDENT pro tem. Neither of these substitutes are amendments to this. The question will first recur on the substitute offered by Mr. Crane.

Mr. BUYS. Mr. President, I certainly will have to vote against this substitute for the reason that "school" is in there, and the position we should be placed in if this should prevail with schools in there—as we have it now, the Legislature has provided for holding an election in July. After the adoption of this Coustitution we must hold our election for school officers in November, and then the Legislature may meet and provide by law for holding an election in July again, and it will interfere with our school system, and I certainly cannot vote for the substitute with the word "school" in as it is now.

The question being taken on the adoption of the substitute offered by Mr. Crane, the Convention divided and by a vote of 36 ayes to 52 noes, the substitute was rejected.

The PRESIDENT pro tem. The question now recurs on the substitute offered by Mr. Farr.

Mr. FARR. Mr. President, I would just like to say a word on that. I am satisfied that every thing that has been spoken of here is embraced in this section, if they will examine carefully the phraseology of it. I am in favor of giving the Legislature the privilege of making laws for special things. I do not see that there is any use of lumbering up our Constitution with special laws, but leave that to the Legislature.

Mr. ELDREDGE. Mr. President, I have a substitute here that I would like to offer by consent of the delegates.

The PRESIDENT pro tem. It will be passed on after a vote on this, unless it is an amendment to this substitute. Is it a substitute for the entire section?

Mr. ELDREDGE. It is a substitute for the entire section.

The PRESIDENT pro tem. The chair will order it read after disposing of this.

Mr. BARNES. Mr. President, I also have a substitute for the entire section.

The PRESIDENT pro tem. We will dispose of it when we dispose of these.

Mr. SQUIRES. Mr. President, as we have been proceeding here these other substitutes have been read before action has been taken on the first one. In justice, I think these substitutes ought to be read, too——

The PRESIDENT pro tem. All the gentleman has to do is to call for the reading.

Mr. SQUIRES. I call for the reading of Mr. Eldredge's substitute.

Mr. BARNES. I desire to have mine read.

Mr. Strevell, by request, was excused indefinitely on account of illness.

Mr. Barnes' proposed substitute was read as follows:

All elections shall be held at such time as the Legislature may provide.

Mr. Eldredge's proposed substitute was read as follows:

All elections for State, district, county, precinct, municipal, school, and judicial officers shall be held on the Tuesday next following the first Monday in November of each even year. The terms of all officers elected at any general election shall commence as may be provided by law. The Legislature may provide for special elections.

The PRESIDENT pro tem. The question was upon Mr. Farr's substitute.

The substitute offered by Mr. Farr was rejected.

The PRESIDENT pro tem. The question now recurs upon the substitute offered by Mr. Peters.

Mr. PETERS. There is an objection that I seek to remedy in this amendment, and that is the matter of the officers assuming their duties on the first day of January after their election. As the law stands at present, the collectors don't assume their duties until later in the year, but if this substitute is adopted you will find that the Legislature will have the sole power of fixing the time that every officer assumes his duty, and also the time that it expires. It simply provides that the election shall be held on the Tuesday after the first Monday. It fixes a uniform day for holding of elections, not general. You will notice the article as it now reads is that after the adoption of this Constitution all general elections for State—and so on, shall be held. This simply says that all elections, excepting school elections, shall be held on that day. It even provides that special elections shall be called on that day, although it affords an opportunity at least that they can be called on separate years, but on the day that the general election is held. It seems to me this would cover a great many objections that have been brought up during this discussion.

Mr. EVANS (Weber). I would ask the gentleman from Box Elder a question. Your substitute provides for special elections being held on the same day as general elections?

Mr. PETERS. It does not provide for special at all. The Legislature would naturally have that power. It simply provides that all elections shall be held on one day.

Mr. EVANS (Weber). That would require a special election to be held on that day also, would it not?

Mr. PETERS. Well, it is questionable. I think it would. It may not be the same year.

Mr. EVANS (Weber). The very ob-

ject of a special election is to fill some vacancy, is it not?

Mr. PETERS. Well I think that our Constitution provides that these vacancies may be filled by the executive.

Mr. EVANS (Weber). I think not until a special election can be held for that purpose.

The substitute of Mr. Peters was rejected.

The PRESIDENT pro tem. The question now recurs upon the substitute offerred by Mr. Eldredge.

Mr. ELDREDGE. Mr. President, the object of this was to get all elections held on one day as has been stated here, in order to save the expense of an election each year. It will save us from going through a state of excitement and unnecessary expense for election, but it is left that the Legislature may provide for a time that the persons shall assume the duties of the office, so that it can be arranged that one class of officers may assume their duties on the first of January, or the collector may assume his duties on the first of June, and that school officers may assume theirs on the first day of July, just as it may be arranged and provided for by the Legislature. It is to be left exclusively within its power.

Mr. EICHNOR. Mr. Eldredge you have that phrase in there, "of each even year." Do you contemplate another election for State officers next year?

Mr. ELDREDGE. I contemplate that the general election shall be held on each even year, but not necessarily that an officer should only hold his term of office for two years. He may hold it for four or six.

Mr. EICHNOR. He would be elected a State officer this year, then, according to that substitute would he be elected again?

The PRESIDENT pro tem. I think it is better not to have colloquy of that kind. Let the gentleman propound his questions and take the answers. It is utterly impossible for anybody to understand what you say, and we cannot permit it. Let the gentleman propound his question and the answer be given, and stop with that.

Mr. EICHNOR. Do you intend by your substitute to hold an election this year for State officers?

Mr. ELDREDGE. I think an election shall be held this year.

Mr. EICHNOR. When is the next election to be held for governor?

Mr. ELDREDGE. Under this, it would have to be provided, it would be in any even year—whether we provide in the schedule it shall be next year or two years hence.

Mr. MALONEY. Mr. President, I call attention of the gentleman from Summit to the words, "each even year." That has been stricken out by Mr. Thurman's motion and there is inserted in lieu thereof, "the year the elections are held." Now, it strikes me these matters ought all to go out. It is a matter strictly legislative, and it ought to be postponed until the coming in of the report of the committee on schedule and future amendments.

Mr. Eldredge's proposed substitute was rejected.

The PRESIDENT pro tem. The question now recurs upon the substitute offered by Mr. Barnes.

Mr. PETERS. Mr. President, I move this section and all amendments be committed to the committee on schedule and future amendments.

The PRESIDENT pro tem. It takes the article with it.

Mr. THURMAN. Mr. President, I am opposed to recommitting the section. I see that this house is getting back just as fast as it can to accept this matter about as the committee on elections brought it in. They have voted down everything. I think they have voted now on about everything except that, and I think we ought to have a vote upon the question as it now stands—the printed report as amended this afternoon.

Mr. ANDERSON. Mr. President, would this motion to recommit take the entire article with it?

The PRESIDENT pro tem. Does the gentleman address the Convention or the chair?

Mr. ANDERSON. I am opposed to recommiting this; I think we should settle it now.

The PRESIDENT pro tem. The chair is perfectly willing to answer the gentleman if the question is put to the chair.

Mr. CORAY. Mr. President, are substitutes still in order? [Laughter.]

The PRESIDENT pro tem. Not while this motion is pending.

The question being taken on the motion to recommit, the Convention divided and the motion was rejected.

The PRESIDENT pro tem. The question is now upon the adoption of the substitute offered by Mr. Barnes.

The substitute was rejected.

Mr. EVANS (Weber). Mr. President, I desire to read a substitute which I will offer and if I get a second to it, I will make a remark or two to explain it.

After the adoption of this Constitution, all general elections for State, district, county, precinct, municipal, school, and judicial officers shall be held on the Tuesday next following the first Monday in November of the year in which the election is held. Special elections may be held as provided by law. Until otherwise provided by law the terms of all officers elected at any general election shall commence on the first Monday in January next following the date of their election; provided, that the Legislature may provide for separate elections for judicial, school and municipal officers.

I desire to state in support of this substitute that it seems to me to meet the situation of the Convention. In the first place, objection was made by the gentleman from Salt Lake that the article as proposed and the substitutes would require the collector to assume the duties of this office on the first of January. This will be obviated by the words, "unless the Legislature otherwise provide." No collector will be elected this fall. The Legislature can provide the method by which the collector can go out of office in June during its next session. All the elections are held together unless the Legislature provides that school elections and judicial elections and municipal be held at some time or another, but if it does not provide for that, then all these elections will be held on the same day. Now, it would seem to me that that meets the whole situation, and it is not changing the article very much either.

Mr. CANNON. Mr. President, I move to strike out the entire section. I am not particularly anxious to press this, since the substitute offered by the gentleman from Weber County. There is one thing I would like to ask him, whether it would not be just as well to leave this entire clause out—one providing for the time at which the officers shall assume the duties of their offices? It is purely legislative and if left out would be attended to by the Legislature anyway.

Mr. EVANS (Weber). Mr. President, I will answer that in this way. At this general election this fall we elect our State officers. It is impossible to ascertain when they shall enter upon the duties of their office, until after the Legislature meets. They should enter upon the duties of their office on the first day of January. That provides for that set of officers and makes it all right, and then the Legislature can provide when the terms of the officers may end and when the subsequent set of officers may enter upon the duties of their offices.

Mr. SQUIRES. Mr. President, I would like to ask the gentleman a question. Wouldn't the officers elected this fall—the State officers—take office as soon as the President's proclamation was issued?

Mr. EVANS (Weber). If we did not have any provision at all, you mean?

Mr. SQUIRES. Yes.

Mr. EVANS (Weber). Well, possibly that is true, but I will answer this, Mr. Squires, it would be a very peculiar thing, however, that the officers should take the oath of office immediately after their election. I think the Territorial officers ought to continue until after the first of January. It is only a little while anyway.

The PRESIDENT pro tem. The chair is of the opinion that the question recurs upon the motion to strike out.

Mr. CANNON. Mr. President, my reason for moving to strike out the entire section is that I think it will come better from the committee on schedule. I rather favor Mr. Evans's substitute, but I think it would be better to leave it until that committee reports.

Mr. HART. Mr. President, I was going to inquire if the motion of Mr. Cannon is not really included as a component part of the motion of Mr. Evans. His is a substitute which includes the motion to strike out section 14 and insert in place thereof the matter he has prepared.

The PRESIDENT pro tem. That is true, but if the house should adopt Mr. Evans's substitute then the motion would recur upon the motion to strike out. It would be in the position of undoing what it had done a moment before.

Mr. EICHNOR. Mr. President, I am opposed to the motion to strike out for the reason that the function of the committee on future amendments and schedule is not to provide for the terms of officers, but simply to provide that certain officers of the State may begin their terms of office before the day fixed in the Constitution. For instance, the question proposed by Mr. Squires—whether the governor and other State officers would not take their office before the first Monday in January. If the schedule provides for that contingency, they have the right to do so, but not to fix the terms of all the officers in the State.

Mr. CRANE. Mr. President, are substitutes still in order?

The PRESIDENT pro tem. The chair will rule that where there are several substitutes like this pending, for the entire section, a motion to strike out, of necessity must be disposed of first, and then substitutes will be in order. I have two or three here.

Mr. CRANE. I have one that I think will meet all the requirements of the case.

The PRESIDENT pro tem. The chair does not doubt it. [Laughter]. But as a matter of parliamentary rule, I shall hold to the motion before the house——

Mr. HART. Would the ruling of the chair then be that the motion of Mr. Cannon, if defeated, would be equivalent to agreeing to retain the section as it now stands?

The PRESIDENT pro tem. Not at all. I should hold that a motion to strike out and insert was in order.

The motion of Mr. Cannon was rejected.

The PRESIDENT pro tem. The question now recurs upon the motion to strike out and insert the substitute offered by the gentleman from Weber, Mr. Evans.

Mr. GOODWIN. I would like to ask Mr. Evans a question for information. Suppose we elect in November. The proclamation of the President does not come until the 10th of January. When will those officers be given their offices? Under your amendment, as I understand it, they are to be seated on the first Monday in January, President or no President.

Mr. EVANS (Weber). Of course, if there would be no State there would be no officers.

Mr. GOODWIN. Then they would not have their offices until a year from January?

Mr. EVANS (Weber). That merely

fixes it for the future. Under the peculiar position which you present they could not take their offices on the first of January, but would take them immediately after the proclamation was issued.

Mr. GOODWIN. I only asked for information.

Mr. EVANS (Weber). I will state further that the schedule will provide that these officers are not to take their offices until after the proclamation is issued.

Mr. GOODWIN. The reason I asked is I knew the President was a little peculiar and he suspends the law occasionally.

Mr. EVANS (Weber). Well, I move that he issue his proclamation before the first day of January.

Mr. BUYS. Mr. President, I move to amend by striking the word "school" out of the substitute. I do not know what line it is in.

The PRESIDENT pro tem. The chair hears no second.

Mr. CRANE. Mr. President, I would like to hear my substitute read.

The same was read as follows:

After the adoption of this Constitution all general elections for State, judicial, district, county, and precinct officers shall be held on the Tuesday next following the first Monday in November of the year in which the general election is held. The term of all officers elected at any general election shall commence on the first Monday in January next following the date of their election. The Legislature may provide for special elections for municipal and school officers.

Mr. NEBEKER. Mr. President, I am against the field in favor of the section as it came from the committee of the whole and amended in this Convention this afternoon. I think that the printed matter with the amendments that have already prevailed—the amendment of Mr. Thurman, makes this section complete, with the exception possibly of its being necessary to provide for the collector, and I would favor an amendment to provide for that collector, and outside of that I would like to see the section as it now stands placed before this Convention and all substitutes voted down.

The question being taken on the substitute offered by Mr. Evans, of Weber, it was rejected.

The PRESIDENT pro tem. The ques- now recurs upon the substitute offered by Mr. Coray as follows:

After the adoption of this Constitution the first Legislature shall provide for all general and special elections in the State.

The substitute was rejected.

The PRESIDENT pro tem. The question now apparently recurs upon the substitute offered by the gentleman from Millard. Is it the same practically that was presented in the former substitute?

Mr. CRANE. With the exception of the school and municipal officers. I have eliminated them from that substitute.

Mr. VAN HORNE. Mr. President, I move to strike out the words "after the adoption of this Constitution," in the substitute.

The motion of Mr. Van Horne was rejected.

The question being taken on the adoption of the substitute offered by Mr. Crane, the Convention divided, and by a vote of 32 ayes to 47 noes the substitute was rejected.

The PRESIDENT pro tem. The clerk will read section 15.

Mr. CANNON. Mr. President, I understand that Mr. Nebeker offered some amendment.

The PRESIDENT pro tem. He didn't send it up.

Section 15 was read.

The PRESIDENT pro tem. The question before the Convention——

Mr. RICKS. Mr. President, I was going to move the adoption of the article as amended.

The PRESIDENT pro tem. It is not necessary, I believe. As I understand it, the question before the Convention

is the passage upon the third reading of the article.

Mr. SQUIRES. Mr. President, I understand we are now about to take the vote on the article as amended. Before we proceed to that I would like to call the attention of the Convention to the situation that we will be in. During the rather heated debate upon the first section of this article, the gentleman from Utah, Mr. Thurman, made the statement here, which I believe he made in good faith, that if the time should come later on when the Convention should discover that a mistake had been made in adopting this first section as it stands, he would join with the minority in asking for a reconsideration of that vote. I call the attention of the house now to this parliamentary condition, that if we pass this section to-day by a roll call we put it beyond the power of my friend from Utah County or any other county in the Territory to reconsider this proposition. Now, I believe that some action should be taken, in view of the widespread interest there is manifested in this subject throughout the Territory, whereby at some future time, if it shall seem wise to the Convention, we may reopen this subject for a final vote. I merely call the attention of the Convention to that fact. After this roll call has been taken it is passed beyond our power to reconsider it under the rule. I ask Mr. Thurman if he does not consider that is the situation.

Mr. THURMAN. Mr. President, it has been called to my attention to-day that having adopted Roberts' rules of order, a motion to reconsider must be made on the same day on which the act took place that it is desired to reconsider. Now, I know the gentleman don't intend to put me in any false position. I remember my position on this question, but I will say this, and I believe I ought to have the unanimous consent right here granted, that by a two-thirds vote not only the proposition in the mind of the gentleman from Salt Lake, but any proposition in this Constitution should be reconsidered at any time, and with the unanimous consent of the Convention I will move now that that rule which requires a motion to reconsider on the same day—that that portion of the rule binding this body be indefinitely postponed. I think if two-thirds of this Convention at any time want to reconsider a question that they ought to have permission to do so.

The PRESIDENT pro tem. The chair will suggest to the gentleman from Utah that two-thirds of the Convention can suspend the rule. The gentleman isn't accomplishing anything by that proposition.

Mr. THURMAN. The only suggestion is this, that it be suspended now so as to meet the fears of the gentleman that we may not be able to reconsider this after this vote.

Mr. EVANS (Weber). So that a motion to reconsider would not be ruled out of order?

Mr. THURMAN. Yes; as far as the vote is concerned, I think we ought to vote on this article. I think we ought to pass it or reject it by the ayes and noes.

The PRESIDENT pro tem. What is the gentleman's motion?

Mr. THURMAN. My motion is that that portion of the rule which requires that the motion to reconsider be made on the same day be suspended indefinitely, as to this case or any other.

Mr. JAMES. I was going to ask Mr. Thurman if he would not include in that motion a majority in place of two-thirds?

Mr. THURMAN. Oh, no.

Mr. JAMES. The reason why I ask him this question is I find that in the proceedings in some conventions that rule was adopted for the reason that some things might arise afterward that it was considered important to reconsider.

Mr. HART. Mr. President, I do not object to the motion of the gentleman to suspend the rules so far as this question is concerned, but the practical effect of his motion to dispose of this article would be to suspend our rules. Of course, it could not be done, I take it, except it comes up in the usual way. I therefore move, as an amendment to the motion of the gentleman from Utah, that we suspend this so far as the article that we are now considering is concerned. Of course this matter might be reached in a different way without a motion to suspend this rule or making a motion to reconsider now and then laying it on the table. It could be taken up by a majority vote at any time, and the question of that two-thirds' majority—I think the gentleman must be laboring under a mistake here. As I understand it, our rules provide a different rule from that indicated. I therefore move that we make this apply simply to the article that we are now considering—elections and suffrage.

The PRESIDENT pro tem. It is moved and seconded that the original motion be amended so as to read substantially in this wise:

That the general rule of order providing that a motion to reconsider cannot be made after the day upon which the vote is taken, shall be suspended in the matter of article relating to elections and rights of suffrage——

Mr. HART. Mr. President, I think that it would be a dangerous position to leave ourselves here in, on questions in general, if, after calling the yeas and nays on a question and finally disposing of it in that way—if, without notice, a person could take up a question like that any time. You would never know when any question might come up.

Mr. THURMAN. Mr. President, I arise to a point of order. Unless I have unanimous consent, this whole thing is out of order, and it seems I have not got it.

The PRESIDENT pro tem. I don't agree with the gentleman; I think a two-thirds' vote can suspend a rule at any time.

MR. THURMAN. It seems we cannot bring it up in a proceeding like this.

Mr. HART. I don't think the motion should apply to anything further than the article on suffrage and elections, otherwise we will never know when some person moves to reconsider a matter that we think had been passed on. All a man would have to do would be to wait until a number of the friends of the measure are out of the house and then he would move a reconsideration, and get a different ruling, perhaps.

Mr. EVANS (Utah). Does not this have the effect of establishing a new rule under Mr. Thurman's motion?

The PRESIDENT pro tem. No; Mr. Thurman's motion, as originally put, the chair would hold that it would modify and change the standing rule; as proposed to be amended, the chair would hold it would be a suspension for a particular purpose.

Mr. EVANS (Utah). I make the point of order against the original motion for the reason that it is out of order and cannot be presented that way.

The PRESIDENT pro tem. The chair would hold that the rule sending it to a committee may be suspended by a two-thirds vote. We cannot determine that until the vote is taken. The question is on the amendment.

Mr. EVANS (Weber). Mr. President, I am in favor of the suspension of the rule, and I would go further than the gentleman has on my part, and everybody knows, too, how I stand, but I would permit a majority of this Convention to reconsider that question, if a majority wanted to do so. I therefore move as an amendment to the amendment that a majority of the Convention may bring this matter up for reconsideration.

The PRESIDENT pro tem. Gentle-

men, it is not necessary. If the amendment proposed by Mr. Hart shall prevail, or whether it does or not, a majority under the rule can reconsider. The only question here is that your standing rule prohibits from making any motion to reconsider after the day upon which the vote is taken. Now, it is sought to suspend that rule by the amendment and by the original motion as modified.

Mr. CORAY. Mr. President, do I understand the ruling of the chair to be that a majority can reconsider at any time, or a two-thirds majority?

The PRESIDENT pro tem. The chair does not rule that a reconsideration can be had at any time. There is no ruling to be made. The chair is of the opinion that a motion to reconsider, if properly made, can be carried by a majority under your rules, but the only question is whether you can suspend the rule as to the time when the motion can be made.

Mr. CHIDESTER. Mr. President, I oppose Mr. Evans's motion. Is that before the house?

The PRESIDENT pro tem. No, sir. He has made no motion.

The amendment offered by Mr. Hart was agreed to.

The PRESIDENT pro tem. The question now comes upon the motion as amended.

The motion was agreed to.

The PRESIDENT pro tem. Now, in order that there may be no misunderstanding, I will state this motion as I understand it to be carried, and if the secretary hasn't it in accordance with the statement of the chair, one or the other of us will be corrected. The standing rule of the Convention providing that motions to reconsider may not be made after the day upon which a vote sought to be reconsidered is suspended in the particular case of the article on elections and rights of suffrage. The question now recurs upon the final roll call. The first section has been passed, has it not?

Mr. ROBERTS. Yes, sir.

The PRESIDENT pro tem. On the remaining portion of this section.

Mr. SQUIRES. Mr. President, there are a number of gentlemen present today that were not present when the roll was called on the first section, and would like to be recorded on that section. Why not give them an opportunity?

The PRESIDENT pro tem. The chair cannot change the order of parliamentary business. If the gentlemen want to be recorded they will have to be here or arise to a question of personal privilege and have it go on the journal.

Mr. BOYER. Mr. President, now I want to vote intelligently on this question, and if I understand the question aright, it is simply a vote for the changing of the order?

The PRESIDENT pro tem. The chair will state again that you are voting on the final passage of every section in this article as amended, except the section which has already been passed—the first section.

Mr. BOYER. I do not understand it yet.

The PRESIDENT pro tem. The chair is informed by the minutes and by the president *de jure* of this Convention that on roll call section 1 was passed on the third reading. The chair is now advised that the question of the passing of the remaining sections of the article is before the house, and upon those sections you are voting.

Mr. EVANS (Weber). We are voting on the whole article, are we not?

The PRESIDENT pro tem. We are voting on all but section 1.

Mr. EVANS (Weber). I arise to a point of order. The rules provide that the yeas and nays may be called upon any proposition. We called them on that just like we did on any proposition.

The PRESIDENT pro tem. The chair

is of that opinion. The vote before was an unnecessary one. It was a motion upon the adoption of section 1. The question now is upon the third reading and final passage of this entire article.

The roll call showed the following result:

AYES—75.

Allen	Larsen, L.
Anderson	Larsen, C. P.
Barnes	Lemmon
Boyer	Lewis
Brandley	Lowe, Wm.
Buys	Lowe, Peter
Call	Low, Cache
Cannon	Maeser
Chidester	Maloney
Clark	Maughan
Coray	McFarland
Corfman	Miller
Crane	Morris
Creer	Murdock, Beaver
Cunningham	Murdock, Summit
Driver	Nebeker
Eichnor	Partridge
Eldredge	Peters
Emery	Peterson, Grand
Engberg	Peterson, Sanpete
Evans, Weber	Preston
Evans, Utah	Raleigh
Farr	Ricks
Francis	Robertson
Gibbs	Robinson, Kane
Goodwin	Robison, Wayne
Hammond	Shartliff
Hart	Snow
Halliday	Squires
Heybourne	Symons
Howard	Thompson
Hyde	Thoreson
Ivins	Thorne
Johnson	Thurman
Jolley	Varian
Kerr	Wells
Kimball, Salt Lake	Williams.
Lambert	

NOES—16.

Adams	Keith
Bowdle	Kearns
Button	Roberts
Green	Ryan
Haynes	Sharp
Hill	Spencer
James	Stover
Kiesel	Van Horne.

ABSENT—13.

Christianson	Murdock, Wasatch
Cushing	Page
Hughes	Strevell
Kimball, Weber	Thatcher
Lund	Warrum
Mackintosh	Whitney.
Moritz	

Messrs. Pierce and Richards were paired.

During the call the following explanations were made:

Mr. BOWDLE. Mr. President, I vote aye on all excepting the first section, and vote no on that.

The PRESIDENT pro tem. The gentleman cannot record his vote in that way. He may record his vote with such explanation as he may make to go on the minutes.

Mr. BOWDLE. I vote no, then.

Mr. BUTTON. Mr. President, I vote aye, and wished to be excused on the first section.

The PRESIDENT pro tem. The vote is on the entire article.

Mr. BUTTON. I vote no.

Mr. EICHNOR. Mr. President, I ask for information whether a delegate cannot vote for the article and have his vote recorded against one or two sections?

The PRESIDENT pro tem. The chair is of the opinion that he cannot. He has had the opportunity to do that, and as a matter of fact this house has recorded its vote on this particular matter before. As the sections were passed the ayes and noes were called on one of them, but the chair is of opinion that the third reading of this proposition means as a whole.

Mr. EICHNOR. I will ask another question. If the gentleman who occupies the chair now did not have his vote recorded the other day against section 10 of the bill of rights?

The PRESIDENT pro tem. No; the gentleman who now occupies the chair, when then in his seat, explained his vote while voting for the entire article and said he did not approve of nor endorse section 10. It was entered so on the minutes.

Mr. EICHNOR. I vote aye and cannot approve of section 14.

The PRESIDENT pro tem. Does the gentleman desire that entered on the minutes?

Mr. EICHNOR. Yes, sir.

Mr. EVANS (Utah). I desire to vote aye, but I do not endorse section 14.

Mr. KERR. I vote aye on the entire article, but I favor submitting as a separate proposition the section providing for woman suffrage.

Mr. LAMBERT. I vote aye on this and will move to reconsider section 1.

Mr. PIERCE. Mr. Richards was detained in court this afternoon. If he were here he would vote aye on the bill and I would vote no. We are paired.

Mr. EICHNOR. Mr. President, cannot a delegate after he has voted qualify any other section?

The PRESIDENT pro tem. No, sir—I do not understand the gentleman.

Mr. EICHNOR. When I voted I said I could not approve section 14. I would like to qualify my vote with respect to another section.

The PRESIDENT pro tem. Well, I presume the gentleman may add another section to his remarks and consider it in.

Mr. EICHNOR. That as to section 1?

The PRESIDENT pro tem. I cannot receive a statement now, while the roll is being called. I thought the gentleman was just going to mention a section.

The president pro tem announced that the article on elections and rights of suffrage had passed its third reading and gave notice that he would move to reconsider the vote by which the article had passed.

Mr. Williams was excused until next Wednesday.

Mr. SQUIRES. Mr. President, I move that we now resolve ourselves into committee of the whole to take up the executive article.

The motion was agreed to.

The Convention then resolved itself into committee of the whole with Mr. Evans of Weber in the chair.

COMMITTEE OF THE WHOLE.

Consideration of the article on executive was resumed.

The CHAIRMAN. Gentlemen, as the chair is informed, the committee passed section 12, unless there are some further amendments to it.

Mr. EICHNOR. Mr. Chairman, I offer a substitute for section 12.

The same was read as follows:

The governor shall have power to grant pardons, conditional or absolute, to remit fines or forfeitures, and to grant reprieves and commutations of sentence, after conviction and judgment, for all offenses except treason and in cases of impeachment, but no pardon shall be granted nor sentence commuted in cases of felony, except upon the written recommendation of not less than the majority of the board of pardons, consisting of the secretary of state, attorney general, and state auditor.

Mr. VARIAN. I wish to ask as a favor of the committee that they will postpone the consideration of this executive article and take up some other that they have here.

It will be impossible to conclude this evening and I am compelled to go into court in a law suit to-morrow morning, and as the chairman of that committee, the members expect me to be here. It will not delay you at all, but just pass on to some other article and finish that, and at that time take up the remainder of this article.

The CHAIRMAN. You have heard Mr. Varian's statement, if there is no objection we will take up the next article on the calendar—ordinance and federal relations.

The committee then proceeded to the

consideration of the article on ordinance.

The first subdivision was read as follows:

The following ordinance shall be irrevocable without the consent of the United States and the people of this State:

First. Perfect toleration of religious sentiment shall be secured, and no inhabitant of this State shall ever be molested in person or property on account of his or her mode of religious worship; and polygamous or plural marriages are forever prohibited.

Mr. KIMBALL (Salt Lake). Mr. Chairman, I have no objections to the first section, if we put "Congress of the United States" in that part. I think that is altogether too broad, and it is not meant in that sense. I move an amendment that we place immediately before the words "United States," in the second line, the words "the Congress of the."

Mr. MALONEY. Mr. Chairman, the Enabling Act provides that this Convention shall provide by ordinance irrevocable that the consent of the United States and the people of said State, etc., so I think it would be improper for the committee to insert the words "the Congress of the United States." We want to comply strictly with the Enabling Act.

Mr. ROBERTS. Mr. Chairman, I see no reason for inserting the words "the Congress" in that line. The only way that the people of the United States could ever give any consent to this would be by its Congress. We may as well, as suggested by my friend from Washington just now, insist upon putting the words the Legislature of Utah in as to insist upon putting the word Congress there. It seems to me, sir, that the paragraph is perfectly clear. The only way that the United States could ever give its consent to change this matter would be through the Congress of the United States. That is clearly understood.

Mr. GOODWIN. Mr. Chairman, it seems to me that means more than the Congress of the United States. It means the Congress and the President of the United States. That is the government. That is so understood.

Mr. EICHNOR. Mr. Chairman, I agree with the gentleman from Davis County and the gentleman from Weber County, that the words "United States" should be used. This is compliance with the Enabling Act, and, gentlemen, if you want our Constitution to go in the waste basket, just tamper with the requirements the Enabling Act lays down for the compact. Do not tamper with it. That is my advice.

Mr. KIMBALL (Salt Lake). Mr. Chairman, by way of explanation, reading the Enabling Act, I had the idea that it was Congress there. My attention has been called to it——

The CHAIRMAN. Does the gentleman withdraw his amendment?

Mr. KIMBALL (Salt Lake). I am willing it should go to a vote, because I think it is too broad.

The amendment was rejected.

Mr. HART. Mr. Chairman, there is a matter connected with the adoption of this first division that I desire to call the committee's attention to, and that is whether this last clause is sufficient. I am aware of the fact that it is in the exact language of the Enabling Act, but it occurs to me that there may possibly be some question on this section for this reason: That under this language, the prohibition that is sought to be secured here, enacted in these words, is not operative, unless you go further and make this class of offenses a crime or misdemeanor and provide a punishment therefor. For instance, supposing you adopt this Constitution in the form it is now in and the Legislature should omit to follow this up by the passage of laws making this class of offenses crimes or misdemeanors, where would you be then? Of course the object of the ordinance on this subject is to secure the

punishment of these offenses for all time. That is, it does not desire to place the matter in the discretion of the Legislature or the people of this Territory, and it seems to me that the language as it now stands is not self-operative. That, in order to make it self-operative, in this Constitution we must go further and declare those things offenses and provide a penalty therefor. I haven't prepared any amendment, but I submit this matter to the Convention, whether it would be better to cover this matter clearly and distinctly, and there will be no question in the mind of Congress as to the real meaning of the Constitution?

The CHAIRMAN. There is no amendment to the first paragraph of the ordinance.

The chair hearing none, we will pass to the second.

The second paragraph was read as follows:

Second. The people inhabiting this State do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indian or Indian tribes, and that until the title thereto shall have been extinguished by the United States the same shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States; that the lands belonging to citizens of the United States residing without this State shall never be taxed at a higher rate than the lands belonging to residents thereof; that no taxes shall be imposed by this State on lands or property therein, belonging to or which may hereafter be purchased by the United States or reserved for its use; but nothing in this ordinance shall preclude this State from taxing, as other lands are taxed, any lands owned or held by any Indian who has severed his tribal relations and has obtained from the United States or any person a title thereto by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any act of Congress, containing a provision exempting the lands thus granted from taxation, which last mentioned lands shall be exempt from taxation so long, and to such extent, as is or may be provided in the act of Congress granting the same.

Mr. CORAY. Mr. Chairman, I move to amend by striking out that portion after the words "United States," in line 12, down to the word "thereof."

No second.

Subdivisions 3 and 4 were as follows:

Third. All debts and liabilities of the Territory of Utah, under authority of the Legislative Assembly thereof, are hereby assumed and shall be paid by this State.

Fourth. The Legislature shall make laws for the establishment and maintenance of systems of public schools, which shall be open to all children of the State and free from sectarian control.

Mr. SMITH. Mr. Chairman, I move the article be adopted as a whole.

The motion was agreed to.

The committee of the whole then proceeded to the consideration of the article entitled "congressional and legislative apportionment."

Sections 1, 2, 3, and 4, were read and passed without an amendment.

The subdivision entitled "representative districts" was read.

Mr. CORAY. Mr. Chairman, I think that the provisions in line 4 may conflict with what has gone before. Section 3 states that the number of representatives shall not exceed ninety. If it should ever occur that there would be more than ninety counties in the Territory, it would conflict.

The CHAIRMAN. The chair hears no motion or second.

The subdivision of the article entitled "senatorial districts," was read.

The CHAIRMAN. What is your further pleasure, gentlemen?

Mr. CANNON. Mr. Chairman, I would like to ask the chairman of the committee on apportionment the basis of the apportionment briefly stated in both the representative districts.

Mr. ELDREDGE. There would be about 3300, taking them as a whole.

Mr. CANNON. Both in the representative districts and in the senatorial?

Mr. ELDREDGE. It is based as nearly as possible upon 12,000.

Mr. CANNON. Mr. Chairman, I then move the adoption of the article as read.

The motion was agreed to.

The committee then proceeded to the consideration of the article entitled "public lands."

Section 1 was read as follows:

PUBLIC LANDS.

Section 1. All lands of the State that have been, or that may hereafter be granted to the State by Congress, and all lands acquired by gift or grant or devise from any person or corporation, or that may otherwise be acquired, are hereby received and shall be the public lands of the State, and shall be held in trust for the people, to be disposed of as hereafter provided, for the respective purposes for which they have been or may be granted, donated, devised, or otherwise acquired; and none of such lands nor any estate or interest therein shall ever be disposed of except in pursuance of general laws providing for such disposition, nor unless the full market value on the estate or interest disposed of, to be ascertained in such manner as may be provided by law, be paid or safely secured to the State; nor shall any lands that the State holds by grants from the United States (in any case in which the manner of disposal and minimum price are so described) be disposed of, except in the manner or for at least the price described in the grant thereof, without the consent of the United States. Said lands shall be classified by the board of land commissioners as follows:

First.—Lands which are valuable only for grazing purposes.

Second.—Those which are principally valuable for the timber that is on them, or the stone or coal which is in them.

Third.—Agricultural lands.

Fourth.—Lands within the limits of any town or city; provided, that any such lands may be classified whenever, by reason of increased facilities for irrigation, or otherwise, they shall be subject to different classification.

Mr. MALONEY. Mr. Chairman, I have an amendment to section 1.

The same was read as follows:

Strike out all of lines 1, 2, 3, 4, 5, and line 6 down to the word "shall," and insert in lieu thereof the following:

Section 1. The State of Utah hereby accepts the several grants of land granted by the United States to this State by an act of Congress entitled an act to enable the people of Utah to form a Constitution and a State government and to be admitted into the Union on equal footing with the original states, under the conditions and limitations therein mentioned, reserving the right, however, to apply to Congress for modification of such conditions and limitations in case of necessity. All lands that may hereafter be granted to the State by the United States, and all lands acquired by gift, grant, devise, or from any person or corporation, or that may be otherwise acquired, are hereby declared.

wish to say that the section has been amended to follow the Enabling Act exactly. Section 1 as it now stands is not in accordance with the Enabling Act. It provides that lands hereafter acquired be received. It strikes me it is rather awkward to say that we receive lands now that may be hereafter donated. I have followed the Enabling Act word for word, so as to get at the intent of Congress, and I think that we ought to adopt it, and after the word "shall" the balance of section 1 is in accordance with the Enabling Act. I wish the gentlemen of the Convention would compare it with the Enabling Act and see that I am correct about it. I wish to state, as stated by the gentleman from Salt Lake, if we do not comply with this Enabling Act it is not worth while for us to form any Constitution and submit it to the people, as you will see that the Enabling Act provides that if all the requirements of this act be complied with, then the President of the United States must issue this proclamation. So that it is very important that we comply with all the requirements of the Enabling Act.

The CHAIRMAN. What section is that?

Mr. MALONEY. Section 4.

The CHAIRMAN. What section of the Enabling Act did you copy this amendment from?

Mr. MALONEY. I think it is section 8 and subsequent sections.

Mr. SQUIRES. Mr. Chairman, as this seems to be rather an important matter, and we have reached our usual hour for adjournment, I move the committee now arise and report progress.

The motion was agreed to.

The committee then rose and reported as follows:

MR. PRESIDENT:

The committee of the whole have had under consideration the article on ordinance and have recommended its adoption; also the article on apportionment and boundaries and have recommended its adoption, and have further considered the article on public lands and beg leave to report progress and ask to sit again.

The Convention then, at 5 o'clock p. m., adjourned.

THIRTY-SEVENTH DAY.

TUESDAY, April 9th, 1895.

The Convention was called to order at 10 o'clock a. m. by President Smith.

The roll was called and all members found to be present except Kimball, of Salt Lake, Richards and Thatcher.

Prayer was offered by the Rev. Ritchie, of the Congregational Church.

The journal of the thirty-sixth day's session was read and approved.

Petitions and memorials.

The following petitions were presented, asking that the question of woman's suffrage be submitted as a separate article to the vote of the people?

File No. 198, signed by Geo. Canning, of Salt Lake, and 120 others, by Van Horne, of Salt Lake.

File No. 199, signed by E. Lynch, of American Fork, and 160 others, by Cunningham, of Utah.

File No. 200, signed by Thos. Fryer, of Box Elder, and 62 others, by Peter Lowe, of Box Elder.

File No. 201, signed by P. H. Candland, of Salina, and 142 others, by Ricks, of Sevier, by request.

File 202, signed by Geo. W. Groo, of Park City, and 70 others, by Murdock, of Summit.

File No. 203, signed by A. D. Moffat, of Park City, and 62 others, by Murdock, of Summit.

File No. 204, signed by Henry Booth, of Stockton, and 40 others, by Stover, of Tooele.

File No. 205, signed by John Faunce, of Ophir, and 70 others, by Stover, of Tooele.

File No. 206, signed by H. C. Larson, of Elsinore, and 49 others, by Brandley, of Sevier.

File No. 207, signed by C. F. Olson, of Hyrum, and 49 others, by Roberts, of Davis.

File No. 208, signed by W. H. Meneray, of Silver City, and 22 others, by Ryan, of Juab.

File No. 209, signed by C. H. Blanchard, of Silver City, and 27 others, by Ryan, of Juab.

File No. 210, signed by Dan Blanchard, of Silver City, and 36 others, by Ryan, of Juab.

File No. 211, signed by Mrs. L. Parson, of Sandy City, and 196 others, by Cushing, of Salt Lake.

File No. 212, signed by Joseph Williams, of Morgan County, and 72 others, by Francis, of Morgan, by request.

File No. 213, signed by Mattie S. Woodward, of Salt Lake City, and 20 others, by Goodwin, of Salt Lake.

File No. 214, signed by Mrs. W. S. McCornick, of Salt Lake, and 160 others, by Goodwin, of Salt Lake.

File No. 215, signed by John Stubbs, of Salt Lake, and 30 others, by Goodwin, of Salt Lake.

File No. 216, signed by A. W. B. Lundquist, of Thistle, and 60 others, by Goodwin, of Salt Lake.

File No. 217, signed by Ben F. Whitte-

more, of Salt Lake, and 150 others, by Goodwin, of Salt Lake.

File No. 218, signed by Wm. Holmes, of Salt Lake, and 45 others, by Thurman, of Utah, by request.

File No. 219, signed by James P. Jensen, of Newton, and 50 others.

Special orders.

Mr. WHITNEY. Mr. President, before we pass this, I ask unanimous consent of the Convention to allow me to make a presentation to the president, by request.

The PRESIDENT. If there is no objection the gentleman may do so.

Mr. WHITNEY. Mr. President, I have been requested to present to you this collection of portraits of the officers and members of the Convention, not as an evidence of our egotism, nor even as a token of the regard which we all feel for you. The gift, while of us, is not from us, but is presented with the compliments of the enterprising photographer, Mr. Shipler, who captured us, it seems, with these ends in view. Doubtless in the years to come, when you survey this artistic specimen of his handiwork, this counterfeit presentation of the sea of upturned faces that now greet you, you will be reminded of many interesting scenes and incidents. Let us hope, however, that none but pleasant memories will be recalled, and that both you and ourselves will continue to cherish kindly feelings for each other, with affectionate reminiscences of the time when you held the helm of this Convention and guided the bark of deliberations through stormy seas of debate to the haven of an accomplished task. [Applause.]

The PRESIDENT. I hope and trust that the friendships awakened here may continue forever.

Mr. GOODWIN. Mr. President, is that intended to be submitted separately? [Laughter.]

The PRESIDENT. It looks as if it was; yes.

Third reading of ordinances and propositions to be inserted in the Constitution.

Mr. HART. Mr. President, I move you that we suspend the rules and resolve ourselves into the committee of the whole for the further consideration of the article on public lands.

The question being taken on the motion, the Convention divided, and by a vote of 11 ayes, (noes not counted,) the motion was rejected.

The Convention then proceeded to the third reading of the article entitled ordinance.

Subdivision one was read by the secretary.

Mr. JAMES. Mr. President, I do not rise to make any argument or introduce any resolution, but for an inquiry. When that section was reached on yesterday, Mr. Hart rose in the Convention and made some statements regarding the requirements of the Legislature to enact some law or laws regarding the punishment for the violation of the law mentioned in that section, and called the attention to the fact that if that was not done by the Legislature there was nothing in the provision as it stood. I did not fully understand him yesterday, but I wanted to inquire what his opinion was there regarding that matter and what the necessity was. Well, the point, Mr. President, was simply this, that provision of the Constitution is not self-executing. It would require legislation in line with the same provision in order to secure the ends desired, and I simply presented the matter for the consideration of the Convention, as to whether it would be expedient in order to remove all questions of doubt, as to whether the provision on this subject that we incorporate it in the Constitution is strong enough to be beyond all question. I had no amendment, Mr. President to propound at the time, but simply suggested a fact, which I think will be conceded by every attorney here,

that provision is not self-executing. There was a similar question came up under the constitution of California, and if I remember rightly the ruling of the supreme court there was that the provision of the constitution was not self-executing; that in order to make it so and to cover that ground more fully, you would have to go further and declare the act an offense in the Constitution itself.

Mr. EVANS (Weber). Mr. President, there is no motion before the house, but it seems to me this complies fully with the Enabling Act, just as it is. The Constitution will undoubtedly put in effect all the laws of the Territory, and there is a territorial law making these offenses penal. I would not be in favor of changing it at all. I think it is just as it should be.

Mr. EICHNOR. Mr. President, I realize that there is no question before the house. I was a member of the committee that drafted this article. I am not chairman of the committee. Mr. Heybourne, of Iron County, is the chairman. I will state that the committee gave this clause, "and polygamous or plural marriages are forever prohibited," the greatest consideration, and after consultation with members outside the committee, we came to the conclusion that we met the requirements of the Enabling Act fully if we adopted the language of the Enabling Act.

The PRESIDENT. There is no question before the house, gentlemen.

The remainder of the article was read by the secretary.

Mr. EVANS (Weber). Mr. President, I move the passage of the ordinance as read.

Mr. KERR. Mr. President, I would like to ask the chairman of the committee the object of providing in the fourth paragraph for the maintenance of systems of public schools? It is provided in the article on education for a system of public schools.

Mr. HEYBOURNE. I will state in answer to the gentleman it is simply the language of the Enabling Act in the fourth paragraph.

(Reads.)

The PRESIDENT. The question is why you put in systems in this section, instead of system.

Mr. HEYBOURNE. There may be a typographical error there.

Mr. SQUIRES. Mr. President, I move that the word "systems" be stricken out and the words "a system" be inserted.

The motion was agreed to.

The roll being called on the adoption of the article entitled ordinance, the result was as follows:

AYES—90.

Adams	Kimball, Salt Lake
Allen	Lambert
Anderson	Larsen, L.
Barnes	Larsen, C. P.
Bowdle	Lemmon
Boyer	Lewis
Brandley	Lowe, Wm.
Button	Lowe, Peter
Buys	Low, Cache
Call	Maeser
Cannon	Mackintosh
Chidester	Maloney
Christiansen	Maughan
Clark	McFarland
Coray	Miller
Corfman	Morris
Creer	Moritz
Cunningham	Murdock, Beaver
Cushing	Murdock, Summit
Driver	Nebeker
Elchnor	Page
Eldredge	Partridge
Emery	Peters
Engberg	Peterson, Grand
Evans, Weber	Peterson, Sanpete
Evans, Utah	Preston
Farr	Raleigh
Francis	Ricks
Gibbs	Roberts
Goodwin	Robertson
Green	Robinson, Kane
Hammond	Robison, Wayne

Hart	Ryan
Haynes	Sharp
Halliday	Shurtliff
Heybourne	Squires
Hill	Stover
Howard	Symons
Hughes	Thompson
Hyde	Thoreson
Ivins	Thorne
James	Thurman
Keith	Van Horne
Kearns	Wells
Kerr	Whitney.

NOES—0.

ABSENT—16.

Crane	Richards
Johnson	Snow
Jolley	Spencer
Kiesel	Strevell
Kimball, Weber	Thatcher
Lund	Varian
Murdock, Wasatch	Warrum
Pierce	Williams.

The PRESIDENT. The article on ordinance has been adopted and will be referred to the committee on compilation and arrangement.

Mr. EVANS (Utah). Mr. President, I move that we resolve ourselves into committee of the whole for the consideration of the article on public lands.

Mr. ANDERSON. Mr. President, I am opposed to that motion.

Mr. SQUIRES. Mr. President, it is not subject to debate.

The motion was agreed to.

The Convention then resolved itself into committee of the whole, with Mr. Eldredge in the chair.

COMMITTEE OF THE WHOLE.

The CHAIRMAN. Gentlemen, the business under consideration is the article on public lands. There was an amendment pending, offered by Mr. Maloney.

Mr. MALONEY. Mr. Chairman, upon due reflection, I will withdraw the amendment I proposed to section 1.

The CHAIRMAN. If there is no objection, the gentleman's request relative to the amendment will be granted.

Mr. EVANS (Weber). Mr. Chairman, I desire to offer an amendment to section 1. I was preparing it. I think it is a matter of some considerable importance.

The CHAIRMAN. The gentleman will write it out and send it to the clerk.

Mr. EVANS (Weber). I will call the attention of the committee to it now. The amendment is somewhat crude. The amendment would be to provide that school lands and other lands where people have actually settled upon them prior to the date of survey and plat in the land office, that they should be entitled to receive such land at a less price than its actual value. I will prepare the amendment a little later on, and I want to call the attention of the Convention to it now. Section 1 provides, among other things, that these lands be disposed of pursuant to general law providing for such disposition, by pay ing the full market value of estate or interest disposed of. I think it will have to be recommitted. If I am right in my theory of it, I think this Convention will recommit this section to the committee. The point I make is this, if I may be permitted to make it, that we all know in this Territory that many people settled upon lands which are now school lands. At the time they settled upon it, they did not know they were school lands or not. The lands were unsurveyed. They made their homes upon them, and it would seem to me now to be unjust that the State should require these people to pay the full value for those lands to-day, and the substance of my amendment would be to let the Legislature make such provisions as would enable those people to secure those lands at a less value than their actual market price.

The CHAIRMAN. If the gentleman wishes to have it recommitted, it would be necessary to make a motion, and then give his reasons for it.

Mr. EVANS (Weber). I move that the section be recommitted to the committee on public lands.

Mr. MAUGHAN. I second the motion.

Mr. EVANS (Weber). For the purpose of taking into consideration the advisability of adding some provision by which the people who settled upon these lands prior to their survey might receive title at a less price than its actual market price.

Mr. BOWDLE. Mr. Chairman, for the information of the Convention, I would state that the committee on education, which is also a committee upon school lands, has an article in process of preparation, if not already completed, that covers that question, and I do not know that we would need two articles. If it was put in here, why the committee that I speak of would not need to make any report. It seems to me it comes more appropriately under the head of school lands than the committee we are treating of.

Mr. LOW (Cache). Mr. Chairman, in the early days of our Convention, I stated that there was a conflict in the duties which we thought incumbent upon the respective committees, that of education and school lands and the committee on public lands, which we think can be modified to a certain extent and incorporated in this article. The motion to recommit I think would be the better way to reach this proposition, so that we can successfully arrange it and satisfactorily report to the Convention.

Mr. SQUIRES. Mr. Chairman, the only proper way to recommit would be for the committee of the whole to rise and recommend to the Convention that it be recommitted to the committee, and if that is the desire, I move that we now rise and recommend to the Convention that this section be recommitted to the committee on public lands.

Mr. ROBERTS. Mr. Chairman, I think it is not necessary for this committee to rise to do that. I think that we should pass this article with a view of reporting it to the Convention, and then have it recommitted. I would therefore, amend the motion that we pass this section now, and when we rise ask the Convention to recommit the article.

Mr. ANDERSON. Mr. Chairman, if it is in order, I will offer a substitute to the amendments, by inserting after "disposition," in the fourteenth line, the following, "except as otherwise provided by this Constitution." If it is as Mr. Bowdle states, that this is provided for in school lands, why, this will meet the objection that is raised against it. A disposition of school lands as provided for by another committee.

Mr. THURMAN. If you will make that to read, "except as provided in the article on education and school lands," I will second it.

Mr. ANDERSON. I will adopt the suggestion.

Mr. ADAMS. Mr. Chairman, the committee on education and school lands handed me their provision with reference to the matter, and I suggest that it be inserted in this article. Perhaps it would be the way out now if this be read. Possibly it would satisfy the committee on school lands.

Mr. EICHNOR. Mr. Chairman, is Mr. Anderson's motion in order? I will second it if it is.

Mr. SQUIRES. Mr. Chairman, I judge that this matter is too important for us to pass over hurriedly, in view of what has been said here in relation to the probable report of the committee on education and school lands. I think it would be wisdom on our part to in some way pass the further consideration of this matter, and either let it go back to the committee, or defer it until the report of the committee on education comes in. I understand now the motion is that when we rise we recommend to the Convention that this whole

article be recommitted to the committee on public lands.

The CHAIRMAN. That was what I understood the gentleman's motion from Salt Lake to be.

Mr. CANNON. Mr. Chairman, I understood Mr. Adams has something to offer. There was some confusion and I could not hear all that he said. I did not understand what the chairman of the committee desired.

Mr. ADAMS. It was merely the suggestion made by the committee on education and school lands, and I stated that possibly it would do away with the matter of reconsidering this. I think it could be brought up now and read. If not, I would vote to recommit.

Mr. ROBERTS. Mr. Chairman, speaking to the proposition of passing this, and reporting the matter to the Convention when we do arise, I wish to say that I hope there will be no attempt to accept the proposition by the committee on education and school lands, and I stated that possibly it would do away with the matter of reconsidering this, because the provisions that they have covered being only applicable to school lands might not cover some of the public lands that are not school lands, and I believe, sir, that this is a matter of such importance that it really ought to go back to the committee for consideration, and I don't think that it would be safe to undertake to substitute the article proposed by the committee on school lands to cover all the public lands of the State, and I therefore hope the motion that we pass shall prevail.

Mr. THORESON. Mr. Chairman, being that a suggestion from the committee on education is now before the committee, and I believe that a large portion of the inhabitants of the Territory and the future State are interested in this matter, and also members here on the floor, I would like to have the suggestion read that we might know what is intended to be done. I want to say I am in favor of recommitting the matter, but I would just like to hear the lines upon which the matter is to be considered read.

The suggestion by Mr. Adams was read as follows:

The State board of land commissioners shall consist of three members, who shall have the direction, control, and disposition of public lands of the State under such regulations as may be prescribed by law. They shall be selected at large by the qualified electors of the State, and, except for the first term as herein provided, they shall hold office for four years. Of the lands located and selected to satisfy the grants made to the State, it shall be the duty of said board to make allotments to each of the several uses for which the same were granted, so that each may receive its fair proportion thereof, both as to quantity and value. The Legislature shall provide by law, at its first session, that all persons who located and settled upon the lands reserved as school lands, and their grantees, shall be protected in the occupation, cultivation and improvement of such lands by having given to them priority in the purchase; provided, the price of such lands shall not be increased by the value of any improvements made upon them, but shall be sold to the settlers at a fair appraisement of such lands as of the date of settlement thereon.

Mr. THURMAN. Mr. Chairman, I understand this is a motion to recommit to the committee on public lands?

The CHAIRMAN. Yes, sir; to recommend that it would be recommitted.

Mr. THURMAN. In view of the reasons assigned for recommitting, I offer to amend by proposing that it be recommitted to the committee on public lands and school lands jointly. I think that it ought to be that way, because I do not think that any of these committees can act very well without the other.

In fact, that is the way that this matter has come in the shape that it has now, by these committees acting independently; if they are united and deal with this whole question together, I think that we will get a better report.

Mr. SQUIRES. I will accept that amendment.

Mr. EVANS (Weber). Mr. Chairman,

since hearing the report of the committee on school lands, I think if that be adopted, it would fully cover the suggestion which I made, and the amendment suggested by Mr. Anderson would cover everything which is necessary to insert after the word "value," in line 14, "except as otherwise provided in this Constitution." If I knew that we were going to adopt that I would be in favor of this amendment, but since it may not be adopted, I think it would be all right to recommit it.

Mr. LOW (Cache). Mr. Chairman, by way of explanation, I understand from the chairman of the committee to whom these recommendations from the committee on school lands were referred, or from whom they came, they were submitted that there might be no conflict between the two committees, the one on public lands and the one on school lands. It was for the consideration of the one on public lands. If it were to embody those sentiments in the article on public lands, then they would not be covered in the article on school lands, and when the question was raised by the gentleman from Beaver, (Mr. Anderson,) Mr. Adams sought to introduce this so that we would not go beyond the recommendation made from the committee on school lands, the conference or joint committee would arrive at a proper conclusion on this matter, I believe.

The CHAIRMAN. The motion is that the committee of the whole recommend to the Convention that the article on public lands be recommitted to the committee on public lands, and committee on education and school lands jointly.

The motion was agreed to.

The article on militia was considered as follows:

MILITIA.

Section 1 was read.

Mr. SQUIRES. Mr. Chairman, would it not be wise to include in our militia not only those who are fully citizens, but those whom have declared their intentions to be such—those who have taken out their first papers? I have been engaged in the last month in enrolling the militia of this county under the provisions of a territorial law, which provides that those who have declared their intentions shall be enrolled, and if that is the law now, I do not know why we should not continue it.

Mr. CHIDESTER. There is no motion before the house.

Mr. MACKINTOSH. Mr. Chairman, I move to strike out the word "male" in the section. [Laughter.]

Mr. CHIDESTER. Mr. Chairman, I would like to ask the gentleman a question, who makes that motion? I want to ask if you belong to the militia?

Mr. MACKINTOSH. Now? Oh, no. I am exempt by the color of my hair.

Mr. CHIDESTER. I am going to say that if he did, for the purpose of improving the militia, I would support his motion. [Laughter.]

Mr. Evans of Weber offered the following as a substitute for section 1:

The militia shall consist of all able bodied male citizens and those who have declared their intention to become such, of the State, between 18 and 45 years of age.

Mr. KERR. Mr. Chairman, I move an amendment to the substitute that the word "citizens" be substituted for the word, "such."

Mr. EVANS (Weber). I will accept the amendment.

Mr. BOWDLE. Mr. Chairman, I move to amend by striking out the number "18" and inserting "21."

Mr. GOODWIN. Mr. Chairman, I hope that will not pass, because there are a good many boys in the militia already who are not 21 and a great many boys are better before they are 21 than they ever are afterwards.

Mr. SQUIRES. Mr. Chairman, I am also opposed to that amendment.

Mr. CORAY. Mr. Chairman, I do not

think that a person ought to be required to serve in the militia that has no right to vote. I am opposed to their either serving in the militia or paying a poll tax until they are 21.

Mr. ROBERTS. Will the gentleman permit me a question. I would like to ask if you are in favor that all those who do vote shall be in the militia? [Laughter.]

Mr. BUTTON. Can the State compel a minor to join the militia?

Mr. SQUIRES. Certainly.

Mr. BOWDLE. Mr. Chairman, I favor this amendment for this reason, all aliens that are of that age are excluded; they are not expected to bear arms for the support of the government. Why? Do not they get the protection? They are not citizens. They have no voice in the affairs of the nation, neither a male citizen until he is twenty-one years of age. It is one of the things that necessarily seems to me ought to be coupled with the right of suffrage. I am not speaking about their right, as we propose here to extend it to the females, but as to the male citizen, if he has a responsibility, and upon him is placed the duty of protecting the State until he has something to do toward voicing his sentiment in the matter of its control. Therefore, I am in favor of its be twenty-one.

Mr. SQUIRES. Mr. Chairman, if that is the rule, which the gentleman from Salt Lake would apply to this subject, why not strike out the other limit, forty-five years, and let a man serve in the militia until he is a hundred years old?

Mr. BOWDLE. Because it is supposed when he gets to be forty-five years old that he is no longer any account for anything but to vote. [Laughter.]

Mr. SQUIRES. I call the attention of the gentleman to the fact that I am a little over forty-five years old, but I am still able to bear a musket and am still willing to do it. My entire service in the army was over before I was twenty-one years old, and my experience was that the young men who served in the war of the rebellion made the best soldiers. I don't think we should make this limit to twenty-one years. I was a soldier when I was sixteen. I believe the young men make the best soldiers.

Mr. EVANS (Weber). Let Goodwin show his record in the war now.

Mr. GOODWIN. Mr. Chairman, I only mentioned this matter because there are some young men in the militia of Utah now who are not twenty-one years of age, and I think in case they were in service under this, they would draw no pay. This could be cured by adding, "But minors may enlist after they are eighteen years of age." I don't care anything about it. Mr. Evans wants to know my record in the war. I call on the chairman to witness that we have had the most serious contests with him during the last two weeks, and he has been the hardest man to down that we have ever met. He is worse in the committee, for instance, than he is on the floor.

Mr. STOVER. Mr. Chairman, in order to set that right, I will state that the United States statute says that the militia shall consist of all able bodied male citizens between 18 and 45 years of age.

Mr. LOW (Cache). Mr. Chairman, I shall object to the amendment offered, more especially as we have heard the expressions of opinions of such learned gentlemen as Colonel Squires, and Captain Stover, and other gentlemen upon the floor here who have earned their laurels, and Captain Hart, from Cache County, desires to express his sentiments also.

Mr. FARR. Mr. Chairman, it is known pretty well that there are a great many boys that are not men at 18, and there are a great many boys

that are men at 16, and able to do military work, but to compel a boy of 18 that is not competent, that has not got his majority—that is, have not got their strength and their vigor, to do military service at 18, I do not think it would be wise or prudent, consequently, I would like to see the law framed to admit a man at any age, if he is competent, and wants to serve his country, he should not be objected to; but to force men at 18 to do military duty when they are boys, I do not think that that would be right, I do not think it would be good management, but they should have that privilege of serving at 18 if they so wish, but to compel them to, I would not do that any more than I would compel a woman to serve at 18. If she wants to serve at 18, and the men want her, let her serve. [Laughter.] Do not compel her. Let her consult her own desires.

Mr. CREER. Mr. Chairman, I find in the constitution of the state of New York, that was passed in 1894, "All able bodied male citizens between the ages of 18 and 45 years." It is in nearly all the constitutions. It is in Wyoming.

Mr. VAN HORNE. Mr. Chairman, some of the members don't understand what this means. It does not mean that every man that belongs to the militia must necessarily serve during time of peace. That is what is known under our national system as a national guard. It simply means that the State, in case of necessity, may call on men, and that they are required to do military duty, these people between 18 and 45—and that is all the section means. If men above 45 want to make voluntary enlistment in case of war, or men under 18 that are growing up to the requisite standard and want to enlist, the statute allows them to enlist, but the men between 18 and 45 can be called upon.

Mr. RYAN. Mr. Chairman, I wish to say a word as to the motive that influenced the committee to report the article as they have reported it. Personally I do not like to see the enlarged militia service that states are generally adopting, and many of the committee desire to curtail somewhat, and we thought of making it from 21 to 35. I agree with many other gentlemen that men don't make much soldiers after they are 30 or 35, but looking the matter all over, we follow exactly the provisions of the United States statutes, that all able bodied male citizens between the ages of 18 and 45. We would have made it then in one section except that we wanted to give the discretionary power to the Legislature that they would not have to organize or arm and equip the whole militia force of the State, but they commence at a battalion and go to a regiment or two regiments, if they wish. I think you have men enough in the militia service as that section is adopted, and I would not favor any amendment to it, even for the purpose of taking in those who have declared their intentions to become citizens only. I think you have large enough military force with the provision as reported.

Mr. Jolley, by his request, was excused for the remainder of the day's session.

Mr. HAMMOND. Mr. Chairman, I am in favor of this section as it stands. The gentleman from Salt Lake said he was a soldier at sixteen. I was a sailor at fourteen. I go him two years better, and as times are moving—societies, Coxeyites, what do you call them—commonwealers, Dave Day and his Indians, we don't know what will happen. Let us keep them all in from eighteen up.

The motion of Mr. Bowdle was rejected.

The question being taken on the substitute offered by Mr. Evans, the committee divided and by a vote of fifty-three ayes to twenty-three noes, the substitute was agreed to.

Mr. RICKS. Mr. Chairman, I wish to offer an amendment at the end of the section, by adding the following words:

"Except such as are exempted by laws of the United States and of this State."

Mr. EVANS (Weber). I second that amendment.

Mr. RYAN. Mr. Chairman, I would be opposed to that also. It is an embodiment in many of the constitutions, but it don't seem to be necessary. The statute requires all able bodied male citizens between the ages of eighteen and forty-five. Able bodied covers everything, unless persons who are engaged in certain lines of occupation that the law would exempt them from military service, and the amendment don't cut any figure, I don't think.

Mr. RICKS. Mr. Chairman, I take it that all able bodied male citizens between eighteen and forty-five years are liable to military duty, and I cannot see that the Legislature is authorized to pass any exemption laws under that section, and we realize that certain exemptions should be made—cases of railroad engineers, telegraph operators, and other people who are employed at work of that nature should be exempt.

Mr. EVANS (Weber). Mr. Chairman, I seconded the motion of Mr. Ricks, but I did it upon misapprehension, and I desire to withdraw my support. I think Captain Ryan is right. All able bodied men ought to be required to serve when necessary.

Mr. EICHNOR. Mr. Chairman, I will second Mr. Ricks' motion.

Mr. SQUIRES. I am in favor of this amendment, because, under our present laws there are certain exemptions which I think ought to prevail, as Mr. Ricks has said, railroad engineers; it might prove a hardship in the railway service in the time when we needed every railroad engineer that was employed in the company. To take those men out and make them liable to duty it would destroy the efficiency of our railroad system in time of war. There are other classes that are exempt—physicians. Who wants to have his family physician taken away in a crisis in his family, and sent off to military duty? And of course all who are connected with the churches oppose that because, under the present laws, the preachers are exempt from military service. I am in favor of this so that the Legislature may provide the exemption of certain classes, which I believe they would be bound not to if this section passes in the form in which it is printed.

Mr. BOWDLE. Mr. Chairman, I am in favor of this amendment. I doubt very much if the Legislature, if it passes as it stands, could exempt any one. Our judiciary officers of the State and all that class of persons certainly ought to be exempt, and in addition to that the classes that have already been spoken of. We ought to give the Legislature some power to exempt the proper persons, and therefore, I am in favor of the amendment.

Mr. MALONEY. Mr. Chairman, I am in favor of the amendment on the ground that under the law that now exists there are a great many people who are exempt. Why not allow the Legislature to exempt them by this article? I find that in nearly all the constitutions there are similar exceptions. In the constitution of North Dakota there is an exemption, I believe, precisely in the words of this amendment, "except such as may be exempted by the laws of the United States or of this State." I think it is true of nearly every state in the Union. The United States laws exempt certain classes, and we should not step beyond the laws of the Congress of the United States.

Mr. FARR. Mr. Chairman, I cannot see why we should be all the time trying to tie ourselves up. Why not leave this according to the motion of Mr. Ricks, for the future Legislature to fix? I see no impropriety in it. I do see an impropriety in tying ourselves up. I do not know why we should. We have been tying it up all along. We have been legislating all along, making laws that should be left to the Legislature—

trying to at least, and I believe we should leave such things open to the Legislature, so that they can change them from time to time.

Mr. HART. Mr. Chairman, I am in favor of this amendment for the reasons in part as have already been given. There are exemptions made by the federal laws, and there are at present exemptions made by the laws of this Territory. I think those exemptions should continue, and in addition to that, there may be some individuals who have scruples against bearing arms, and that class of persons should also be admitted under the legislative act by the payment of an amount in lieu of the service, to be exempt from this service. In fact, a great many of the constitutions of the United States make an expressed provision in their constitutions that persons who have conscientious scruples against bearing arms may be relieved from so doing by paying a proper amount. While I do not think it is necessary to go as far as a number of the states have done in making this constitutional provision, yet I would be in favor of a provision in general language such as proposed by this amendment, to permit that class of persons, and, in fact, a number of other classes, such as city, State, and county officers, to be exempt from military duty.

Mr. PETERS. Mr. Chairman, I desire to offer a substitute and leave this matter entirely to the Legislature. I think they will be perfectly able to deal with it. (Reads.)

The Legislature shall determine what persons shall constitute the militia of the State, and may provide for organising and disciplining the same.

It simply leaves the whole matter to the Legislature.

Mr. PARTRIDGE. Mr. Chairman, I find that some of the gentlemen are very much afraid that we shall legislate in this Convention, and in taking that view of it, it seems to me they go to the other extreme. I would rather have a little too much in the Constitution than not to have enough. I do not think we should leave everything to the Legislature. I am in favor of the section as it is proposed—this article as it has been amended.

The substitute was rejected.

Section 2 was read.

Mr. CANNON. Mr. Chairman, I move that when we arise we report this article to the Convention with the recommendation that it be adopted.

The motion was agreed to.

Mr. BOWDLE. Mr. Chairman, I move that we now arise and report progress.

The motion was agreed to.

The committee then arose and reported as follows:

MR. PRESIDENT:

The committee of the whole has had under consideration the article on public lands, and they have recommended that it be referred to the committee on education and school lands, and committee on public lands. They have also had under consideration the article on militia, and recommend the same to go on the calendar for third reading as amended.

Mr. SQUIRES. Mr. President, I move you that the article on public lands be now referred to the committee on public lands and the committee on education and school lands jointly.

The motion was agreed to.

The Convention then took a recess until 2 o'clock p. m.

AFTERNOON SESSION.

Mr. LOW (Cache). Mr. President, I move we go into committee of the whole.

Mr. EICHNOR. Mr. President, I am opposed to that motion. I think we ought to continue and clear the board of the article on apportionment and boundaries first.

Mr. BOWDLE. It takes a two-thirds vote, as I understand it, to suspend the rule.

Mr. HART. Mr. President, we passed that order this morning, as I understand it.

The president here called Mr. Eichnor to the chair.

Mr. HART. Mr. President, the motion before the house is to go into committee of the whole.

Mr. ELDREDGE. Mr. President, I am opposed to the motion to go into committee of the whole, from the fact that there is on the calendar of the Convention business, and I am in favor of taking up the business in its regular order on the calendar. Therefore, I shall call for the ayes and noes on that question, as I think it takes two-thirds to suspend the rule.

Mr. LOW (Cache). Mr. President, this morning we overlooked the point that is raised by the gentleman and went into committee of the whole, transacted some business there, and out of necessity to report back to the Convention the suggestions that were necessary to be made in the Convention, we rose and reported. I presume that then, having taken a recess until two o'clock, the only motion would be to go back into committee of the whole and resume the business that we have on hand.

The PRESIDENT pro tem. Gentlemen, the chair holds that we are now in the Convention proper, and the subject on the calendar for our consideration is apportionment and boundaries. Unless a motion is made to go into committee of the whole, and carried by two-thirds vote, the chair shall hold that that subject is now open for consideration.

Mr. CANNON. Mr. President, I oppose going into committee of the whole. I am in favor of going on with the matter which is ready for a consideration on third reading.

The motion was rejected.

Third reading of article, entitled, "congressional and legislative apportionment."

Section 1 was read by the secretary.

Mr. HART. Mr. President, I move to strike this section out. My reason for making this motion is because I believe that it is unnecessary to make any enumeration of the inhabitants of this Territory every five years. We will have an enumeration now at the end of every decade, and I think that that is sufficient. The increase of population in a Territory like this is not so rapid as to require an enumeration so frequently as that. I think that once in ten years would be sufficient. One principal objection that I have to it is the cost of making an enumeration. I have not figured on just what the cost might be, but I believe it would be quite a large amount.

Mr. CRANE. Mr. President, I will say for the information of the gentleman from Cache, that the United States government pays for the enumeration every tenth year.

Mr. HART. I am aware of that point.

Mr. CRANE. And the State every tenth year.

Mr. HART. I am aware of that point, and I think we can get along with that enumeration that the government does pay for.

Mr. SQUIRES. Mr. President, I would like to ask the gentleman from Cache if we have not now upon our statute books of the Territory a law which requires an enumeration every three years?

Mr. HART. If the gentleman has any information on the subject, let him present the matter. I am aware that there is a law requiring enumerations, but I don't have in mind the exact year, or frequency with which the enumeration is made. Even if there is one requiring an enumeration more frequently than every ten years, I don't think it is a wise one.

Mr. SQUIRES. As a matter of fact, there is such a law upon our statute books beginning with this year requiring an enumeration to be taken every three years, together with other statistics.

Mr. EVANS (Weber). I would like to ask the gentleman from Salt Lake a question. If such is the case, why the necessity of providing for another enumeration?

Mr. SQUIRES. Well, I would wipe out the other and have this every five years instead of every three years.

Mr. MALONEY. Mr. President, the gentleman from Salt Lake will know about what the cost of taking an enumeration in this Territory would be, and they estimate it at about $6,000. Now, I take that the enumeration taken every decade by the federal government is ample, and that the very best we can do, taxes are going to be heavier in the State than they are now, and it strikes me we ought to avoid increasing the tax in every particular if we can do so. And I hope the gentlemen here who are posted in this matter will step out and tell us what the additional cost will be to take this census. I am opposed to it on the ground of economy, and again, I am opposed to it because it is not necessary. Now, the gentleman from Salt Lake speaks of the census being taken every three years. If the Legislature passed such a law as that, I think the sooner it is repealed the better it will be for the Territory. I am opposed to spending so much.

Mr. SQUIRES. Mr. President, the taking of the census under the existing law comes in connection with taking other statistics, which it seems to me are necessary to be taken for the benefit of the manufacturing, agricultural, and commercial industries of the Territory. The additional expense of taking the census while the other information is being secured is comparatively small, and I do not suppose any gentleman would have us go on without taking the statistics, as other states are taking them and for the same purpose and with the same results.

Mr. MALONEY. Why not leave that then to the Legislature?

Mr. SQUIRES. I am perfectly satisfied to leave it to the Legislature as far as I am concerned. I cannot estimate what the cost would be of taking the census of the Territory every five years, but under the present rule the cost is put upon each separate county. It is not a State expense, but each county had to pay the expense of making its own census and statistics.

Mr. HART. Mr. President, it comes out of the people just the same, even if the county does have to pay it. I am informed by one of my colleagues from Cache County that the cost of the enumeration to that county this year is in the neighborhood of $500, and I don't see any beneficial purpose particularly that is going to be derived by the people from that.

Mr. CRANE. Mr. President, I agree with the gentleman from Weber County and I, like him, am studying economy so far as possible in everything pertaining to the work that we have on hand here, but if the gentleman from Cache will notice, and also the gentleman from Weber, this is not operated until the year 1905, ten years from now. At that time, another apportionment may be found to be necessary in the State. It evidently will be. The probabilities are that we shall have 150,000 or 200,000 or 250,000 more inhabitants than we have to-day, and another apportionment will be necessary. The government, as I said before, takes the census every five years, or every ten years, and the State every tenth Hence, if we take five hundred dollars to take the census of Cache this year, it is only fifty dollars a year, and it is possible it may cost that in 1905. We are following out in this section the same law that has been introduced in almost every constitution that has been built of late years. Almost every constitution has this proviso in it, and new apportionments have been made on the state census and not on the United States census. I think that this

is a very good section and should be adopted.

Mr. FARR. Mr. President, I think whenever the emergencies arise, if it is necessary to take the census of the State the Legislature can provide for that without any action on our part. I am aware that other states have established a precedent——

Mr. CRANE. May I ask the gentleman a question? The Legislature does provide, if Mr. Farr will notice—it says the Legislature shall provide by law. This is left to the Legislature.

Mr. FARR. We don't want to force them to say what shall be done. If you say the Legislature may provide by law and leave it right there, I agree with that, but we are setting the time when they shall do it. Now, the Congress provides in the census for everything that we need, and if there is anything that is not in their schedule, we can just notify Congress that we would like to have them embrace in there such and such a clause, but they usually embrace everything in that is necessary for every purpose, and I say once in ten years to do that is all that is necessary. It isn't necessary that we should go to that expense. Other states they say do it. Other states are in debt head over heels, and they are going from worse to worse. I think we ought to set an example and try and not get in debt and keep out.

Mr. GIBBS. I would like to ask the gentleman from Cache a question. Did it cost Cache County $500 for the enumeration alone or for the gathering of the statistics as well?

Mr. HART. Both combined, as I understand it. Proportionately it would cost perhaps not quite as much, but there wouldn't be much difference to take the census alone.

Mr. EVANS (Utah). Mr. President, I hope that the amendment will not prevail. I think that the State ought to have interest enough in our resources to develop the territory of the State to spend the necessary amount of means every tenth year to see how we are progressing. Now, gentlemen have referred to the matter of leaving it to the Legislature. I think they have not legislated very wisely upon this question. As has been remarked by the gentleman from Salt Lake City, to-day upon our statute books it provides for an enumeration and taking statistics every three years, and I think that is entirely too often. I think that the expense incurred thereby so often is more than the good that will accrue from such statistics, but I certainly think that we ought not to to depend upon the government of the United States. As it provides here now, every five years we may approximately understand our position, the resources of the Territory and also as to population, and I am in favor of leaving this just as it is. I believe that it would be safer. I believe that the expense would be less than if we leave it to the Legislature.

Mr. HART. I would like to ask Mr. Squires a question, and that is what was the cost of Salt Lake County for the last enumeration?

Mr. SQUIRES. As the work isn't yet completed, it would be impossible to answer that question. It will take probably until the end of this month to complete the work in Salt Lake County. I am unable to give the figures called for.

Mr. JAMES. Can you approximate it?

Mr. SQUIRES. I should think that it would cost in the neighborhood of five thousand dollars for the work that has been done in Salt Lake County, but they have put an additional burden upon us, which won't ordinarily come that way, and that is the enrollment of the militia in the county, but altogether, I believe the expense will not exceed five thousand dollars.

Mr. ELDREDGE. May I ask the gentleman one question? I would ask whether you had any other statistic

to gather outside of enumeration and militia?

Mr. SQUIRES. Oh, certainly, we had to gather the industrial and commercial statistics. We have to gather the mining statistics of the county altogether, that of the smelting and sampling works, and others of that nature. Every industry that is in operation in this county has to be reported upon.

Mr. EVANS (Utah). And agricultural?

Mr. SQUIRES. And agricultural is a very large item of it.

Mr. BOWDLE. I would like to ask Colonel Squires a question. In your opinion, what proportion of the cost will be required for taking the enumertion alone?

Mr. SQUIRES. I should think perhaps one-third of it.

Mr. JAMES. Mr. President, if it is in order, I want to offer a substitute for the motion to strike out.

The PRESIDENT pro tem. I should hold that is out of order.

Mr. JAMES. Well, then, I move an amendment to the motion to strike out.

The PRESIDENT pro tem. The chair holds an amendment is out of order.

Mr. HEYBOURNE. Mr. President, I am not in favor of the amendment. I have had some little experience in the matter of census-taking in some of the small counties of this Territory, and if my memory serves me correctly, when this matter was first introduced into this Territory, provisions were made for it annually, and subsequently the Legislature of the Territory took the matter into consideration and tried to get the time every five years, but failed, and finally got the matter revised so that the census was taken every three years. I am not in favor of leaving this matter entirely in the hands of the Legislature, from the fact that our past experience teaches us in this Territory that they have not truly grappled with this question. While I understand that there is a great deal connected with the census-taking as now established in the Territory that perhaps would not come under these provisions—for instance there is the commercial, industrial, and all this matter has to be taken into consideration by the enumerators, and it is a very costly matter, and I am of the opinion that if this section remains as it is now, provided that it will answer every purpose and that every ten years will be sufficient, and all that is necessary to keep us in touch with the nation in regard to our industrial and commercial industries in the Territory. Therefore, I hope that the amendment will not prevail and that the section as it now stands will pass.

The motion to strike out was rejected.

Mr. RICKS. Mr. President, I move to strike out the word "shall," in the first line, and insert "may" in lieu thereof.

Mr. ELDREDGE. Mr. President, I hope this motion will not prevail. I hope the word will remain where it is.

Mr. EVANS (Utah). Mr. President, I just want to say this, that if the word "shall," in the first line, be stricken out, and the word "may" be put in, you might just as well have had the other motion prevail and left it entirely to the Legislature, because that is what it will do.

Mr. BOWDLE. Mr. President, I agree with the gentleman that last spoke. If you strike out the word "shall," it does not mean anything. The Legislature would have the power anyhow; unless you make it binding upon them, you might as well strike out the whole section.

Mr. HART. Mr. President, I am in favor of this amendment; I do not believe that we ought to prohibit the Legislature in this matter, or to use the expression that my friend from Weber County has sometimes used here, tie the hands of the Legislature upon a matter that they should have the free choice of action upon. I am, therefore, in favor of the amendment.

The amendment was rejected.

Mr. JAMES. Mr. President, I move to

amend by striking out the section and inserting:

The Legislature shall provide by law for the adjustment and apportionment for senators and representatives.

The substitute was rejected.

Section 3 was read.

Mr. HART. Mr. President, I move to strike out the word eighteen, in line 1, and insert in lieu thereof the word fifteen, and strike out the words forty-five, in line 3, and insert in lieu thereof the word thirty, making it fifteen senators and thirty representatives.

Mr. ELDREDGE. Mr. President, I ask for a division of that question, and I hope that the motion will not prevail to strike out the word eighteen. This has been duly considered and agreed upon by the whole committee. It has been here and passed upon by the committee of the whole. It harmonizes with this article all the way through. Therefore I trust that the gentleman's motion will not prevail, and that eighteen will stand.

The motion to strike out the word eighteen was rejected.

The question being taken on the motion to strike out the words forty-five, was rejected.

Section 4 was read.

Mr. Peters offered the following amendment, to strike out the word "Tooele," in line 4 of the senatorial district apportionment, and insert the word "Cache," and strike out the word "one," in line 5, and insert the word "two."

Mr. PETERS. Mr. President, upon its face the apportionment looks very fair and impartial, but when we come to consider the contingency of these two counties, Box Elder and Tooele, you will find that they are very far removed. The only communication that we can have with Tooele County is by passing through Weber, Davis, and Salt Lake counties; it is true that we adjoin Tooele on the west, but the Great American desert lies in that locality, and that is fully as insurmountable and more so than any of our mountain ranges. That is, that there is no way of passing from our county to Tooele without a great deal of inconvenience. In fact, we have no communication in that part of the country with the exception of our young men who are out in that vicinity during the winter taking care of their flocks. They probably would go from one county to the other at that season of the year.

Mr. CANNON. Isn't there a wagon road on that side of the way?

Mr. PETERS. I will answer that, there is a wagon road or trail, but there are very few who ever travel it, and the gentleman from Salt Lake, unless he had a guide, would, I am satisfied, lose his way in the desert.

Mr. SQUIRES. I would like to ask the gentleman a question. What disposition do you propose to make of Tooele County in your apportionment?

Mr. PETERS. I will come to that directly, Mr. Squires. The population of Box Elder County is wholly in the eastern part of the county; so we find the population of Tooele the same. Now, we are joining Cache. We are contiguous to that county. Our interests are identical, and according to the present apportionment, Cache really does not have its representation in the senate. In round numbers, Cache has 16,000 population and has one senator. Box Elder has 8,000 and has one representative and only a small share in the senate. Now, we take for example the counties of Millard and Juab. Tooele is contiguous to these counties. In round numbers their population is 9,500—if the population is 9,500, these two counties are entitled not only to one member in each house, but also to a member in the senate, which makes three representatives in the Legislature for a population of 9,000, while Cache with the population of 16,000 we find has four. Now, the pro rata would hardly be equal with that, and Box Elder with a population of 8,000 has

but one. By placing Tooele, which is contiguous to these counties, and their interests are identical—by placing Tooele with Millard and Juab, the total then would be about 13,000, which, as I understand, is the pro rata upon which the apportionment is made in the senate or about that—from twelve to fifteen thousand. By attaching Box Elder to Cache, the population then would be twenty-four thousand in that district, and entitle them to two senators. In other words, there would be one senator for each twelve thousand population. It would make the apportionment more equal. Besides, as to revenue representation—while that I do not hold should be any particular point in this, still it should have a consideration; in the taxable property of our county, we rank fifth in the counties—Salt Lake, Weber, Utah, and Cache, are the only counties who stand higher in the taxable values to-day, according to the report of the auditor, if my memory serves me right. Besides that, our interests there—at least present prospects are that our county will increase in population fully as rapidly, if not more so, than any other county in the Territory, except some of those lying in the vicinity of the reservation. We have a large agricultural district which is opened up to make it a fair apportionment and easily accessible. It strikes me that Tooele should be joined with those counties, and Box Elder with Cache. And while I say again that while on its face its contiguity is all right, when you come to reach it, we had just as well be joined to Juab County.

Mr. CLARK. Mr. President, I hope that the gentleman's amendment won't prevail. This matter has been thoroughly discussed in the committee, and Tooele County has very friendly feelings towards Box Elder County, and therefore would like to join with them. The gentleman said that it was quite difficult to get to the two county seats There are railroad communications to the two and telephone, so that there are no objections to us as I can see. We join for somewhere in the neighborhood of a hundred miles of distance—our counties adjoin and our interests there are equal, and there are thousands of sheep that are wintered in the two counties, and it is very necessary in my estimation that Tooele and Box Elder should be joined. It has been the aim of the committee on apportionment to make it as nearly as possible without cutting up the counties or disturbing them, to any disadvantage, and I am in favor of the report of the committee as it now stands.

Mr. PETERS. I just merely want to ask the gentleman a question. A far as contiguity is concerned, and the communication, it may be easy, but you will admit that in order to reach Tooele County, it will be necessary to travel through these three counties that I have mentioned?

Mr. CLARK. Certainly.

Mr. PETERS. There is no other way of leaving or getting communication with Box Elder, but by passing through Salt Lake, Davis, and Weber counties?

Mr. CLARK. Yes, but you will admit that there are good railroad facilities. I don't see how there could be any objections to that.

Mr. PETERS. There is railroad communication from here to Juab County also.

Mr. RICKS. I would like to ask Mr. Peters a question. Would the travel from Tooele to Juab be any easier than it is from Tooele to Box Elder—is it any nearer?

Mr. PETERS. Well, there is no desert.

Mr. RICKS. No; but they have to come through Salt Lake, Utah, and the biggest part of——

Mr. PETERS. Not necessarily through Utah.

Mr. RICKS. On the railroad. I had something to do with making this apportionment, and I will state that my

labors in it were entirely in the interest of different sections of territory, and in making these combinations of counties and senatorial districts, we worked for the interest of those districts. As regards Tooele and Box Elder, I do not think that the gentleman from Box Elder ought to be concerned about that at all. Box Elder will never be required to go to Tooele for the reason that the population is more than twice what the population of Tooele is, and if there is any traveling to be done, it will be natural that Tooele will have to go to Box Elder to attend the conventions and other meetings that may be necessary, therefore, in that line I do not think the gentleman ought to concern himself at all. But, if we take and combine Box Elder with Tooele the combination is a natural one, and the proportion of representation of the two counties—the district being taken together being entitled to one representative to each county, and one senator, will make a representation of the district of one to 3,780 of the population, and I think that is about as near as it can be arranged. Cache County has been mentioned as being out in her proportion of representation, that is, one senator to 15,000 people, but the gentleman forgot she has three representatives for the same 15,000 people, and if he will take and add the two representations together, the three representatives in the house and the one senator, he will find that Cache has got more than she is really entitled to in proportion to her population—that is, she has one representative in the Legislature to each of 3,875 of her population, so that when we take it from all its bearings, I think that every gentleman upon this floor will concede that the representation and apportionment to representation in this Legislature is just about as fair as can be arranged—that is on that basis, and I hope that amendment will not prevail.

Mr. JAMES. May I ask Mr. Ricks a question? What estimate did you place upon the population of Salt Lake County?

Mr. RICKS. Fifty-seven thousand and something, and her representation is as to one to 3,890.

Mr. HART. Mr. President, in view of the figures give by Mr. Peters, it does seems to me that uniting Box Elder and Cache, we give a fair representation to those two counties in the senate. I find here, Mr. Chairman, that the twelfth senatorial district, which consists of Emery, Carbon, Uintah, Grand, and San Juan, has a total population of 8,744, while the population of Cache, which has only the same representation in the senate, has just double that population. I ask, Mr. President and gentlemen of the Convention, if this is fair? Now, in the apportionment in the house of representatives, it seems to me that we have gone as far as we should go, to say the least, in giving counties representation as counties. For instance, a county of my friend Hammond with a population of something like three or four hundred—365, I think, is the population given in 1890—has one representative. Salt Lake County with a population of 58,000 has ten representatives. If you give Salt Lake County representation according to population—I hope, Mr. Chairman, that population is the principle if not the only thing that should be taken into consideration in determining representation—I don't think, Mr. Chairman, that counties, simply because they are counties, should have an extraordinary representation; I think, where there are advantages in the matter of representation that can be thrown to smaller counties, that should be done, but I think it is going too far when you consider the real differences in population and representation that this source of a system will give when carried out fully; if Salt Lake County have the same representation in proportion to San Juan, she would be entitled to one hundred and seventy-four representatives in the house of representatives, and

further, I showed you that the population in the eighth district is only one-half that of Cache County, and yet they have equal representation in the senate with us. There are other districts, that of the eighth representative district, consisting of the counties of Juab and Millard, having a total population of 9,650, only a little over one-half the population of Cache. If, Mr. President, you put the county of Tooele in the district of the counties of Millard and Juab, you would then have a representation almost as great as that of Cache.

Mr. CANNON. May I ask a question? I understood the gentleman to say the eighth representative district. The eighth representative district is Salt Lake County.

Mr. HART. Senatorial, I should say. The gentleman from Sevier, Mr. Ricks, says that Cache has the advantage of apportionment of representatives. I am unable to understand how he figures that matter out. Cache has a population in round figures of 16,000—more exactly, 15,500, and she has three representatives, that would be one representative for a little over 5,000 population, and that seems to be the basis, if there were any basis, upon which this representation to the house of representatives was fixed. But if you look all through the list you will find that there is great difference against Cache in the population. For instance, the first senatorial district has a population of 11,342. The third representative district has a population of 10,000; the fourth senatorial district, which has two senators, has a population of 11,000 to each senator, and so it goes, all through the list. The eleventh senatorial district having a population of only 11,000 people in the first place. Mr. President, I am opposed to the whole article on the ground that I believe there are too many senators and representatives provided for. I think it gives a Legislature that is altogether unwieldy; to have the house of representatives for this small Territory consisting of forty-five members to begin with. I think that you would have better legislative work, you would have better deliberation, if you had both houses smaller than this article provides for. I believe, too, Mr. President, that we have gone a little too far in giving smaller counties——

Mr. EVANS (Utah). Mr. President, I arise to a point of order. The gentleman is arguing now the question of the numbers of representatives, the very thing that we passed on a while ago under this motion. This motion does not presume to change anything at all, and I think he ought to confine himself to the question.

The PRESIDENT pro tem. I think the gentleman is in order. The point of order is not well taken.

Mr. HART. As I was about to say, while I am in favor of giving the smaller counties any reasonable advantage that we could in that direction, I believe, sir, when you come to giving all the smaller counties in the Territory representation, based upon the sole fact that they are counties, when the basis in reality should be the population of the people, I believe that you are going too far and that you are doing a great injustice to the large counties. I submit that this whole thing is unequal, that the population, both of the senatorial districts and of the representative districts, is not equal and not fair, and should be re-arranged throughout.

Mr. SQUIRES. I am opposed to this proposed change in the report of the committee, and briefly, for this reason: That if we open this subject at this point and for the reasons given by the gentleman from Cache, and the gentleman from Box Elder, we are liable to consume as much time in the discussion of this question before we get through with it, as we have already consumed in the discussion of the woman suffrage question. I agree with the gentleman from Cache on the one proposition that

the large counties—the more populous counties, are not receiving all the consideration of this article which I believe they should have. There is but one true principle on which representation should be based, and that is an actual population, but——

Mr. CRANE. May I ask the gentleman a question? I would like to ask the gentleman from Salt Lake if he can point out one constitution that has been made in recent years wherein the basis has been made entirely on population?

Mr. SQUIRES. No; I do not think I can. But, if every state in the Union has made an apportionment leaving out of sight that bottom principle on which it should rest, it would not convince me that the principle is not correct. I would still believe that apportionment in our Legislature should be strictly upon the basis of population, and there is a strong sentiment among the members of this Convention, which we are all aware of, and that every county—even the smallest counties in population in the Territory, should have representation, and we have tried to convince those gentlemen that they are represented when they are joined with another county just the same as they are in senatorial districts, but the gentlemen won't have it that way, and when we get through discussing this question we shall come right back to the basic principle upon which this apportionment was made at the end. We shall have to accept this proposition and for that reason I am not in favor of opening the subject here and discussing every district all the way down the line. I believe in the interest of economy and of our own time and the public funds, we should stop this matter right here and vote upon this proposition and vote it down.

Mr. HAMMOND. Mr. President, I would like to say something in behalf of San Juan, if I knew how to say it, but I have got a good deal to say or that I could say. The gentlemen seem to forget that the census was taken in 1890, now we are living in 1895. True, I believe the census was fairly and honestly taken at that date, but since then conditions have changed and an influx of immigration, through the discovery of gold down there, has brought many people to our county, and many of them are remaining there, not only working in the placer mines on the river of San Juan, where I live, but also they are working at lead mines forty or fifty miles this side of there in what is called the Elk Mountain—the grand Key, as I term it, as these mountains are whence water flows. Now, sir, to the very best and honest judgment in my mind, there are at least two thousand people there in that county, there to-day, and that class, as a class, are well adapted to pioneering, and bringing forward the resources of that county, and that portion of our Territory. Therefore, I would like to stand up in favor of each county having at least one representative in our Legislature. It met with my mind from the first proposition, although really when I left my home it was more than I expected to get. I will say that honestly; but inasmuch as the committee have labored diligently and honestly in this apportionment matter, I feel to stand by the section as it has been presented to us. Now, the gentlemen of the Convention will remember that San Juan County has been held back——

Mr. EVANS (Weber). May I ask the gentleman a question; I would like to ask what the question before the house has to do with San Juan County? As I understand the amendment offered it is in reference to Box Elder and Tooele. San Juan is not involved at all.

Mr. HAMMOND. But Mr. Hart, as I understand, was attacking San Juan; that was what I arose to.

Mr. HART. I am not attacking San Juan.

Mr. HAMMOND. Well, you men

tioned San Juan and Hammond, too, if I remember right.

Mr. HART. It was only as an illustration of the inequality of the representation.

Mr. VAN HORNE. May I ask the gentleman a question? In giving his estimate of the present population of San Juan County, I would like to know whether he includes the Indians not taxed?

Mr. HAMMOND. San Juan tells her own story. Now, since that is sprung I will answer the gentleman honestly. No, we have not attempted to enumerate our Indians, should; we do so, Salt Lake would hardly be in it. There are over twenty thousand right there on to her border.

The PRESIDENT pro tem. Please confine yourself to the question before the house. The question is on the substitute of Mr. Peters, of Box Elder.

Mr. HAMMOND. Well, I am opposed to lessening in any manner the representation as it stands in this section. I want to say further that in consequence of that Indian matter hanging over us there for so many years, our improvements have not progressed as they do usually in all pioneer and outside colonies. For years that matter has been suspended over our heads. Now, I am happy to state, it seems to have been disposed of, and the prospects are that from this time on San Juan County will grow and increase as no other county in this Territory.

Mr. HYDE. Mr. President, as a member of the committee, I desire to support their report. They gave this matter their careful attention, looked over the Territory from one end to the other thoroughly, and this is the result of their best efforts, and I hope the motion will not prevail.

Mr. PETERS. Mr. President, it appears as though the gentleman from San Juan has an idea that I attack San Juan, as a county, but I do not desire to be understood in that any at all, nor did I intend to cast any reflection upon the relationship between Box Elder and Tooele. I realized that our past relationship with that county has been very friendly and that we have had considerable to do in the last four or five years regarding the question of boundary and so on, but I do not consider that that has anything to do with this question at all. That is a matter of justice. It is not a question of friendship, and in order to retain that friendship I think that Tooele County had better stay away from us, [laughter] and that she had better remain with Juab County, but I hold that the apportionment as we have it now is not a fair apportionment. I am perfectly willing that each county should have a representation, but we take the twelfth district for instance——

The PRESIDENT pro tem. The chair holds that is not your substitute, you should confine yourself generally to the substitute.

Mr. PETERS. I propose to show that we are not represented in the council according to this apportionment in proportion to our population, and in order to bring that out, it is necessary to refer to other counties. We take the twelfth district, with a population of less than ten thousand people, they will have six members of the Legislature. They will have one from the council district and five from the counties which are taken to make up, that which would be six for ten thousand. We only have one, practically speaking, for eight thousand. Now, this apportionment, I will admit, discriminates more against Summit County and Box Elder County, than any other two counties in the Territory, and if the apportionment committtee has not already (which I think probably they have) considered the matter seriously, they will find that these

two counties are discriminated against and that they don't get a fair representation.

We could get a better representation by being joined with Cache County. They owe us a debt already. We used to be joined to them and they had the senator for some time, and now they owe us a senator for two years, and it seems to me that they are considerate of the debt and we would then get two senators. I trust that the substitute will prevail.

Mr. ELDREDGE. Mr. President, I was under the impression that the gentleman from Box Elder was a school teacher, and in that event had been more used to figures than what seems to have developed on this occasion. I find that the population of Box Elder and Tooele when added together lacks a few hundred—if you get him down to a correct proportion—of entitling them to one senator, but nevertheless they have the senator, and that each has a representative, that makes three in the assembly from those two counties, which gives them a very fair proportion of representation in the assembly when you unite the senator and the representatives, and the same argument that applies to Box Elder will also apply to the county which I have the honor to represent—Summit. I find that Summit and Box Elder are pretty near the same population, and Summit is united with Wasatch, and Wasatch and Tooele are pretty near the same population, and hence what would apply to one would apply to the other. There are some discrepancies perhaps against the more populous counties, and in favor of the sparsely settled counties, but in my judgment, that only seems to be in the line of right. Those counties that lay on the frontier are perhaps subject to be settled up faster than those more populous counties, and they should have an opportunity to be heard from at least once in two years in the legislative assembly. Now, the very first question that was raised in the congress that formulated the Constitution of the United States was the question which came up here. It was what representation should the states have in that congress, and it was moved and carried, one of the first things,each state should have at least one representative. In that critical period, they deemed that it was necessary to give a representation that all might be heard from, and the sentiments and feelings heard from and understood, and I think it is the same way in our legislative halls, that each county should have the privilege of having a representative in the Legislature, and we do not expect that San Juan or Grand,or those counties lying along the eastern portion of our proposed State, are always going to contain the population that they have to-day. They have vast resources and they open up a vast field to invite men that are accustomed to develop them, and I feel sure that from here on those, perhaps, or some of them, will rival counties which claim to be populous now. I expect at no very distant day Uintah will come down here not under a representation of two thousand, but under that of ten or fifteen thousand, and Emery, and Grand, and San Juan, have resources which only those understand who have traveled in those sections of the country. I think that we are only presented here with what is fair and consistent to the people of the proposed State of Utah, and I hope, Mr. President and gentlemen of the Convention, that it will stand as it has been presented by the committee.

Mr. VAN HORNE. Mr. President, the gentleman from Box Elder County seems to consider that this Convention is going to act as a collecting agency for the purpose of collecting for Box Elder the debt due in a senatorial way from Cache.

The purpose of this motion has become very evident through the little expression of Cache being indebted to

Box Elder for a senator for two years, and he is unwilling to join with his friends from Tooele apparently on the proposition that absence makes the heart grow fonder, and if they get together they won't be so pleasant. It seems to me the argument of the gentleman is summed up in those two illustrations.

Mr. GOODWIN. Mr. President, I want to call attention to the facts that last fall, in the election for delegate to Congress, Box Elder had 1,418 votes, Tooele had 850, total 2,268. Salt Lake County had 10,966. Five times 2,268 makes 11,340—making 374 more votes in those counties in the same ratio than Salt Lake. That is, the complaint is that Salt Lake has too much and these counties have too little. Salt Lake has five times as many votes as both of these counties, less 374.

Mr. PETERS. May I ask the gentleman a question? Will you be kind enough also to compare Salt Lake County with Juab and Tooele. Those are the counties I referred to.

Mr. GOODWIN. I just came in when I heard this trouble about Box Elder and Tooele. I will do that later.

Mr. PETERS. We didn't have the representation as compared with those two.

Mr. EVANS (Utah). I would like to ask the gentleman from Salt Lake if he has at hand there the number of votes cast in Juab and Millard last year?

Mr. GOODWIN. Yes, sir. Juab had 1,200, Millard had 840.

The substitute offered by Mr. Peters was rejected.

Mr. Varian offered the following amendment:

Strike out lines 4, 5 and 6, in subdivision entitled representative districts, and insert: Provided that in any apportionment, the Legislature shall apportion representatives and senators upon a basis of an enumeration of the people according to the ratio to be fixed by law.

Mr. VARIAN. I move its adoption. Personally, I entertain the conviction that the principle underlying this apportionment is utterly vicious and wrong, but I also recognize the fact that it is in accordance with the sentiment of a large majority of this house, and to the extent that they have made the apportionment as it appears in the report from the committee, which was unanimous, I believe, I am prepared to defer and bow to the will of that majority. I am using the word majority now in the sense of a majority of the entire Convention, but I am not prepared to vote for this proposition containing, as it does, not only a vicious principle, in my judgment, but also a provision fixing it for all time, at least until the Constitution shall have been amended. I am willing to accept as the judgment of the house, represented through this very large committee and expressed by its unanimous report, the apportionment for the time at least, and if not the best, and the apportionment should be made upon the principles underlying this scheme, but I fail to see that should be continued. I fail to see why they should tie up the people of this State in the future from changing this system, if they desire to do it. There is incorporated in the article the provision that I seek to strike out and substitute another provision for as follows:

Provided, in any future apportionment made by the Legislature each county shall be entitled to at least one representative.

Now, if this shall pass, as it is incorporated here, coming from the committee of the whole, it will make no difference what may be the changes in population. Counties may be practically reduced to such a situation that they will be compelled to abandon or at least ought to be compelled to abandon county government. The representation of the State at large may, for a variety of reasons, require changes—a difference in the apportionment, and

yet with this prohibition in the Constitution, it will be impossible for the Legislature to do what they ought to do—apportion equally and justly. To my mind, this sort of a scheme is in violation of republican principles. I use the word republican of couse in its governmental sense, and not at all in its party sense. I believe that the whole scheme of representation—the exercise of the functions of government by a thorough representation, is, and ought to be, predicated upon an equal representation of the people. Not the representation of the municipalities, and other quasi municipal corporations as units in the scheme of state government. A county in that sense bears no relation at all to the sovereign state in its connection with the other states of the Union. A county is simply a governmental agency, if you please, adapted in the aid of the purposes of the state government. There is no analogy whatever between the counties of the state and the states of this Union in their several relations to each other—no analogy at all in the system provided for under the Constitution of the United States giving an equal representation to sovereign states as distinct empires, units by themselves. And the argument is misleading and far fetched that seeks to draw comparisons between the two classes of cases.

Under the Constitution of the United States the principle of representation is as I have indicated. Representatives shall be apportioned among the several states according to their representative numbers, counting the whole number of persons in each state, excluding Indians not taxed. When you undertake to make an arbitrary system of apportionment which would give to three hundred people the same power, and a power equal to that given five thousand people, you overturn the system, you invade the great principle underlying it, and to that extent you do not present the republican form of government, and you can readily see that it might be pursued to such an arbitrary and manifestly unjust extent that on its face it would exhibit the fact that the Constitution or the law representing it was not republican in form. Now, I am not prepared to say that is the case here. It is the principle that arrests my attention. I am not prepared to attack this apportionment scheme for the reason that I have given. I submit to the judgment of those present upon that question, but I protest against incorporating it in the Constitution itself, which will perpetuate it here, sir, until this Constitution shall be amended, and I ask a careful consideration of the matter in order that this amendment may be given the weight which I think it deserves. It simply provides that when a new apportionment shall be made the Legislature shall return to the principle that I have suggested and make such apportionment in accordance with the population. By that you do equal and exact justice everywhere. It does not follow because the county line makes a division between a community or a people who are represented in a Legislature that any rights are lost.

The right of representation is maintained in all its strictness and in all its purity, if it is equalized, if the equilibrium is preserved throughout the commonwealth as nearly as may be, and every man and every woman and every child entitled to the right of representation is only entitled to that right with respect to the others of the community in the like situation. You will observe if you consider the matter that this amendment does not disturb the equilibrium of this bill at all. It does not affect anything that you propose to do. It does not affect anything that the committee has passed upon, with relation to the practical question of apportionment among the people. It simply authorizes the Legislature at some future time, when the occasion shall serve, to change this system in

accordance to what I believe at least to be a just and proper principle. If that is done, I can vote for this article. If it is not done, I cannot and will not vote for it, because of my convictions in that particular.

Mr. PETERS. Mr. President, I just desire to ask Mr. Varian a question. If my recollection serves me right the section of the Constitution which he is reading from provides that the apportionment shall be based upon the population, then he goes right on to say that every state shall be entitled to at least one representative. There is a provision in the Constitution, if I recollect—whether it is in that section or not—I do not know whether it was in that, and I want to know how you would interpret that part of it.

Mr. VARIAN. If that be so, I should answer that at the time the Constitution was adopted each state under the system adopted would be entitled to at least one representative. It is possible that the gentleman has confused the question of appointing senators, which the gentlemen will remember was the great question, and around which centered the great struggle between the representatives of the states. It was the state pride, and the seeking to preserve the state sovereignty that forced that struggle and culminated as it did in the provision in the Constitution that each state should be entitled to two senators, and should never, in the future, be deprived of either of them without her own consent.

Mr. PETERS. I would like to ask a further question. I think I am correct on this. Now, the present basis of representation in the United States, if I recollect right, is 179,101. Take, for instance, the state of Nevada, with a population of 42,000 or about that. She is entitled to one representative in the lower house of Congress, but she would be barred if the question of population was the basis. That is the reason why I think that I am right in saying that the provision guarding the house of representatives is in the Constitution of the United States. It is so long since I read it——

Mr. VARIAN. So far as that is concerned, she had a much larger population at the time she was admitted, and there were other considerations and reasons moving Congress at that time, but it was very largely in excess of what it is now, as the gentleman will remember. I do not remember the provision in the Constitution that the gentleman speaks of. Still it might be there.

Mr. CREER. Mr. President, I think I have a better authority than the gentlemen have been referring to, and later. I refer to Wyoming. That is, they have representatives for each county, and no county has less than two. They also have, I think, 31 members, and only have ten counties, and have 16 senators. I think it is the best that can be done under the circumstances, and we ought to proceed with this matter and pass it as it comes from the committee. I am in favor of voting down even the provision introduced by the gentleman from Salt Lake County to remove and change the basis in ten years from now as aimed at at the present time by this committee.

Mr. CRANE. Mr. President, I regret very much that I am compelled to differ with the distinguished and eloquent gentleman from Salt Lake on this very important question, and did I not feel that I was absolutely right and that this was a just and reasonable demand by the apportionment committee, I should not now be on my feet; but, sir, in justice to the people whom I in part represent, I have a few words to say on this question, one that I think is of more importance than any other question that has been brought before this Convention. It has been intimated by some of the gentlemen who have preceded me that this will be in part a partisanship apportionment. I desire so far as I am

concerned—and I believe that I can speak for every member on the subject of apportionment, that I do not believe for one moment that a partisan sentiment, or a thought of party aggrandizement of power, entered into this apportionment in any shape or form. I believe that the demands that we have made for representatives from each and every county in this State are just and reasonable demands, that should exist between great aggregations of population, in the cities and the scattered inhabitants of rural districts in the law making branch of a representative government. I feel confident that when I quote the authorities that are before me, there is no gentleman in this Convention that will for a moment think that partisanship entered into this apportionment in any form. To test, Mr. President, whether this is a partisan measure or a partisan apportionment, we naturally and instinctively turn to the older states in the Union——

Mr. VARIAN. I would like to suggest to the gentleman that this argument does not seem to be fitting my amendment. I do not offer an amendment on the basis of partisanship. Simply object to tying this matter up for all time.

The PRESIDENT pro tem. The gentleman from Millard will confine himself to the question.

Mr. CRANE. Replying to the gentleman, I desire to say that the apportionment that has been made, and in this section that he seeks now to amend, is one that is in force in almost every state in the Union. It has been adopted by the most enlightened states, and it has been adopted by every state that has in recent years amended, changed, or altered its constituiton. I desire to draw the attention of the gentleman to the states by which we are surrounded. The state of Wyoming on the east says: "Each organised county shall be represented in the state legislature by one senator and one representative, regardless of the population of such county." Referring to the state of Montana, "Whenever new counties are created, each of said counties shall be entitled to one senator, but in no case shall the senatorial district consist of more than one county." It was deemed by the committee on apportionment—at least some of the gentlemen of that committee thought that each county should be represented by one senator. Others again thought that one senator and one representative should be sent from each county. It finally culminated in the apportionment that has been presented to this Convention, that one senator should be permitted in one of the law-making branches of the government from each county—one member. Now, turning to the older states of the Union, we have in the state of Florida, "The representation in each house of representatives shall be apportioned among the several counties as nearly as possible according to the population, provided, however, that each county shall have one representative in the house of representatives." And further, Mr. President, it also says, that no county shall have more than three representatives. Georgia with one hundred and seventy-five representatives, provides that to the six counties having the largest population there shall be three each, to the twenty-six counties having the next largest population two each, and to the remaining one hundred and five counties one each.

Maryland also, in its constitution, provides for the just relations that should exist, as I have said, between great aggregations of population, and the rural districts, that the city of Baltimore, with 433,547 inhabitants, out of a total of 1,000,000—in the distribution of its senators, each county in the state shall have one, and each of the three legislative districts of Baltimore, one, thus limiting Baltimore, that has one-fourth of the population of the state, to three senators out of twenty-four, for there are twenty-four counties in the

state. Missouri, another of the great states, with the great city of St. Louis, having a population of 450,000 and upwards out of a population of 2,700,000 —that is, the population of the city of St. Louis is one-sixth of the entire population of the state, which has a representative body of two hundred members—one-sixth of which would be thirty-three, but the city of St. Louis is limited to a representation of seventeen. Turning now to some of the northern states, we find Maine divides its one hundred and fifty-one representatives, each town having 15,000 shall have one, but that no town shall ever be entitled to more than seven representatives. Pennsylvania, one of the most populous states in the Union, limits the city of Philadelphia, containing already more than one-fifth its population, to one-sixth of the power of representation in any event. Rhode Island, also, with the city of Providence, the largest city in the state, having 132,000 odd population, out of a population in the state of 345,000, limits the power of that city to one-sixth of the representation; and you might go on, Mr. President, and multiply these instances for almost every state in the Union that has offered in any way, shape or form, the apportionment of recent years, gives to each county in the state one representative. Some give one representative to the lower house and one senator. In a review of the apportionment of the state of New York last year, when I believe the new apportionment was made, the Honorable Joseph H. Choate, one of the most prominent lawyers in the United States, and an authority on all matters of this kind, makes these remarks:

> It is and always has been a cardinal principle in apportionment in this state, and in every other state of which we have ever heard, where representative government exists, that every county, however small, shall have a representative of its own in the assembly. The importance of the distinct and independent recognition of counties as separate political divisions of the state in the distribution of the law-making power has never been lost sight of and must not be now. As each new county has been organized the exercise of political power for its inhabitants has been identified with the county. Their relations with the state were defined by county lines. Their representatives, in senate assembled, have always been designated by the county name. The fixed habit, customs, and thoughts of the people have been largely county concerns, and the representation by counties in respect to state affairs. No one has ever yet suggested that in the distribution of political power in the legislature these county lines should be effaced.

I hold, Mr. President, that it is nothing but an act of justice that the counties at the extreme south of our Territory, having like San Juan, which county has been mentioned, only a population of 360 in 1890, (at least that was the population given, but which we are informed by Mr. Hammond is probably two thousand to-day,) should have one representative. It is the cheapest body that we can have. I hold that a gentleman in Salt Lake or a gentleman in Cache cannot represent the interests and the demands, the desires and hopes and aspirations of any one in San Juan County, and I trust that the apportionment made will be carried and that we shall place in the Constitution this fact, that each and every county in the State that may be formed shall always, until this Constitution may be changed, have at least one representative in one law-making branch of this government.

Mr. CHIDESTER. Mr. President, I just want to say that I believe that it takes this measure that has been introduced by the committee to make this Constitution republican in form, and I oppose the substitute on that ground. I notice that section 3 of the Constitution of the United States reads like this: (Reads). Now, according to the 14th amendment, there are some different provisions made, but it never altered or changed the spirit and meaning of this instrument. The spirit and meaning of

it are the same to-day as they were then, and in my opinion, it takes a representative from every county, at least, to make this Constitution republican in form. By reading the 14th amendment, section 2, we find the same spirit. (Reads.) It contemplates that every state shall be represented by at least one, and the larger states according to such representation as may be provided for. I take it, then, in view of the fact, that this Constitution will not be republican in form unless we have at least one representative from each county. I believe that that is the feeling and sentiment of a large majority, at least, of the members of this Convention, and that is the reason why it has been reported here, and, in my opinion, that is the reason why it should be adopted now; and, as it has been stated by the gentleman from Millard, that many of the most intelligent states have adopted a similar proposition, I say now, that another of the most intelligent states should adopt it also.

Mr. ROBERTS. Mr. President, if I understand the substitute offered by Mr. Varian, it does not contemplate disturbing the present apportionment, but merely refusing to confirm for all time—to go in our Constitution, the basis of the present apportionment, in so far that each county must always have a representative in the house of representatives. But, rather assumes that the principle of apportionment guiding the Legislature hereafter shall be that which is based upon the population of the State. I favor, sir, that substitute. When the first skirmish took place upon the floor of this house in regard to the principle of county representation, I was not in favor of it, and I have seen nothing to convert me, or heard nothing to convert me to the rightfulness of that principle in this State. I believed, as I believe now, and have just received a very good evidence for my belief, from the remarks of the gentleman who just preceded me, that the idea was based upon the false notion that our counties, in their relationship to the State, are analagous to the relationship of the states to the American Union, a principle or idea that I cannot for one moment accede to. The American states, at the time of the formation of the Constitution, stood in the relationship of well nigh independent nations to each other, and when the question of representation came up, they had to consider that question in the light of this fact, that those colonies whose representatives were trying to form a Constitution, establishing a more perfect union, had the right and the power to step out of the Union if they could not obtain such concessions as they thought were just. I take it, that the gentleman who last spoke will not undertake to say that our counties, now that this State government is forming, have any such power as that.

Mr. CHIDESTER. Did you understand that was the position we took?

Mr. ROBERTS. I understood the position that the gentleman took to be that the relationship of the counties to the state was the same as the states in the American Union.

Mr. CHIDESTER. No, sir; that was not the intention I intended to convey. The intention was that we were entitled to a representation, but as to the other part of the relationship, I did not enter into it at all.

Mr. ROBERTS. Mr. President, I concede that the gentleman did not carry the idea to the extremes that I have carried it. I merely carried it to the extremes that he may see the absurdity of the position of claiming for each county a representation. That is all I intended by carrying the matter a little further than he took it. I believe that the correct principle in providing representation to the house and senate of this State is that of population, and that these subdivisions of the State into

counties ought not to enter into the consideration at all on that apportionment, and I find, sir, that in order to make this article harmonize, the change suggested by the gentleman, or proposed by the gentleman from Salt Lake, Mr. Varian, is necessary, for section 21 provides that the Legislature shall provide laws for an enumeration of the inhabitants of the State in the year of our Lord, 1905, and every tenth year thereafter, and at the session next following the said enumeration and also at the session next following the enumeration made by the authority of the United States, shall revise and adjust the apportionment for senators and representatives on the basis of such enumeration according to the ratio to be fixed by law, and now the substitute of the gentleman from Salt Lake is in harmony with that. The only other question to be considered is in answer to the remark made here upon the floor by several gentlemen that the Constitution of the United States provided that each state shall at least have one representative in the lower house of Congress.

Mr. CRANE. I would like to have the gentleman from Davis County point to me where section number 2 is not in harmony with this—lines 4, 5, and 6, of section 4. That is in perfect harmony, as I take it, because in the further apportionment made by the Legislature each county shall be entitled to at least one representative.

Mr. ROBERTS. I take it, sir, section 2 recognizes no other apportionment than upon a basis of an enumeration of the inhabitants, and does not look towards the granting of counties representation at all. Referring now to the matter that I was about to speak of, when the Constitution of the United States was framed, according to my recollection, the number of inhabitants required to secure a representative in the house of representatives was 30,000 or thereabouts, and I take it, sir, that they never contemplated that there would be a state formed with less than 30,000 inhabitants, and hence the reason for making the provision that there should be a representative from each state. They had no idea that they would ever form a state with a population less than any number that should be fixed as granting a representative in Congress. I shall vote for the substitute.

Mr. JAMES. Mr. President, I regret to take up the time of this Convention. But I feel like saying a word or two. It strikes me as though this was a very important matter, and I feel that it is my duty to support the amendment offered by my colleague from this city. My opinion is that a proper principle of representation should be based in a state upon population, and I believe that our committee that has made this report to us has worked diligently and conscientiously and has submitted to this Convention the very best fruits of their labor. Now, the gentlemen seems to confuse what is, to my mind, a wrong principle of representation by counties, comparing them with states. The proposition to my mind is altogether wrong. Counties are frequently made out of other counties being cut up, and I suppose in many instances are abolished entirely, while these states maintain their identity, and that was the proposition before on the floor, when the states came into the Union. They came as representing nationalities of their own, which had a right to demand certain things that would maintain their independence, and that larger states could not swallow them up. There has been something said on the floor about Montana. I happened to read a letter written on this question by a late member of the Montana legislature to a member of this Convention, in which he complained about the difficulty and trouble that it had got into by adopting just what we propose to adopt here, and it comes out of this: There is no pro-

vision to prevent the creating of new counties, hence any part of the State that may become jealous of the other part of the State can go to work and make new counties as fast as they please, irrespective of population. They get representation in the Legislature. Now, it strikes me, my friends, that this is one of the greatest evils of this proposition, that it will give an opportunity to arouse dissatisfaction, and induce the doing of a wrong thing.

Mr. Peters from Box Elder has claimed upon this floor that he does not think the apportionment is fair. Mr. Hart has so argued. Now, if the gentleman from Cache is not satisfied with this representation, all he has got to do is to make two or three counties of Cache and he will increase his representation. Also, it is true of Box Elder County, and so will it be true throughout the entire State. Consequently, I shall support the amendment as offered by the gentleman from Salt Lake.

Mr. HART. Mr. President, I am in favor of the amendment proposed by the gentleman from Salt Lake. While I am willing to vote on representation in the house of representatives as now proposed by the committee, I don't think that we should absolutely make that proposition perpetual by incorporating it in our Constitution. My position in my remarks a short time ago seems to have been misunderstood by some, and in order to make the matter clear, I desire to say that when this question came up in the first contest between the committee on legislative and the committee on apportionment, while I was a member of the committee on legislative the question was whether they should have that matter in their hands. I voted to give it to the committee on apportionment, although I knew at the time that it was their desire to give as far as possible representation to the counties. I am in favor of that principle so far as the thing can be done, with justice, to the larger counties; and with regard to the number of members that shall compose the assembly, while I have a decided preference for an assembly consisting of fewer members than the assembly that we have decided, or the house has decided to have, yet, inasmuch as their decision is to have the house consist of a certain number, I am in favor of giving the counties representation as far as possible—that is, each county a representative, so far as it is practicable and just to the other counties. My idea was that while it was desirable that each county should have a representative, that it would be possible that some of the smaller counties grouped together, some of the adjacent counties, consisting of small numbers might be grouped together, in view of the fact that an assembly should consist of a reasonably small number of representatives, and that only justice would be done to the larger counties. I would not have it understood that I thought for a moment that any member of the committee on apportionment desired to do any injustice to Cache County. I don't think so for a moment. I think that the matter has just occurred in this way, and my reason for calling attention to the inequality of representation, and my argument was that inasmuch as the counties have been represented because they were counties, throughout the Territory, that when it came to the senate the representation should be strictly upon population, and I call the attention of the house to the fact that in the eighth senatorial district, and in the twelfth senatorial district, they have just twice the representation that Cache County has, that is, those two districts together have two senators while their population is only a little in excess of the population of Cache County. I desire to say this much, that my position on this matter might be understood. I thought when the question came up of increasing the district of which Millard and Juab now

form a part, by adding Tooele to it and by adding Box Elder to Cache, that you would then have two districts with a representation that was about equal and fair to those districts. I desire to state so much in order that my position on this matter might not be misunderstood.

Mr. GOODWIN. Mr. President, I hope this amendment will be sustained or that the proviso will be stricken out entirely. It seems to me that it does no good in the article. The situation is very peculiar in Utah. It is not comparable with Montana or Wyoming, or with any other new state about us, for the reason that in those states there are no large cities, and there are very few counties that are not more densely peopled than some of ours. There is another reason. We have in this Territory an area of country, as large as New England—about the same. It would be in the power of a coming politician if he had a little money and a little forethought, to make arrangements just prior to a census being taken to have the Legislature add half a dozen counties to this State solely for the purpose of using the representatives of those counties under this rule, which it is proposed to make perpetual, for his own good. Again, if some city in a state should bring to itself or have brought to it extensive manufactories, the little jealously which is felt in the Territory toward some of the larger towns would be immensely increased on the outside, and the disposition possibly of legislators from those counties, (because I have no idea legislators in the future will be all pure men like those we have in this Convention,) would be to make counties as often as possible. And now, really there is no sacredness surrounding the county lines. The idea that there is, has come down from the old constitutions in this country. That is altogether a dispensation that has been explained. For instance, when the government was formed, each section had certain products which it was distinguished for. The east had navigation; there were diverse interests at work all the time, and those states grew together and acted like the boy and the tiger on the raft, waiving their differences and agreeing to float down together to a place of safety where they could fight it out. So with those several colonies, they had a common interest on the sea, but in themselves they were separate. You never heard of a Fourth of July orator in the world that did not talk about sovereign states. Did you ever hear one talk about sovereign counties? And that thing has gone on particularly to the south. If a man tells you he is from Illinois or Ohio he merely says Illinois or Ohio. If he is from Kentucky, he says, "I am from Bourbon County, sah." Or if from Missouri, he says, "I am from Pike County, sir." The counties cling to them, they seem to think those arbitrary lines means something. It was that spirit that directed the division in Wyoming so that they had to give each county representation in order to get a legislature large enough to do business. The same spirit ruled in Montana and the principle behind it all is that it is not just. There are just two things that count in this country, one is property and the other is people. We cannot come down to a property qualification in an adjustment. We have to do it by the people. For instance, with all due respect to my friend from San Juan, it takes fifteen times the population of his county to come up to that point from which senators' representation is considered. Now, is it fair to believe that if San Juan, for instance, is attached to Grand County, and they had one representative, that all their region would not be properly represented? Is it fair to believe that any other part of the Territory or of the State would oppress them? I do not think so. This Territory is not composed of counties that have grown up separately with distinct interests, each jealous of

all the others, but rather we are all growing up together and the only exception that ought to be taken is, when states get very large, their representation ought to be a little reduced, because they have the combined power and with a combined representation they work in solid compact and can do injustice if chey please to a more sparsely settled country outside. I think if the amendment was adopted it would be right, or if this proviso was stricken out entirely the article would be complete as it is.

Mr. ANDERSON. Mr. President, I am opposed to this amendment. I think it is no more than just that each county should be represented. A man living in the county is better able to represent it than one who resides in another county. He understands better the wants and needs of the people of that county. Therefore, I think that is a just principle that each county should be represented in the Legislature of the State. These sparsely settled counties that have been spoken of are full of resources. They have scarcely been touched by enterprise or capital, and in a few years are very likely to be populous counties. This apportionment remains as it is until 1905, and by that time, I do not think there is a county but what will have at least five thousand inhabitants. I think that each county should have a representation, and it should be apportioned according to population; why, I would be in favor giving the county that had the least number of inhabitants, one representative, and give the others in proportion, but I hold that it is no more than just that each county should have but one representative.

Mr. VARIAN. Mr. President, it is impossible to discuss intelligently the proposition with gentlemen who will not consider fundamental principles, or who will incorporate in it misleading statements. Now, I have not had time to examine the different constitutions, but I will undertake to say that so far as I have been permitted to examine, since the statement was made here on the floor, a few minutes ago, as to what their provisions were, they were just contrary to what you were told they were, and I don't believe—although, of course I have not examined them—that there is a state in the Union where the principle that I speak of is ignored. Now, you can take the state of New York, and I care not what Mr. Choate argued on the floor of the convention, the action of that convention was not as stated by the gentleman from Millard. The provision is that every county heretofore established and separately organized, except the county of Hamilton, shall always be entitled to one member of the assembly, and no county shall be hereafter created, unless population shall entitle it to a member. So far as new counties were concerned, the principle of representation by population is definitely affirmed in that constitution. So far as the old counties are concerned, all of them, perhaps, except the county of Hamilton, were entitled to the representative, but however that may be, it is quite evident the principle is not affirmed there as stated by the gentleman from Millard.

So in North Dakota, the provision is that the legislature may at any session re-district the state and apportion the senators and representatives respectively. So in Washington, it provides for an enumeration of the inhabitants of the state. It provides that the legislature shall apportion and district anew the members of the senate and the house of representatives according to the number of inhabitants, excluding Indians not taxed, soldiers and sailors, and officers of the army. So in Wyoming, until an apportionment of senators and representatives is otherwise provided by law, they shall be divided among the several counties of the state as designated. Of course, there is an

apportionment more or less arbitrary in its character, when it is fixed for the first time in the Constitution. But that is a very different proposition from fixing it for all time in the Constitution, tying the hands of the people through its Legislature from in the future meeting the demands of justice and the exigencies of the cases as they may arise. In Montana, you will note that the provision is that one senator shall all the time come from one county. It shall be the duty of the first legislative assembly to divide the state into senatorial and representative districts, but there shall be no more than one senator from one county. The proposition is reserved you for precedent. The legislature shall not create a senatorial district and provide for more than one senator. But it does not follow that a senatorial district must be created out of one county—that each county must form a senatorial district as would be the case if this proposition were true. I believe if I had the time that the same inaccuracy and misapprehension of these several organic laws of all the states could be exhibited, because I know that the principle underlying this has been recognized everywhere and in all places since the beginning of this government. It is just as well when you come to consider questions like this to understand what the principles underlying them are, and not undertake to formulate a scheme, and because you have formulated it, think you are called upon to defend it regardless of consequences. We have not all had the opportunity nor the privilege of taking part in the discussion of the committee; of necessity, these questions must be presented to some of us representing constituencies of hundreds—where does our right of representation come in if we are to be challenged and led upon the floor of the Convention with the proposition "that the committee has considered it? That the committee has gone through with it?" We have spoken, all of us, in committee, and we hope that the work of the committee will not be disturbed. I am speaking for my own people as well as this Territory. I am speaking in defense of a principle that any student of constitutional history or law—any man who is at all read in the history of free government, recognizes when it is stated, and we are going to be heard upon this floor upon this question. I was willing, and am now, in view of the pronounced sentiment of this house (from the beginning it could be seen) to favor this proposition for the present, but I warn you, gentlemen, not to put this in your organic law so that it cannot be changed. If you will stop to think a moment you can imagine cases where you will encounter difficulties—difficulties arising because of other propositions limiting the maximum and minimum of the representative business—the senate and the house of representatives. Not at all unusual is it in this western country for whole counties to go down. Population is continually shifting. It is all very well to take the optimistic view and say, as you doubtless believe, that in so many years all these counties that have been named are going to grow in wealth and population. We hope so, but suppose they do not? If you adopt that principle for all time, why not include the cities? A city is just as much a community in the economy of government as a county. In fact and in law they are each of them but governmental agencies, not at all entitled as a right to a representation to a separate body, or any other representation than that justified by the population.

Mr. FRANCIS. Mr. President, I wish to ask the gentleman a question. Is not the State also an agency of the people?

Mr. VARIAN. In one sense, yes, but a state under our system of government is in some degree an independent sovereignty, where the line of demarkation between the federal gov-

ernment and state government is defined. On the state's side the state's autonomy is complete, and except as controlled by its surrender of power to the federal government it is as complete an empire in itself as any nation in the world. It is a government by itself. It does not derive its efficacy and vitality, its right to live, from the United States. It exists under it, in accordance with it, limited only in its powers by those powers which it has surrendered to the general government for the common good of all the states. There is no more comparison, gentlemen, between the state and a county——

Mr. FRANCIS. I wish to ask a question. Can we begin to live as a state without the right from the United

Mr. VARIAN. It is difficult to discuss, as I said before, questions of this kind with those who ignore apparently all principles of federal law or state law. No state can be admitted into this Union without the consent of its people, nor without the consent of the people of the United States, represented in Congress assembled, but when the state is admitted, it takes its place in the Union of states clothed with all the powers and with all the functions of all the original thirteen states. Then it becomes a sovereign—then it becomes a state—a government, and then it occupies those relations towards the general government and the people of the United States, as I have indicated, but a county is a very different thing. It is not independent in any sense. It is simply a municipal subdivision of the sovereign state, which can be changed and modified at any time—wiped out of existence, added to or recreated at the will of the majority of the people of the state. And to say that because the state is in this Union, holding the relations that it does as an independent sovereignty within certain restrictions towards the federal government, is entitled to a certain representation—that therefore a county—a municipal body within the state, of necessity must also be entitled to a certain representation, without reference to its population, is a confusing of matters and things that in the very nature of the case should not exist. No analogies can be drawn. The parallel cannot be made. But you cannot discuss it if gentlemen ignore the principles underlying the whole question. Now, that is the proposition involved in this scheme, but I took pains to say and I again say and affirm that it is not designed by this amendment—that it is impossible that it would be designed by this amendment to affect the equilibrium of this schedule in any degree. It does not disturb any part of your apportionment. It leaves it as it is, except that it takes off the constitutional hand of power which you would lay in restraint upon the Legislature and the people of this State for all time. Why should you do that?

Mr. CREER. I would like to ask the gentleman a question. Suppose the gentleman transfers his argument from the state organization to that of the Territory, what then? The state is subordinate to the national power, as a county would be to the state.

Mr. VARIAN. I do not understand the application. Of course there is a difference between a territory and the state. A territory is under the national government exclusively.

Mr. CREER. It has no representation.

Mr. VARIAN. In so far as Congress may yield its right of government over it locally, it has not the right of representation—a territory has not the right of representation. It has an emasculated right, or rather it is an emasculated attempt to grant a right—the assumed right of representation upon the floors of Congress of a territory. A man may go there representing the people of the territory. He may voice their sentiments before the committees on the floors of Congress if he can get an oppor-

tunity to be heard, but he has no vote. It is only half the right and the biggest half left out. But to return, Mr. President, why will this Convention refuse to loosen the strings of power? Why are you afraid to relax from this constitutional limitation this provision against your future legislatures representing the people from making an apportionment other than that you have selected for them? Why, you haven't got 200,000 people here. You are going to fix the arbitrary mandate in this Constitution that will prohibit the Legislature from fixing the right of representation. Look at it in its face. That is what this means. You are going to say to a certain extent the right of representation has been and is determined by this Convention and by the people of the present year, and you are not going to permit those who may come after you in five years or in ten years to change it. Now, Mr. President, the fair and the just way to do is to reverse this proposition. Put in your own Constitution that when the apportionment may be made after this enumeration has taken place that you have provided for, which is not required to be made I believe until the year 1905—just reverse it. Put it into the power of your Legislature, then if your people require it, and if the necessity of the place demands it, to make a different and other apportionment than you have provided for. I am not challenging now your scheme for the present. I will vote for it. It is against my own judgment and convictions, it is true, but I see no hope of changing it, but I cannot vote for it at any time if you continue in this Constitution so many questionable, unjust and arbitrary provisions as this clause in section 4. I have heard no reason advanced why it should be.

All the argument has been diverted toward the proposition in support of the scheme. When it is conceded that the scheme will go through as reported from the committee, can we not get away from that and come to the question that I really present—simply a question of these three lines relative to the future power of the Legislature? I have shown you that these gentlemen are mistaken when they cited several of these surrounding states. I believe they are mistaken when they claim that any such power as that is withheld from the people in any state constitution, although, of course, I will admit I have not had the time to examine all these constitutions with the view of ascertaining that fact. I hope, gentlemen, that you will see your way clear to make that amendment, or, as has been suggested by another gentleman from my county, strike out the paragraph. It is practically the same thing, but in any event, let us leave it to the Legislature, after the lapse of ten years, to make such apportionment as the people of that time and of that day may demand, and in accordance with such principles as they then may wish to have.

Mr. CANNON. I would like to ask Mr. Varian a question, my position being the same as that of Mr. Varian, on the basis of representation, but I cannot understand the view the gentleman takes of the extreme evil that could follow in the allowing of this to remain. I would like to ask, if, in your opinion, it would not be true that the objection to the formation of new counties would more than counterbalance the temptation to obtain representation thereby—that is, the expense of the county government that would naturally attend? Would not that be greater and prevent the organization of counties?

Mr. VARIAN. I am not prepared to say. I will say this, however, that in myo wn judgment, this manner of argument in dealing with questions of organic law is utterly vicious. When men come to speculate in their own minds as to what will, or may be done, by peoples in different communities, or

what necessities may exist, or what reasons will arise on this day or the other, they are out upon an unknown sea of speculation, and we are now simply dealing with the organic law, which is restricted and prohibited in the particulars we are now discussing, and the question is whether it is necessary, under the circumstances, to tie up the hands of the Legislature, for not only ten years, but for all time, unless the Constitution shall be amended under such terms and such limitations as you may, in your wisdom, provide for before the adjournment of this Convention. I will say to Mr. Cannon, I do not believe that you can dispose of the question on the basis of expense in the forming of new counties. One county may increase in population to such an extent—two counties may increase—three may increase, others may go down. It may be necessary, in order to maintain the equilibrium of representation in the State, that an entire change shall be had, and it may be impossible that it should be done with such a provision as this here, preventing the Legislature from making the change, and confining it to one arbitrary system, at least in part, of representation.

Mr. CANNON. My position, Mr. President and gentlemen of this Convention, is I think Mr. Varian's motion is right. I have taken this position from the beginning, that representation should be on the basis of population, not of any particular area. At the same time, I cannot understand the distinction that the gentleman seems to make between the proposition as it is here and the basis of representation he proposes. I do not understand why there should be such a radical objection that the gentleman is willing to vote for the basis now proposed, and is not willing to vote for the proposition at all if this proviso should remain in, for the reason that any objection which might be found to future application to my mind is good as to present application as well. I, however, favor the amendment and trust that it will prevail, and will vote for it.

Mr. CHIDESTER. Mr. President, I just want to call the attention of Mr. Varian to the constitution of Rhode Island, inasmuch as he has indicated that no proposition similar to this has been incorporated in other states. (Reads.) That seems to be in perfect harmony with the bill now under consideration, and I call his attention to the apportionment of Arkansas. (Reads). It concedes that the counties shall have at least one representative.

Mr. VARIAN. Let me ask the gentleman a question. I will state that I have no doubt but the gentleman will find that in both Rhode Island and Arkansas that the counties provided for and the cities in Rhode Island provided for at the time of the adoption of the constitution, were by reason of their population entitled to a representative in Congress with the ratio established.

Mr. CHIDESTER. We have not anything in here to establish that principle, but it may——

Mr. ROBERTS. I would like to ask the gentleman a question. I followed your reading of the state of Arkansas, but I did not understand that it provided that new counties that should be organized would have representatives.

Mr. CHIDESTER. No; it makes no mention of any new counties.

Mr. ROBERTS. In that event county representation is not insisted upon in that constitution, only so far as counties already existing.

Mr. CHIDESTER. But as it contemplates the establishing of towns and counties, it also comprehends that idea, "provided, that towns and counties shall have at least one representative." And that being the fact, we could not conclude that they would think that no more towns and cities would be established. They contemplate as a natural consequence, that there would be, and

in this it provided that it always shall be the case, as in Arkansas, that they shall have a representative. Now, then, in another state here, I noticed a while ago, that they established a little different system, but they give to each county that has a fraction of the apportionment—say two-thirds, where the apportionment was made of five thousand—every five thousand inhabitants were to have one representative. It also provided that a county having two-thirds of that might be represented, so that this is not an unusual method by any means. There are some states that do not adopt it, and it would not be unreasonable for us to adopt it and take it, in view of the precedents that we have.

Mr. BUYS. Mr. President, there has been a great deal of discussion here that all should be represented—every person should be represented. Now, I take it, sir, that it is not altogether the number of people that should be represented. I think that there are interests in the counties that should be represented, just as well as the people as a whole. I take it, sir, that each county is an organization of itself, and the proposition that the counties are so much different to the states—a state is a complete organization of itself. A county is a complete organization of itself, so far as it goes. There is a county government, and that government, I take it, sir, should be represented in one house of the Legislature. There are a great many interests that belong to counties, that cannot be represented very well, or will not be represented by persons from other counties. The interests of the people generally can be represented by the representatives of the people from different counties, where two or three counties are grouped together, and if there is one house made up in that way, it seems to me, sir, that there could be no objection to letting each county have at least one representative in the Legislature—in one of the houses of the Legislature. It seems to me that it is a narrow view to take, that because one county happens to have a little more population than another, that the county having less people should not have any representation in a legislative body. Now, the proposition of the gentleman from Salt Lake, that it was against the principle of a republican government to allow one county, or each county, to have a representation—I certainly cannot agree with him on this point and on this proposition. I think it is a republican form of government to allow each division or each government to have a representation in the Legislature, and every county has a government of its own, and this I think should be represented——

Mr. BOWDLE. I would like to ask the gentleman a question. Would not that argument apply to a precinct, as well as to a county?

Mr. BUYS. The same principle might apply probably, but I would hardly carry it that far, because it would make too many representatives and make too large a legislature, but I do not think it would be too large a legislature to give each county a representation, and the precinct organization is a part of the county organization, but the county is separate to a great extent from the state organization, while the precinct organizations are part of the county organizations, and for that reason I should claim that the county organization should be represented.

Mr. PETERS. Mr. President, I desire to ask the gentleman a question. Then, if your argument be true, that the county is entitled to a representative because it is an organized part of the state, why wouldn't each incorporated city be entitled to a member of the legislature, because it is a separate incorporation and has no connection at all with the county, as the precinct has? They are entirely separate. The county has no jurisdiction particularly over an

incorporated city, like they do over a precinct. Your argument would infer that we would be entitled to a representative from each incorporated city as well.

Mr. BUYS. I believe that principle is correct, just as Rhode Island has it, but a city is within a county where the interests of that section of country may be represented in the Legislature. The county in which that city is—the distinctive county there, can be represented by the representative of the county, whereas, where there is a separate county, and distinctive county there, that cannot have any representation—that is, there is no one from that county to represent the county, there may be a representative from three or four counties, but the representative from another county will not represent the interests of the county that has no representation. Whereas, the representative from the county will represent the interests of the city from that county. I am opposed to the amendment to this article for the reason that I think the Legislature should be restricted to a certain extent—restricted enough so that they will not make the representation or the apportionment so that a county will be left without a representative, and for this reason I am opposed to this amendment, and think it should not prevail, and will vote against it.

Mr. THURMAN. Mr. President, I represent a county here that is somewhat affected by this provision in the article. In other words, Utah County, by this arrangement, as it now stands in the article, yields something to the outlying counties, because I believe it is the second county in the Territory as to population, but I am opposed to this substitute. I believe the provision on the article is right as it stands. I believe it ought to be now, and it ought ever to be a principle of our State government, that every organized county may have its representative at least in the lower house of the Legislature. There may occasions arise which will demonstrate, to the satisfaction of every one, that in this proposition there is safety. Salt Lake City, for instance, aspires to be, and we all take pride in the fact, and contribute our mite to that end, the great city of the intermountain region. It would not require much of a bound upward for Salt Lake City, under statehood, to have a population of one hundred and fifty thousand people, while the counties on the outside might have comparatively but small increase. n that case Salt Lake City alone would control the State of Utah, and I want to say, with all due respect to Salt Lake City and its representatives, they are generally able men, and men tenacious of power and of the rights of Salt Lake City, and able to defend them, to give into Salt Lake City or any other city in the Territory, the power to control the State, (and they would control it, gentlemen representing those centers will not deny that,) I say that they ofttimes would have a tendency to forget that there was any other part of the State than that particular part of the State represented by themselves.

Mr. VARIAN. I would like to ask the gentleman a question. I believe this apportionment scheme provides for sixty-three representatives and senators; of that number, Salt Lake County is credited with fifteen. The question is, does the gentleman believe any future apportionment with the representation as it would stand, would permit Salt Lake County, whatever might be its demand, to control the State? The Legislature, composed of forty-eight members to Salt Lake City's fifteen, will have it in hand to make this apportionment. The question is, how would such an apportionment be made?

Mr. THURMAN. I will answer the question of the gentleman, as I proceed

with my argument. I believe that Salt Lake to-day has a population of fifty-two or fifty-three thousand.

Mr. CRANE. Fifty-eight.

Mr. THURMAN. What is the population of the Territory?

Mr. CRANE. 207,000.

Mr. THURMAN. 207,000. Say that Salt Lake has a population to-day of a little over one-fourth. She has representation of nearly one-fourth. If she had the representation to-day according to her population she wouldn't have over one or two representatives more at most. She should concede that much to the outlying counties. She should concede it now and concede it throughout all the history of the State. She is the great center. Everything in the Territory of Utah is tributary to Salt Lake. Everything passes through Salt Lake to get out. We meet in Salt Lake. While perhaps no man here ought to commit himself to a proposition, yet, I believe that Salt Lake is the place for the capital and it ought to be the capital, and when we meet here as representatives and senators, we find that every representative and every senator in the Legislature meets the people of Salt Lake on every turn, at every corner, at every block; we are confronted by the people of Salt Lake, and their influence is used with the representatives, not only their own representatives, of the outlying counties, and to-day she is the best represented section of country that there is in the State. She always will be, for the very reason that whenever the Legislature meets there is a power and an influence in the people wielded day by day to bring the representatives of the people over to their way of thinking. You cannot, by any system that could be devised here, deprive Salt Lake of more representation than any other section of the State will have. Now, Mr. President, I believe I represented the people of my section in the Utah Legislature for five consecutive sessions.

I presume that is more than any gentleman on this floor can say. In those sessions I had an experience upon the very questions that we are dealing with here now. Oftentimes questions arise between the city and the outlying counties. Salt Lake was always represented by men of ability. I do not think it is within the power of any man to say that Salt Lake City has ever been unjustly treated. I believe she has always had her rights, and excuse me for saying Salt Lake City, my esteemed friend, the gentleman from Salt Lake spoke of the people that he represented, that he was here contending for their rights, and I take that he speaks of the people here. There can be no danger so far as Salt Lake is concerned. The danger must be to those remote sections of the country. Why, Mr. President, one representative from Salt Lake City can find out more about his constituents in twenty-four hours and can represent them better—one representative alone can find out more about the wants, the necessities, etc., of the people of Salt Lake than a dozen men can know and understand about San Juan. If you are governed by the principle of population alone the greatest injustice will be done. Now, Mr. President, let me present it to you in this way. It is to the interest of the centers of population to see that our counties are represented, to see that they are developed, to see that they are not retarded in their upward and onward progress, and I say that it ought to be the desire of every man in legislation to meet other men from all parts and all sections of the Territory and ascertain the wants and the necessities of the people there, because as far as the metropolis is concerned, it is now and it ever will be the great center to which the wealth of the people will flow.

Mr. VARIAN. I would like to ask the

gentleman another question. Did he understand me to contend that the people of the outside counties ought not to be represented?

Mr. THURMAN. I understand the trend of the gentleman's argument to be that they are perhaps too well represented, and he wants to some extent to leave it within the power of the Legislature to curtail the representation we propose to give them here, if they see fit.

Mr. VARIAN. If the gentleman will permit me, I disclaim any such imputation entirely. It is unfair and not called for at all.

Mr. THURMAN. I do not wish to misrepresent the gentleman, but all I have to say is this: If he is not complaining against the allowing of each county a representative in the future—if he is not contending against that provision in the Constitution, then my whole speech is out of order, for I misunderstood him from beginning to end, but I understand he wants the Constitution left so that some future Legislature if they desire may not give to each county a representative, but may give perhaps one representative to two or three counties combined if the population of those counties is such as to justify that sort of a division. Now, I think this apportionment that has been made here is just right. It is right in every particular as far as I can understand it. I tried to find something in it that was not right. I confess that it seemed to me in a party sense that it was not giving to the party to which I belonged that representation based upon the last election to which the party is entitled according to the total vote cast, but when I came to improve it and make some suggestions in view of the great landslide last fall, I have been unable to make any. It seems to me that the apportionment and everything pertaining to it is just right, and we ought to vote for it.

Mr. ELDREDGE. Mr. President, I would almost infer, after listening to the gentleman from Salt Lake commenting on the proviso found in this argument, that it provided that there should be only one representative from any one county in the proposed State, but if we look into the proviso we will find that it simply provides that each county shall have at least one representative, a measure which I consider, judging from my knowledge of the inhabitants of the proposed State of Utah, to be eminently proper and correct, and just in the the extreme sense of the term, when we take a broad view of the entire situation. If we are going to look at the principle simply through a tube and place the eye upon the object directly before us, we might then concur with the gentleman from Salt Lake in his opinion, but when we lay down the tube and take a broad view of the entire commonwealth, I cannot see but what the proposition is eminently proper. The gentleman inferred that there had been misrepresentation in regard to the citations from other constitutions. I wish for a moment to call attention to a few of the constitutions that are adopted by the states immediately surrounding us. We will not go clear off into Maine or down into Florida, but we will take those that we are immediately surrounded with. I read from the constitution of the state of Montana, that whenever new counties are created, each of said counties shall be entitled to one senator and in no case shall a senatorial district consist of more than one county.

Mr. VARIAN. That is not correct.

Mr. ELDREDGE. And I also have a letter here from James H. Millan, commissioner of the state of Montana, dated March 14, in answer to some questions propounded to him by the Hon. Charles Crane, reading thus:

> When the state constitution was adopted one senator was provided for each county, and that provision still continues.

Mr. VARIAN. What are you reading from?

Mr. ELDREDGE. I have the constitution of the state of Montana.

Mr. VARIAN. This is the book of constitutions here.

Mr. ELDREDGE. I would be as inclined to accept the pamphlet that the state has put out as I would the book the gentleman has brought here.

Mr. VARIAN. That was not to interrupt you, but to show you that I was misled by that.

Mr. ELDREDGE. I would call attention to the constitution of the state of Idaho also. (Reads.) We will now look to the east and we will consult Wyoming upon this proposition. (Reads.) It goes on and states that each county shall not only have one representative, but shall also have one senator.

The gentleman put a great deal of stress upon the idea or supposition that this committee had sought to prevent a fair discussion of this question that is now before them. I just wish to state for the information of the gentleman, that so far as I am aware they have entertained no idea of this kind. At our convening this morning, this article was the first on the calendar of the Convention, and should, in its regular order, have been taken up then, but the gentleman from Salt Lake came over to me and suggested that the gentleman wished to speak upon this proposition or upon this article, or wished to be heard upon the article, to use his own language, and therefore that he would like to have it go over until the gentleman could be present. I consented readily for it to be carried over the morning session and go into committee of the whole and transact business that was upon the committee of the whole calendar, realizing that there would be no time lost by that means, or there would be no injury done to anybody by waiting, because I have always endeavored to make it a rule to follow out that principle that I would do unto others exactly as I would like to be done by under like circumstances, and if I had been absent and wished to have been heard upon the proposition, I would have felt that I was unduly treated by my colleagues if they had not extended me that privilege, and therefore I yielded upon that occasion in order that the gentleman might be present, and I think it was unfair for him to charge that we had sought to prevent him from being heard upon this proposition.

Mr. VARIAN. I do not believe I did. I did not.

Mr. ELDREDGE. The gentleman also stated that it was almost useless to argue the question when people ignore fundamental law. Now, I do not know, Mr. President and gentlemen, as I could answer this in any better way than I could to tell an anecdote. I read of a circumstance which occurred in court that run about like this; there was a difficulty existing between two farmers and they brought in an employe and put him upon the witness stand, and it so happened that he was an Irishman (this nationality of course must take all of those kind of things), and in order to test the intelligence of the witness they asked him a great many questions concerning the farm and the work upon the farm, etc. He passed over them very satisfactorily, and finally the attorney, feeling as though his words in that direction were almost to no purpose, discovered a horseshoe upon the table that was used for a paper holder. He took up the horseshoe and he says, "Pat, what may this be?" Pat took the horseshoe and turned it over and looked at it a moment, and he says, handing it back, "Please, sir, I don't know." "Why," the attorney says, "It is a horseshoe." Pat says, "A horseshoe. Faith, if your honor please, what a fine thing an education is. A poor fellow like me would not know whether it was a horse's shoe or a mare's shoe."

Now, in ignoring fundamental princi-

ples I do not know how to illustrate it in any better way. I consider that this proposition is eminently just. I think that the counties of this Territory should have representation in the legislative assembly of the proposed State, and in order to secure that beyond question, this proposition was inserted in that article, and we hope it will prevail.

Mr. RICKS. Mr. President, I move the previous question.

The previous question was ordered.

The PRESIDENT pro tem. The question recurs now on the amendment offered by Mr. Varian.

The amendment was rejected.

Mr. VAN HORNE. Mr. President, I propose an amendment to the proviso; in the fifth line after the word "county" insert the words "now existing." The reason——

Mr. EVANS (Utah). Mr. President, I move we adjourn.

The PRESIDENT pro tem. The motion is out of order. Mr. Van Horne has the floor.

Mr. VAN HORNE. The reason in brief for my making this suggestion is that it seems it would cover the difficulty that has been anticipated, and at the same time would do away with any claim that we were desiring to change, that the Salt Lake County members were desiring to change the basis of representation. This apportionment at present is entirely fair to our county—the most populous county, but you can readily see that if the limitation is put upon the members, that it shall be the maximum number of the house of representatives, at ninety, and the twenty-seven counties of the Territory should be subdivided in such manner that there would be eighty counties instead of twenty-seven, and this provision remains in the Constitution, it would perforce put a county of one hundred thousand inhabitants to a level with counties of perhaps less than one thousand. This amendment will do away with any difficulty of that sort. It will prevent the creation of counties for the purpose of getting extra representation over what is now established, and I think it might just as well be passed in that way.

Mr. EVANS (Utah). Mr. President, I move we now adjourn.

The motion was agreed to and the Convention then, at 5:32 p. m., adjourned.

THIRTY-EIGHTH DAY.

WEDNESDAY, April 10th, 1895.

The Convention was called to order at 10 o'clock a. m. by President Smith.

Roll call showed a quorum present.

Prayer was offered by Rev. A. M. Martin of the Swedish Lutheran Church.

The journal of the thirty-seventh day's session was read and approved.

The following petitions were presented, asking that the question of woman's suffrage be submitted as a separate article to the vote of the people.

File No. 223, signed by C. H. McCoy, of Salt Lake, and 48 others, by Hill, of Salt Lake.

File No. 224, signed by Mrs. J. T. Donnellan, of Salt Lake, and 38 others, by Whitney, of Salt Lake, by request.

File No. 225, signed by C. W. A. Snell, of Salt Lake, and 208 others, by Van Horne, of Salt Lake.

File No. 226, signed by A. W. Smith, of Salt Lake, and 67 others, by Elchnor, of Salt Lake.

File No. 227, signed by Wm. L. Treweek, of Summit County, and 24 others, by Kearns, of Summit.

File No. 228, signed by L. E. Cammomile, of Summit County, and 175 others, by Kearns, of Summit.

File No. 229, signed by H. S. Townsend, of Summit County, and 300 others, by Kearns, of Summit.

File No. 230, signed by W. M. Gerard, of Taylorsville, and 30 others, by Haynes, of Salt Lake.

File No. 231, signed by J. L. Taylor, of Farmers' Ward, and 71 others, by Bowdle, of Salt Lake.

File No. 232, signed by John Wall, of Santaquin, and 47 others, by Halliday, of Utah, by request.

File No. 233, signed by J. F. Farrer, of Emery County, and 21 others, by Howard, of Emery, by request.

File No. 234, signed by W. H. Streeper, of Centerville, and 74 others, by Roberts, of Davis.

File No. 235, signed by Joel Shomaker, of Manti, and 99 others, by C. P. Larsen, of Sanpete.

File No. 236, signed by B. G. Raybould, of Salt Lake City, and 404 others, by Squires, of Salt Lake.

File No. 237, signed by E. E. Stuart, of Millard County, and 65 others, by Crane, of Millard.

File No. 238, signed by Andrew Corry, of Iron County, and 70 others, by Heybourne, of Iron.

File No. 239, signed by W. H. Sells, of Salt Lake, and 29 others, by Squires, of Salt Lake.

File No. 240, signed by M. H. Darrow, of Moab, and 41 others, by Peterson, of Grand.

File No. 241, signed by E. Miller, of Castle Gate. and 58 others, by Sharp, of Emery.

File No. 242, signed by W. W. Wiscomb, of Salt Lake, and 29 others, by James, of Salt Lake.

File No. 243, signed by H. P. Larsen, of Ephraim, and 150 others, by Lund, of Sanpete.

Ordered filed.

Mr. LOW (Cache). Mr. President, I hold in my hand a petition from the residents of Smithfield, Cache County, and as it was sent to me this morning with a communication attached to it, I desire to present it by request. I would not take the trouble to do so, were it not that it is a most emphatic expression of the sentiments of the people of that precinct.

The secretary then read as follows:

Petition for the separate submission of an article on woman's suffrage. No signatures. [Laughter.]

Mr. LOW (Cache). Mr. President, I stated by way of introduction that it was the most emphatic expression of the sentiments of the people of that precinct, on the part of my constituency, after it had been thoroughly canvassed.

Mr. VARIAN. Mr. President, I move that the petition or the non-petition be returned to the gentleman. Certainly it is in contempt of this house.

Mr. CHIDESTER. Mr. President, I understand that there is a letter accompanying that petition.

Mr. VARIAN. As it appears now, Mr. President, a blank paper is presented by a gentleman stating that the blank represents the minds of his constituents. [Laughter.] It is either a contempt of the privileges of this house or it is in derogation of the rights of the people. In either case, it ought to be returned to the gentleman.

Mr. LOW (Cache). Mr. President, the blank petition has been forwarded by my constituency, with a note attached, which is now attached to it, that they should present it for signatures and return it to their constitutional delegate for presentation in this Convention. I have no other way of disposing of it than to place it at the disposition of the gentlemen of this Convention. Therefore, I have placed it with a communication attached to it in the regular order.

Mr. ROBERTS. Mr. President, I would like to ask if the gentleman has ascertained that that matter was submitted to the people or did the person to whom it was mailed merely return it?

Mr. LOW (Cache). He says it does not conform with our delegate's voice in the Convention; therefore, we return it. I presume a number of them were

consulted on the matter and the parties to whom it was sent returned it.

Mr. ROBERTS. Mr. President, it is, however, a presumption. I would like to hear that read. I take it that that is an insult to this Convention, and I think that we ought to know just what that business is.

The secretary then read.

Mr. EVANS (Weber). Read the letter that is enclosed.

The SECRETARY. I have no letter here, Mr. President.

Mr. VARIAN. I would like to ask, Mr. President, if the endorsement on that paper was prepared by the gentleman, or whether a member of this house, representing that constituency, endorsed it?

Mr. LOW (Cache). That was endorsed by Mr. Low of Cache.

Mr. VARIAN. I still insist on that motion, that it be returned to the presenter.

The motion was agreed to.

Mr. Chidester, of Garfield, presented file No. 245, petitions from Washington, Box Elder, Morgan, Sevier and Sanpete counties, containing two thousand one hundred and eighty-nine names, asking that an equal suffrage clause be placed in the Constitution.

Ordered filed.

Mr. LUND. Mr. President, I would like to ask a question. Before these petitions are referred to the committee, may any member have a right to scan them through and see what names are upon them? I hold in my hand a petition from Ephraim, Sanpete County, signed by H. P. Larsen, and 150 others, voters, and our best citizens, asking that woman's suffrage be submitted to the people in a separate article, and also a letter from our mayor as follows:

Be it resolved by the citizens of Ephraim, in mass meeting assembled, that the question of woman's suffrage be submitted to the voters as a separate article apart from the main body of the Constitution.

Adopted unanimously

PETER THOMPSON,
Mayor of Ephraim.

The PRESIDENT. I know of no reason why any gentleman may not investigate these petitions.

Mr. THURMAN. Yes; we would like to investigate a little. We are thankful for that suggestion of the chair.

Mr. James presented a petition, asking that the question of woman's suffrage be submitted to a separate vote of the people, signed by W. W. Wiscomb and 33 others.

The article entitled congressional and legislative apportionment was then taken up and the third reading proceeded with as follows:

Mr. BOWDLE. Mr. President, I believe there is an amendment pending, is there not?

The PRESIDENT. Yes, sir.

Mr. BOWDLE. I would like to make a motion to strike out the proviso and the amendment thereto. (Section 4.) That would leave the whole question then open to the Legislature. I was heartily in sympathy with the sentiments expressed yesterday by the gentleman from Salt Lake, Mr. Varian, upon this question, but the Convention seems to think that we ought not to take that step. The step that I now propose by this amendment is to leave it with the Legislature. If the Legislature in the future wish to keep the representatives as they now are, one from each county, they can do that, but if there should come a time in the history of the Territory that the Legislature would deem it advisable to change that apportionment, they have the power to do it. I admit that representation ought to be upon the number of the population.

Mr. EVANS (Utah). Mr. President, I wish to rise to a point of order. This amendment has the same effect exactly as the amendment that we killed yesterday, and I think to go into this question and take up the time of this Convention for two hours, which will result in the same thing that it did yes-

terday—we ought not to do it. It is an equivalent motion.

Mr. BOWDLE. Mr. President, the question that we discussed and decided yesterday was this: That when an apportionment was made it should be according to population and this amendment does not mean that. This amendment leaves it with the Legislature. The Legislature can leave it one from each county or according to population.

The PRESIDENT. The chair is of the opinion that the point of order is not well taken.

Mr. THURMAN. Mr. President, if the question we discussed yesterday was not to leave it to the future Legislature to determine, was there anything in the proposed amendment about population?

Mr. BOWDLE. That was not the question we discussed yesterday. The question we discussed yesterday was that it should be according to the population.

Mr. THURMAN. That was not the motion; that was the trend of the argument, but the motion was to leave it to the Legislature.

Mr. VARIAN. The motion was to strike out and insert first. That is a very different proposition from moving to strike out alone. The motion to strike out was accompanied by the motion to insert, which included this proviso, "the Legislature shall apportion." It was mandatory direction that when it did apportion it should apportion according to the population.

The PRESIDENT. Mr. Bowdle has the floor.

Mr. BOWDLE. So that you will see that the question decided yesterday was not this question at all. Until the Legislature shall take some action, if this motion prevails, there will be one from each county, but it leaves it in the power of the Legislature to determine whether there ever shall be a time when there shall not be one from each county. Now, we heard a great deal of talk here about leaving things to the Legislature. This is a thing that ought to be left to the Legislature. We cannot look down through all time and determine what may be or what may not be the condition of these counties. It may be there will come a time (which I hope never shall) that some county would see that it was unfair and unjust, and the counties all through the Territory should see the same thing, for them to have a representation. Take the county spoken of yesterday, San Juan, with 375 population in 1890. Now it has gone up, the gentleman says, to 2,000. Suppose the reverse should take place and instead of 375 they should be reduced down to 25. We do not believe that it ever will be so, but suppose it should be so, it would then leave it for the Legislature to determine whether a county of that size ought to have a representation or not. I am willing and perfectly confident that the right would be done by leaving it to the Legislature. The outlying counties will have their one member in every case here to determine this question. When the question will come up for determination every county, as it now stands in this Territory or coming State, will have one member in that body that will determine that question. Is it not safe then to leave it for that body to determine?

Mr. THORESON. Mr. President, I am opposed to striking out the proviso here and leaving it for the Legislature, for the reason that this Convention by a large majority have already voted against a proposition of that kind. I also notice that when the larger counties, especially the county in which we find ourselves located at the present time, cannot get a certain proposition through this Convention, they always want to switch off to the Legislature, thinking that perhaps they can manipulate the Legislature better than they can the Convention.

Mr. BOWDLE. In what case has that been true?

Mr. THORESON. In several.

Mr. BOWDLE. Can you name one?

Mr. THORESON. Yes, sir; the one that you are now supporting.

Mr. BOWDLE. Well, any other?

Mr. THORESON. I think, gentlemen, after we have decided on the representation for the various counties we ought to stay with it, and I do not think any future Legislature will improve it—these larger counties conceding largely to the smaller ones and aiding them in their struggles. I admit that our county is not getting a fair representation. I admit that Salt Lake and these larger counties are not, but I tell you that we depend to a great extent on these smaller counties that are undeveloped yet. We expect to send our sons and daughters into these counties to make homes there, and we want them to be represented in the Legislature of the future State, and I am willing to concede, and I believe this Convention will concede, these privileges that we have given to these counties, and retain this article as it is reported by the committee. I hope it will be voted down.

Mr. BUYS. Mr. President, the gentlemen will find that if this motion should maintain and this is left out, that section 2 will accomplish the same object that was voted down here yesterday, for in section 2 it says, that every five years an enumeration shall be made by the Legislature, and that the representation on the basis of such enumeration shall be fixed by law. If this should be left out, then the Legislature must apportion every five years according to the ratio fixed by law, and the same result would be obtained that the gentleman from Salt Lake sought to obtain yesterday, when it was voted down.

Mr. HART. Mr. President, I understood Mr. Van Horne or some gentleman, last evening, to move as amendment that a certain word would be inserted, which would give the counties the representation provided for in this article. I ask whether that is pending or not?

The PRESIDENT. There is a proposed amendment by Mr. Van Horne now pending.

Mr. HART. Then, I ask for the vote first upon the amendment of Mr. Van Horne. That is a question of order that has come up several times before, and I thought it was pretty well settled. I am in favor of the amendment of Mr. Van Horne, which will give to the counties the representation that they now have. If it is going to be the judgment of this house that we should have a house of representatives consisting of forty-five members, then I am willing to vote for each county to have one representative—for these counties that now exist, but I would not be in favor of going further and permitting new counties, however small they might be, and perhaps created hereafter for the very purpose of getting representatives—I would not be in favor of the proposition which would make it possible for an arrangement of that kind. I call for the vote first upon the amendment of Mr. Van Horne. I do not think there is any question but what that is the proper order, for the reason that we are virtually sending a measure that is imperfect to its grave. We are sending it to account with all its imperfections on its head. Perhaps the friends of that proposition should have a right to perfect it and get it in the best shape before striking it out, because some individuals who would vote to strike it out would not do so if it were in the best possible form.

Mr. FARR. Mr. President, I am quite in favor of the motion to amend this. The preceding paragraph says:

Until otherwise provided by law, representatives shall be apportioned among the several counties of the State as follows:

I do not wish to make any argument, as it has already been made by the gentleman making the motion. I think it

is much better to leave it to the Legislature and not to tie them up.

The roll was then called on the motion of Mr. Bowdle, with the following result:

AYES—28.

Bowdle	Page
Brandley	Peterson, Sanpete
Button	Pierce
Coray	Preston
Emery	Roberts
Farr	Ryan
Goodwin	Sharp
Green	Shurtliff
Haynes	Squires
Hill	Stover
James	Symons
Kiesel	Van Horne
Lambert	Varian
Lund	Wells.

NOES—66.

Allen	Larsen, C. P.
Anderson	Lemmon
Barnes	Lewis
Boyer	Lowe, Wm.
Buys	Lowe, Peter
Call	Low, Cache
Chidester	Maeser
Christianson	Maloney
Clark	Maughan
Corfman	McFarland
Crane	Miller
Creer	Morris
Cunningham	Moritz
Cushing	Murdock, Beaver
Driver	Murdock, Wasatch
Eichnor	Murdock, Summit
Eldredge	Partridge
Engberg	Peters
Evans, Weber	Peterson, Grand
Evans, Utah	Raleigh
Francis	Richards
Hammond	Ricks
Halliday	Robertson
Heybourne	Robinson, Kane
Howard	Robison, Wayne
Hughes	Snow
Hyde	Spencer
Johnson	Thompson
Jolley	Thoreson
Keith	Thorne
Kearns	Thurman
Kerr	Warrum
Kimball, Salt Lake	Williams.

ABSENT—10.

Adams	Mackintosh
Cannon	Nebeker
Gibbs	Strevell
Ivins	Thatcher
Kimball, Weber	Whitney.

EXCUSED—2.

Hart	Larsen, L.

Lost.

During the roll call the following remarks were made:

Mr. HART. Mr. President, I ask to be excused from voting, for the reason that I would like to vote on the other proposition. I am opposed to the proposition as it stands, but with the amendment of the gentleman from Salt Lake, Mr. Van Horne, I am willing to vote in favor of it.

Mr. L. LARSEN. Mr. President, if there is no objection, I would like to withdraw my vote on the motion. I am in the same position as the gentleman from Cache.

The PRESIDENT. The question is now on the amendment of Mr. Van Horne.

Mr. SQUIRES. Mr. President, before a vote is taken on this, I just wanted to say one word. I want to call attention to one feature of this article. As I understand it, we are limited now for ten years by this proposition to a Legislature composed of 18 senators and 45 representatives. Now, if the proposition stands without this amendment and new counties are constructed in the meantime, those counties must each have a representative and those representatives must be taken from the larger counties. I do not see any other way out of it. We are limited to 63 members of the Legislature.

Mr. CRANE. Five years.

Mr. SQUIRES. I do not so understand it. The chairman of the committee puts the construction on it that this apportionment may be changed in

five years. My understanding of it was that it would not be changed until 1905. Now, if it is the understanding that it is only five years, that should be plainly stated, but I want to call attention to that one feature of it, that if new counties are created between now and 1905, they must have a representation under this section, and where is it to come from? We are limited by the article itself to 63 members of the Legislature. I believe that this amendment should prevail so that if any new counties are made between this time and the time of the new apportionment, they will have no representation in the Legislature, except as they are represented by the districts as already prepared in this article. I think that this amendment should prevail.

Mr. CRANE. Mr. President, I do not understand how a new county can be formed except by an act of the Legislature, and then, as I understand this section here, it must be done immediately following, or is supposed to be done immediately following an enumeration, either by the State or by the national authorities. In 1900—five years from this, we have an enumeration by the government. Then new counties can be formed. We shall have one in 1905, and then new counties can be formed.

Mr. SQUIRES. Do I understand the gentleman to mean that under this section, you are providing for the organization of new counties? I thought that this referred simply to the organization, of representative and senatorial districts and not to the organization of counties.

Mr. CRANE. We do not provide for the organization of new counties at all, but it provides, after the enumeration, for the new counties being formed. The Legislature then may apportion new counties or may give a certain portion of the counties now existing a new county government, and this provides here, as I understand it, for representation from those counties.

Mr. ROBERTS. Mr. President, do I understand that no new counties can be formed until after the enumeration provided for in that article?

Mr. CRANE. By no means, because it provides here in the representative districts that in any future apportionment made by the Legislature each county shall be entitled to at least one representative. As soon as a new county is formed, as I understand it, there will be one representative from that county. That is mandatory.

Mr. SNOW. Mr. President, I am opposed to the amendment offered by Mr. Van Horne. I am opposed to it upon principle. It is the same motives that have actuated me all the time in favoring county representation. I am sorry to see men here who feel that the Legislature would be made cumbersome, because of the creation of an additional county and an additional representative. I take it, that wherever a county is large enough, and populous enough, and has wealth enough to form a county, it ought to be entitled to representation. My principal reasons for this are, that no county can get good representation when it is coupled with another county, and is compelled to be represented by a person who perhaps lives in another county. We have had enough of that kind of representation in the last few years to show us the fallacy of it. For instance, I have a case in mind in which, in the last Legislature but one, Washington County had a very valuable slice of land taken from it, without a particle of justice in it, simply because another county wanted it and not because there was any good reason for it at all. Our representative represented both of these counties. He was powerless to act in the premises. He simply passed it over in the hands of strangers, who decided it without knowing anything of the merits of the question whatever, and I call attention

to the fact that these same differences over county lines have existed in almost every Legislature that has ever met in this Territory. It is a continuous thing. There are always conflicting claims of one kind and another between the constituents of different counties, and when a man is compelled to represent both of those counties, he cannot do it. He is *non est.* He is worse than a nonenity, because then they have no representation at all. Out of sheer delicacy, he does not wish to act, because if he acted in favor of one he would offend the other. And another thing, if a man is a candidate for representative, where there are two or three counties forming the representative district, why the representatives of this district, if they have any pet schemes or any hobbies, they want to know how that representative stands on these questions before they vote for him. They may want a slice of some other county and it is perhaps the county he hails from. He is placed in an embarrassing position. I take it that if every county is given a representation, he can then act and speak for his constituents in whatever interests them. And there are a great many things that interest every organized county in this Territory. Legislation directly affects them in all their occupations, and they ought to be entitled to representation and a voice. I am opposed, therefore, upon principle, to the amendment offered by Mr. Van Horne. It is no satisfaction to me to give the existing counties a representative and bar any future county that may be created, because I think those counties of right are entitled to representation.

When we think that the Legislature is the great storehouse, the great commissary that is going to parcel out the benefits to this Territory, make all the appropriations and levy the taxes, and place all the burdens upon the people, I think that ought to be a sufficient argument to give each county a representative. Now, I wish, while I am on my feet, to deny the insinuations that have appeared in a morning paper, and that have appeared time and time and again, that the democratic members of the committee on apportionment have been taken in by this bait of county representation. I want it understood that we have been just as ardent for that from the beginning as any of the members of the other party in this Convention, and we have not been influenced by any improper motives whatever, but we have tried to deal fairly and justly in this apportionment, recognizing contiguous counties and counties that have intercommunication and business relations with each other where they could get together, where they naturally lie and have roads intermingling, and inter-communicating with each other, where it would be easy of access. We have taken these things into consideration and have consulted members from every county and from every delegation in this Convention, and we have not acted from selfish or improper motives. It is true that this apportionment is not all that I would wish it. It is not perhaps as favorable to the party to which I belong as I would like to have it, but on the main, I think it is just, I think it is humane, and I deny the insinuations that have been cast upon the minority of that committee, who are the members of the party to which I belong. I wish to set myself and my confreres right on this proposition. I am opposed to the amendment, and I hope it will be voted down, as it should be.

The PRESIDENT. If the amendment prevails, the section will read as follows:

Provided that in any future apportionment made by the Legislature, each county now existing shall be entitled to at least one representative.

Mr. THURMAN. Mr. President, I suggest that there is something in the proposition submitted by Mr. Squires, the gentleman from Salt Lake. I do not

know whether it strikes the Convention or not. I do not think we ought to do anything that will raise a doubt, but in section 3 of the article, it is provided, "the senate shall consist of 18 members, and the house of representatives of 45 members," making an aggregate of 63 members in the joint houses. Now, in this proviso that we are discussing it provides that each county shall be entitled to at least one representative; should a new county be created the number of representatives will be increased or a member will be taken from the central counties. I do not think that would be right. While I am in favor, as I said yesterday evening, of every county having one representative at least, I am not in favor, in order to give new counties representatives, of taking them from Salt Lake, Utah, Cache, or Weber, or other counties that have more than one. I think that that is doing enough as it now stands. And I call attention to the matter in addition to what Mr. Squires has said, that it will leave a conflict in the instrument. In one place, we will have the limit of representatives 45, and of senators 18, in another, in the event of creating a new county, we will give an additional representative, and we must either provide for adding to this 63, for every county created, or we will have to take from these counties that are already complaining if they have not——

Mr. BUYS. May I ask the gentleman a question? Is not this proviso in section 3, "the Legislature may increase the number of senators and representatives," sufficient for that purpose?

Mr. THURMAN. I believe the gentleman is right. I think that that answers my objection. I am ready to vote against the proposed amendment.

Mr. RICHARDS. I desire to ask the gentleman from Salt Lake (Mr. Squires) a question. I had not the advantage of being present yesterday to discuss, nor do I know what amendments were made to this article, but I understood the gentleman to say that the Legislature were limited in their power to act to the times when the census was taken; am I correct in that?

Mr. SQUIRES. As to re-apportionment?

Mr. RICHARDS. Yes, as to re-apportionment—the creating of new counties and the increasing of the number of the Legislature?

Mr. SQUIRES. Increasing the senatorial and representative districts, they are certainly held by this section, but there is nothing here in regard to counties. What the amendment contemplates is that if new counties shall be created, it will be left to the Legislature to say whether they shall have each a representative.

Mr. RICHARDS. What I desire to ask is what portion of this article is it that would prevent a Legislature from increasing the number of representatives at the time that it created a new county?

Mr. SQUIRES. My attention was just called to it. I had not noticed that section.

Mr. HART. Mr. President, if this amendment should prevail, it will not prevent the Legislature, as I understand it, from giving a new county a representative when it is created, if the Legislature thinks it would be just to do so, but if this amendment does not prevail it would be obligatory upon the Legislature to give that new county a representative, regardless of the amount of population. It might be smaller than some of the smallest counties we have now—small counties, which in their present position promise to grow rapidly in population, and I am in favor of the amendment.

Mr. BUYS. Mr. President, I would like to ask Mr. Hart a question. The statement that it would be obligatory upon the Legislature to give a representative to the county—would that be so until a future apportionment was made? The proviso is that in any

future apportionment made by the Legislature, each county shall be entitled to at least one representative, and it provides that the apportionment shall be made at the enumeration, and until the enumeration is made, I do not think it would be obliged to give a representative.

Mr. HART. The gentleman is possibly right. There is a chance for a difference of opinion on this. The county when created would be entitled, from the mere fact that it was created, to one representative.

The roll was then called on the amendment offered by Mr. Van Horne, with the following result:

AYES—34.

Bowdle	Lambert
Brandley	Larsen, L.
Button	Lowe, Peter
Coray	Lund
Cushing	Page
Elchnor	Peterson, Sanpete
Emery	Pierce
Gibbs	Roberts
Goodwin	Ryan
Green	Sharp
Hart	Shurtliff
Haynes	Spencer
Hill	Squires
Hughes	Stover
James	Symons
Kiesel	Van Horne
Kimball, Salt Lake	Wells.

NOES—65.

Allen	Lewis
Anderson	Lowe, Wm.
Barnes	Low, Cache
Boyer	Maeser
Buys	Maloney
Call	Maughan
Chidester	McFarland
Christiansen	Miller
Clark	Morris
Corfman	Morits
Crane	Murdock, Beaver
Creer	Murdock, Wasatch
Cunningham	Murdock, Summit
Driver	Partridge
Eldredge	Peters
Engberg	Peterson, Grand
Evans, Weber	Preston
Evans, Utah	Raleigh
Farr	Richards
Francis	Ricks
Hammond	Robertson
Halliday	Robinson, Kane
Heybourne	Robison, Wayne
Howard	Snow
Hyde	Thompson
Ivins	Thoreson
Johnson	Thorne
Jolley	Thurman
Keith	Varian
Kearns	Warrum
Kerr	Whitney
Larsen, C. P.	Williams.
Lemmon	

ABSENT—7.

Adams	Nebeker
Cannon	Strevell
Kimball, Weber	Thatcher
Mackintosh	

Lost.

Mr. VARIAN. Mr. President, in explanation of my vote, I desire to say simply, this amendment, in my judgment, serves to aggravate what I deem to be a wrong principle underlying the proposition in an equally objectionable way of making a discrimination between the counties, which is just as offensive to me as the other.

Mr. SQUIRES. Mr. President, I want to offer an amendment to section 2, if I am in order, although I have given up all hope of changing, by any syllable or word, any section or paragraph of this article; but in view of the statement made by Mr. Crane, of the committee, that it is the intention of this article to have an apportionment every five years in this State, I would like to have it made plain in section 2 that that is the purport of the article, so, I offer the following amendment: strike out in line 4 the word "such," and lines 5, 6 and 7 to the words "United States" and insert: "The United States census of the year 1900 and every five years thereafter." So that the section will read as follows:

The Legislature shall provide by law for an enumeration of the inhabitants of the State in the year of our Lord nineteen hundred and five and every tenth year thereafter, and at the session next following the United States census of the year nineteen hundred and every five years thereafter, shall revise and adjust the apportionment for senators, etc.

Mr. ELDREDGE. Mr. President, may I ask the gentleman a question? Do you not consider that it is fully covered by the language that is used in the section?

Mr. SQUIRES. I do not. I want to make it plain.

Mr. KERR. Mr. President, it seems to me that this section is not clear on that point.

Mr. SQUIRES. Mr. President, it provides that the Legislature shall, at the session next following the enumeration of 1905, re-apportion, and also at the session next following the United States census, which may follow. There is ambiguity there, and I want to clear it up, that is all, and if my amendment is put in there it will make it perfectly plain. It will read that the first apportionment shall be made after the census in 1900 and every five years thereafter.

Mr. EVANS (Utah). If your amendment prevails, is it not the fact that you would have to make an apportionment at the same time of the United States census——

Mr. SQUIRES. Yes, after the year 1900; but under this section the first apportionment is provided for in the year 1905.

Mr. EVANS (Utah). Would not it double that expense?

Mr. SQUIRES. The intention is to have it every five years. That is what the article calls for.

Mr. EVANS (Utah). I do not understand it so. I hope this amendment will not prevail.

Mr. EICHNOR. Mr. President, I arise to a point of order. We passed section 2 yesterday, and I think amendments are not in order.

The PRESIDENT. The point of order is well taken.

Mr. VARIAN. Do I understand the ruling to be that when we have an article on the third reading we cannot amend it in any particular, because we have passed a section?

The PRESIDENT. That was the intention of the chair.

Mr. VARIAN. If that is going to be the ruling, we will confine ourselves to it hereafter.

Mr. SQUIRES. I understand the entire article is open to amendment until the final roll call is taken on the passage of the article.

The PRESIDENT. I think the chair is mistaken in regard to this matter.

Mr. EICHNOR. I was going to withdraw my point of order.

Mr. KERR. I desire to ask the gentleman from Salt Lake, Mr. Squires, if, while it is true, as he states, the provision here for the enumeration of the inhabitants of the State—is there not also the statement that at the session of the Legislature next following an enumeration made by the authority of the United States the Legislature shall revise, etc. Is it not also true that under this provision the Legislature would be required to revise and adjust the apportionment after the United States census was taken?

Mr. SQUIRES. Well I think it is open to reasonable doubt, and that is the reason I wanted the amendment put in there. If it means what is said by Mr. Crane, why not make it plain so that there can be no doubt as to what is intended?

Mr. EVANS (Weber). Mr. President, according to my notion, section 2 is perfectly clear, and all it means is that the Legislature should provide for an enumeration in the year 1905 and every ten years thereafter, and the United States makes an enumeration once every ten years, so that the Legislature will re-apportion every five years, once upon the United States enumeration. I do

not believe that that section can be read in any other way than that. I think it is just as it should be, and I shall vote against the proposed amendment.

Mr. SQUIRES. I would like to ask the gentleman a question. Under this section, as it is provided, when do you think the first re-apportionment would be made by the Legislature?

Mr. EVANS (Weber). In 1900. I do not think there can be any other construction.

Mr. SQUIRES. That is what I want to cover, but I believe it is open to doubt. The first provision is that the first apportionment shall be made in 1905.

Mr. EVANS (Weber). No, 1900; because the section states, "also at the session next following the enumeration made by the authority of the United States." Now, the United States will make an enumeration in 1900, and after that enumeration the next Legislature following that shall enumerate and make a new apportionment, but under the enumeration of the State, no apportionment will be made until 1905. It seems to be very clear and I think there can be no misunderstanding about it.

Mr. SQUIRES. Mr. President, as I stated in the first place, I had no hope of changing a single word or striking out a comma or period in this article when I made the motion.

Mr. VAN HORNE. Mr. President, I suggest that the mere fact that our friends and colleagues, members of this Convention, differ as to the construction that should be placed on this section indicates that there is an ambiguity there. One of them understands that we would have an apportionment in 1900, the other, that the apportionment would not come until after 1905; and it seems to me that we could easily fix this by adding the letter "y" to "an," just before the word enumeration, so that it would read "any enumeration by the United States," and that would cover it.

Mr. EVANS (Weber). According to the amendment offered by the gentleman from Salt Lake, Mr. Squires, it would require the State to make an enumeration in the same year that the United States makes its enumeration. It would be a useless expense.

Mr. SQUIRES. I do not understand that. I would like to have my amendment read, if the gentleman has got that impression of it. It don't call for any such thing.

Mr. VAN HORNE. I would like to ask what the effect of Mr. Squires' motion was—whether the order in which the provision for re-apportionment was put here, did not make the first apportionment follow the census taken by the State in 1905, and exclude the re-apportionment on the United States census of 1900? For that purpose, he makes this amendment, that following the United States census in 1900, and the State census in 1905, the apportionment shall be made. It seems to me that the word "an" there, changed to "any," will cover the whole question.

Mr. SQUIRES. That would be in effect exactly what my amendment calls for. That will leave it open to the Legislature after the enumeration of 1900 by the United States, to make a re-apportionment. The way it stands, I believe it to be ambiguous, and if my amendment cannot prevail, the amendment by Mr. Van Horne certainly should.

The amendment of Mr. Squires was rejected.

The PRESIDENT. The question is on the amendment of Mr. Van Horne.

Mr. EVANS (Weber). Mr. President, of course it is usual for the United States to make an enumeration every ten years, but suppose the United States under that amendment should make an enumeration at some other time, for some other purpose, if the word "any" be written in there, then the State Legislature would be required

to make a re-apportionment. There might be an enumeration for something entirely different from that which is regularly made every decade; I think it would be dangerous even to add the letter "y."

Mr. SQUIRES. I think so, too.

The amendment offered by Mr. Van Horne was rejected.

Mr. CREER. Mr. President, I move that the article on congressional and legislative apportionment do now pass.

Mr. WHITNEY. Mr. President, before that motion is put, I would like to make a slight amendment in section 3.

Mr. SQUIRES. It won't go.

Mr. WHITNEY. In line 7, changing the word "greater" to "more." So that it shall read, "shall never be less than twice, nor more than three times the number of senators." "More" is a better word than "greater."

Mr. ELDREDGE. Mr. President, I would suggest if that is simply dressing up the article, that that would be done by the committee on compilation and arrangement.

The question being taken on the amendment of Mr. Whitney, the Convention divided, and by a vote of 45 ayes to 35 noes, the amendment was agreed to.

Mr. SQUIRES. Mr. President, I would like to move a vote of confidence in the committee on apportionment and boundaries.

Mr. JOLLEY. Mr. President, the delegates of Sanpete County feel as though they have hardly been dealt fairly with in the representation that they will have in the Legislature. In looking up statistics and the registered voters of 1894, we find that Cache County has 16 more votes registered than Sanpete County, and they have three representatives to Sanpete County's two representatives. I wish to make a motion that we have another representative conceded to us.

The PRESIDENT. Whom will you take him from?

Mr. SQUIRES. Mr. President, I move we take him from Salt Lake.

Mr. THURMAN. I second the motion to take it off Salt Lake.

Mr. LUND. Mr. President, before that motion is put, I would like to say a few words. In the county of Cache there are 2,967 voters. In the county of Sanpete there are 2,951 voters—a difference of only 16 voters. Our school census shows that we have more children on the way to citizenship (laughter) than Cache has. And gentlemen, I do not think that for the simple reason that Cache has 16 more voters than Sanpete that they should have one representative more. If you think it is fair—Sanpete is not a majority here, but it does not occur to us that it ought to be done. There is only a difference of 16, gentlemen—16.

Mr. HART. I would like to ask the gentleman the difference in population. I understand that this was to be based upon population; 16,500 is about the population given for Cache. I will ask the gentleman if he knows what the population of Sanpete County was? I am of the impression that there are some two or three thousand difference in population between Cache and Sanpete County.

Mr. CRANE. 13,369.

Mr. ELDREDGE. Three thousand in round numbers.

Mr. VARIAN. Mr. President, I arise to a point of order. As I understand it, there is no motion to amend this proposition in any particular. It is simply a suggestion. The suggestion ought to be incorporated and a motion made, designating just what they propose to strike out and what to insert, it seems to me.

Mr. EVANS (Weber). Mr. President, I understood that Mr. Squires moved that one representative be taken from Salt Lake and given to Sanpete, and that was seconded.

Mr. SQUIRES. Mr. President, I would like to go straight on the record. I un-

derstood that Mr. Jolley moved that Sanpete be accorded one representative. I seconded his motion and suggested that it might be taken from Salt Lake in order to even the thing up and make it square.

Mr. EVANS (Weber). If that comes from Salt Lake, let it go by unanimous consent.

Mr. EICHNOR. Mr. President, I have tried to deal fairly with the outside counties and also with my own county, but this has got down to child's play. I think it is ridiculous—a suggestion of that kind; if Sanpete County——

The PRESIDENT. There is no motion before the house

Mr. EICHNOR. There is a motion.

The PRESIDENT. No; he has not fixed the status of the proposition. The roll will be called.

Mr. HART. Mr. President, a gentleman has made a motion here. I think he has a right to designate the exact motion in writing.

Mr. THURMAN. Mr. President, I make the point of order that it is not in order to make a motion to amend this; the only thing we can do is to discuss the question of the adoption or not adopting it, as a whole. It is not open for amendment in any particular, because there is a motion here to adopt it as a whole. The argument should be confined to either against that proposition or for that proposition.

Mr. VARIAN. I arise for information. I thought I got it before when the president ruled, but it seems not. Is it not true that when a proposition or a bill is upon its third reading, it is open to amendment until the roll call is ordered in any part of the bill or proposition? And is it not also true that no motion that a bill pass is necessary or permissible? When the house is ready for a vote they call for a vote and the roll call is ordered?

The PRESIDENT. I think the gentleman's statement of the proposition is correct.

Mr. GOODWIN. Mr. President, it seems to me this motion of Mr. Lund or Mr. Jolley cannot be put as it is. He asks that Sanpete be given another delegate. Until a way is provided to supply that delegate from the other counties, under this article that we are passing it cannot be done. He will have to couple with his motion the further proviso, where this other senator is to come from. There is another question of morals concerned in this. Mr. Lund made an open confession the other day here that he was not a married man and he is talking about his children—— [Laughter.]

Mr. LUND. Mr. President, I do not understand that this is a finished article yet, and that no way can be provided by which another representative can be given to one county. I would move that in the article on representative districts, page 3, line 48, the word "two" be stricken out and "three" inserted.

Mr. JOLLEY. I second that motion.

Mr. MURDOCK (Wasatch). Mr. President, I am opposed to the motion, from the fact that this apportionment was based upon the population of each county, and representatives were given one for each five thousand people, and now to change the rule and give Sanpete County one representative for about 4,300 people and give no other county in the Territory the same representation, it seems to me would be unjust and unfair. Some system has to be adopted upon which the representatives shall be based, and the plan that was adopted by the committee on apportionment was one representative for each county and an additional representative for every 6,000 people. At any rate there is no other county that has a representative, outside of the smaller counties, for a less number than 5,000 people, and I do not see why Sanpete County should have an additional representative when no other county has it. If we are going to increase their number, then I say, let

us increase it all around and give Salt Lake and other counties with a similar population additional representatives, or in other words, let us stick to what we started in with—not less than five thousand.

The motion of Mr. Lund was rejected.

The roll was then called on the adoption of the article with the following result:

AYES—90.

Allen	Kimball, Salt Lake
Anderson	Lambert
Barnes	Larsen, L.
Bowdle	Lemmon
Boyer	Lewis
Brandley	Lowe, Peter
Button	Low, Cache
Buys	Lund
Call	Maeser
Cannon	Maloney
Chidester	Maughan
Christiansen	McFarland
Clark	Miller
Coray	Morris
Corfman	Moritz
Crane	Murdock, Beaver
Creer	Murdock, Wasatch
Cunningham	Murdock, Summit
Cushing	Page
Driver	Partridge
Eichnor	Peters
Eldredge	Peterson, Grand
Emery	Peterson, Sanpete
Engberg	Preston
Evans, Weber	Raleigh
Evans, Utah	Richards
Farr	Ricks
Francis	Roberts
Gibbs	Robertson
Green	Robinson, Kane
Hammond	Robison, Wayne
Hart	Ryan
Haynes	Sharp
Halliday	Shurtliff
Heybourne	Snow
Hill	Spencer
Howard	Squires
Hughes	Symons
Hyde	Thompson
Ivins	Thoreson
James	Thorne
Johnson	Thurman
Keith	Warrum
Kearns	Whitney
Kerr	Williams.

NOES—7.

Jolley	Van Horne
Lowe, Wm.	Varian
Pierce	Wells.
Stover	

ABSENT—9.

Adams	Mackintosh
Goodwin	Nebeker
Kiesel	Strevell
Kimball, Weber	Thatcher.
Larsen, C. P.	

Mr. RICHARDS. Mr. President, I desire to say, in explanation of my vote, that I could not be present yesterday during the discussion of this question, and while I do not approve of this apportionment, as a whole, I do not feel that I would be justified in attempting, or have not felt that I would be justified in attempting to re-open the discussion of this question, believing that it had been discussed to that extent that the Convention had agreed upon it and to re-open it would have no effect. I vote for the article although it is not as I would like to have had it.

The PRESIDENT. The article has been passed, gentlemen, and will go to the committee on compilation and arrangement, under the rule.

The Convention then, at 12 o'clock m., took a recess until 2 o'clock.

AFTERNOON SESSION.

The article on militia was read a third time and the roll being called on the question of its adoption the result was as follows:

AYES—81.

Allen	Lewis
Anderson	Lowe, Wm.
Barnes	Lowe, Peter
Bowdle	Low, Cache
Brandley	Lund
Button	Mackintosh
Buys	Maloney
Call	Maughan

Cannon	McFarland
Chidester	Miller
Christiansen	Morris
Clark	Moritz
Coray	Murdock, Beaver
Corfman	Murdock, Wasatch
Crane	Murdock, Summit
Creer	Nebeker
Cunningham	Page
Cushing	Partridge
Eichnor	Peters
Eldredge	Peterson, Grand
Emery	Peterson, Sanpete
Engberg	Pierce
Evans, Utah	Preston
Farr	Ricks
Francis	Roberts
Gibbs	Robertson
Green	Robinson, Kane
Hart	Robison, Wayne
Halliday	Ryan
Heybourne	Sharp
Howard	Shurtliff
Hyde	Snow
Ivins	Spencer
James	Squires
Jolley	Stover
Keith	Thoreson
Kearns	Thorne
Kerr	Thurman
Kimball, Salt Lake	Warrum
Larsen, L.	Williams.
Lemmon	

NOES—0.

ABSENT—25.

Adams	Larsen, C. P.
Boyer	Maeser
Driver	Raleigh
Evans, Weber	Richards
Goodwin	Strevell
Hammond	Symons
Haynes	Thatcher
Hill	Thompson
Hughes	Van Horne
Johnson	Varian
Kiesel	Wells
Kimball, Weber	Whitney.
Lambert	

Mr. RYAN. Mr. President, I wish to suggest something in regard to that. I am sorry I did not get back in time. I want to change the word "citizens," as in the first bill reported, to "inhabitants," and cover the amendment that was made.

Mr. EVANS (Utah). It cannot be done now.

The President announced the proposed article adopted and referred to the committee on compilation and arrangement.

On motion the Convention then, at 2:12 p. m., resolved itself into committee of the whole, with Mr. Ivins in the chair.

COMMITTEE OF THE WHOLE.

The article on legislative was then considered as follows:

Sections 1 and 2 were read by the secretary.

Mr. EICHNOR. Mr. Chairman, I move to strike out, in lines 6 and 7 of section 2, this clause: "But the governor may convene the Legislature in special session by proclamation." That is provided for in the executive article.

Mr. VAN HORNE. Has the executive article been passed yet?

Mr. CHAIRMAN. No, sir.

Mr. VAN HORNE. Then I prefer that this should remain and it should be left to the committee on compilation. If they conflict in any way, they can reconcile it.

Mr. EICHNOR. The executive department was passed on partly by a committee of the whole and we passed that section which empowers the governor to convene the Legislature in special session. I think this is superfluous and hence I make the motion.

The motion was agreed to.

Section 3 was read.

Mr. VAN HORNE. I think, Mr. Chairman, that probably the words "after the first election" are not necessary. This only provides for election after the adoption of this Constitution, and it seems to me those words are superfluous. It occurred to me in reading it over at this time. I move that the

words "after the first election" come out in line 2 of section 3.

Mr. HART. Mr. Chairman, I am not so clear about that matter. It seems to me if we strike that out there may be some question as to whether we are to have an election before the election that is to take place in 1896. It would seem to me, Mr. Chairman, that it is necessary to retain that in order to make that matter clear.

The amendment was rejected.

Section 4 was read.

Mr. EICHNOR. I would like to ask the chairman of the legislative committee a question, if he has no objection. I see that in section 4, lines 6, 7, 8 and 9, you provide that senators elected at the first session of the Legislature shall be divided by lot into two classes, as nearly equal as may be. Did the committee consider the question of numbering the senatorial districts and dividing them by odd and even numbers?

Mr. VAN HORNE. Yes, sir; that was considered before the committee. This is a unanimous report of the committee.

Mr. EICHNOR. I do not like the proposition of gambling.

Mr. HART. Mr. Chairman, there is one matter about this that I am not clear upon; and that is, in regard to the first election. It says here, in lines 6, 7, 8, "provided, however, that the senators-elect at the first session of the Legislature shall be divided by lot," etc. Now, the first election of the Legislature, as I understand it, will be in the present year, 1895, and section 3 provides for an election also in 1896. Now, the question is, at which of these elections, in 1895 or 1896, is this division of the senators going to be made, and the four and the two year terms started from?

If it is going to be the first election, which it really says here—the one in 1895, then, we will have senators elected in the odd numbered years, 1897, etc. I think that is a matter that should be cleared up in some way. It certainly seems uncertain.

Mr. VAN HORNE. Mr. Chairman, the reason that I moved to strike out "after the first election" in section 3, was that I presumed the committee on schedule would arrange for an election of the house of representatives and senate—the election that precedes Utah becoming a State, but this Constitution would only go in effect for the State itself, and would regulate the elections occurring under the Constitution, and if that is so, this only goes to the first election after the Constitution shall have been adopted, and it is clear the way it is.

Mr. HART. Mr. Chairman, that will not help it, because the words "the first session" are used, and it is conceded that there will be an election in 1895. It would still remain indefinite. That thing should be made certain, it seems to me. I move, therefore, that the word "first," in line 7, be stricken out, and the words "elected in 1896," be inserted after the word "session."

Mr. VAN HORNE. I do not think that will do.

Mr. HART. It should be amended in another part. That is the idea, however, that this thing should be made certain in one form or the other.

The CHAIRMAN. Then the gentleman withdraws the motion that he made.

Mr. THURMAN. Mr. Chairman, I agree with the gentleman from Cache, but I think that he did not strike out enough words. I will offer as an amendment to his motion, that the words, "at the first session of the Legislature," in lines 7 and 8, be struck out, the word "elect" changed to "elected," and insert 1896 in its place. Then it will read, "the senators elected in 1896 shall be," etc.

Mr. HART. I accept that amendment.

The amendment was agreed to.

Mr. ELDREDGE. Mr. Chairman, I move to strike out, commencing in the 12th line, after the word "years," as follows: "So that one-half, as nearly as possible, shall be chosen biennially thereafter." I think it is useless repetition of what the forepart of the section contains.

Mr. VAN HORNE. Mr. Chairman, I would simply say that that suggestion was made in the committee. I made it myself, but the committee decided that it was clearer and more definite and less chance for a mistake if it was left in, and decided to leave it in.

The motion was rejected.

Section 5 was read.

Mr. VAN HORNE. Mr. Chairman, I move to insert in the first blank the number 18, in accordance with the adoption by this Convention of the article on apportionment, and in the second blank, 45.

The CHAIRMAN. Wouldn't it be better to put those amendments separately?

Mr. VAN HORNE. I move that in line 1, section 5, the blank shall be filled by inserting the word 18.

Mr. SNOW. Mr. Chairman, I move as an amendment that the section be stricken out. Section 3 of the congressional and legislative apportionment article covers substantially the same ground. It is not necessary to have it in both.

The motion of Mr. Snow was agreed to.

Sections 6 and 7 were read.

Mr. KERR. Mr. Chairman, I move that the words "twenty-one years of age," in line 3 of section 7, be stricken out, for the reason that persons cannot become citizens of the United States before they are twenty-one years of age, and this statement, therefore, is superfluous.

The motion was rejected.

Mr. SQUIRES. Mr. Chairman, I move that the words "twenty-one" be stricken out and the words "twenty-five" be inserted.

The motion was agreed to.

Mr. L. LARSON. Mr. Chairman, if it is in order, I make a motion that the words "twenty-five" be stricken out in section 6, line 3, and insert the word "thirty" in lieu thereof.

Mr. HALLIDAY. Oh, don't keep the young men back all their lives.

The CHAIRMAN. The chair hears no second to this motion.

Section 8 was read.

Mr. ANDERSON. Mr. Chairman, I move that the words "or of this State," in line 3, be stricken out.

The amendment was rejected.

Sections 9, 10 and 11 were read.

Mr. EICHNOR. Mr. Chairman, I move to strike out lines 1, 2, 3, 4, 5 and 6, and line 7, ending with the word "ability," of section 11.

Mr. EVANS (Weber). Mr. Chairman, I move that all the balance of the section be stricken out also.

Mr. EICHNOR. I accept the amendment.

Mr. SQUIRES. I would like to ask the gentleman from Weber why he wants to strike out the last provision of this section?

Mr. EVANS (Weber). There are a good many reasons why the Legislature ought to retain that power, and another thing, it is very difficult to ascertain just how you will convict a person under this section. I think it ought to be left to the Legislature.

Mr. ROBERTS. Mr. Chairman, I hope that motion to strike out section 11 will not prevail. I think it is only proper that we should provide that members of the Legislature be put under oath to faithfully discharge their duties; to be true to the Constitution of the United States and the State of Utah, and if this section is stricken out, I do not know where there is a provision that would require the members of the Legislature to take an oath of office. I think it ought not to be stricken out.

Mr. THURMAN. Mr. Chairman, I am in favor of the motion to strike out. The article on elections, in section 15; provides that all officers made elective or appointive by this Constitution, or by the laws made in pursuance thereof, shall, before entering upon the duties of their respective offices, take or subscribe the following oath or affirmation, etc. That covers every conceivable office of the State. I think it ought to be provided for once for all, just as it is here. Now, as far as that goes, that answers one objection raised by the gentleman from Davis County. Were it not for this provision I would agree with him that that part of the section ought not to go out. Now, as far as the latter part of the section is concerned, I think it ought to go out, for the reason suggested by Mr. Evans, but not elaborated upon, and that is this, you say the only thing you are required to do, you swear that you will discharge the duties of your office with fidelity. Now, suppose a man does not do that. Suppose a man neglects his duty, can you convict him of perjury? There has never been a case known in the books. That is all he swears to do, that he will discharge the office with fidelity. If he fails to do that, there is no way of reaching it and convicting a man for perjury. It ought to go out for the reasons suggested.

Mr. FARR. Mr. Chairman, I hope this section will remain. It is a very respectable section. It looks very well. I hope it will remain there.

Mr. LEWIS. Mr. Chairman, I think we ought to make it conform with our article on elections. The term "he" is used here some seven times, and to make it consistent with our article on elections, there should be a feminine pronoun—she or her.

Mr. FARR. I have read somewhere that "she" means "he" and "he" means "she."

Mr. SMITH. I would like the privilege of asking Mr. Van Horne where this section comes from—is it gotten up in the committee or taken from some other constitution?

Mr. VAN HORNE. I think it is compiled from a number of constitutions. There are one or two constitutions which have provisions for an oath very much more stringent than provided for here. That was cut out by the committee, I will say to the gentlemen. Of course, the draft of the legislative committee had to be complete in itself, without regard to what would be accomplished by the Convention before the consideration of this article, and there are a good many things in the article that probably have already been covered in the articles on elections and apportionment. So far as I am personally concerned, I was opposed to the latter portion of the section going in, in the committee, but the committee, in their wisdom, overruled me on that proposition, and it was inserted and finally assented to by the unanimous vote of the committee on legislative.

Mr. SMITH. Mr. Chairman, I am opposed to the whole section. It seems to me there is a chance for entanglement. It may produce unpleasantness and there is doubt and uncertainty in the whole section, in my judgment. I shall vote against it.

Mr. CREER. Mr. Chairman, I am opposed to striking it out. It seems to me that there would be one object attained anyway by keeping the matter there, that is, in the section following you find it provides who shall administer the oath.

Mr. BOYER. Strike that out, too.

Mr. CREER. I think it is proper; there should be some person who shall administer the oath to the Legislature.

Mr. EICHNOR. Does not the latter part read like a section——

Mr. CREER. I am in favor of striking out the latter part after the word "ability," on the 7th line, but I would retain the balance of it, and also retain the following section. Then there s

some proper person to administer the oath to the Legislature.

Mr. THURMAN. Mr. Chairman, may I be permitted to make one further suggestion? Section 12, when we reach it, may be amended in the first line by saying that the official oaths of members of the Legislature shall be administered by the judges of the supreme court. We have an official oath elsewhere, which I have read.

Mr. CREER. I will accept that.

The motion to strike out section 11 was agreed to.

Section 12 was read.

Mr. BOWDLE. Mr. Chairman, I move to strike out section 12.

Mr. VAN HORNE. Mr. Chairman, I hope that that motion will not prevail. If it does not, I would move to amend by saying, "the official oath of officers and members of the Legislature shall be administered," and go on with the provision as to how this oath shall be administered.

Mr. BOWDLE. Mr. Chairman, I can not see any necessity of prescribing in the Constitution who shall administer the oath. It is not necessary at all. I notice that it is not in many of the other constitutions.

Mr. RICHARDS. Mr. Chairman, I think this section ought to go out, particularly in view of the fact that the preceding section is taken out. The Constitution will be complete without it. In the absence of this provision, I suppose any person who is authorized to administer an oath might administer the oath to these officers, and I second the motion to strike it out.

The motion was agreed to.

Section 13 was read.

Mr. SMITH. Mr. Chairman, I move to amend section 13 in line 2, by striking out the words "four dollars" and putting in "two dollars and a half."

Mr. ALLEN. Mr. Chairman, I move to amend that by making it "three dollars and a half."

Mr. FARR. Mr. Chairman, I favor the first motion and would like the gentleman to withdraw the section and make it three.

The CHAIRMAN. The amendment is not in order.

Mr. EVANS (Weber). Mr. Chairman, I am opposed to all these amendments. I think that four dollars a day is merely a nominal sum anyway for services in the Legislature. It will not any more than pay expenses, and if we put it at anything less than that, a poor man will not be able to serve in the Legislature. They cannot pay their expenses there. It would simply result in selecting men who had means, by which their expenses could be paid. If you look over the constitutions of the various states everywhere, you will find that four dollars is below the average sum. I do not believe that a member of the Legislature ought to make any money out of his office, but I do think that he ought to have enough so that a poor man can pay his expenses while he is in the service of the State, and I shall, therefore, vote against all the amendments and vote for the section as the committee has reported it.

Mr. GOODWIN. Mr. Chairman, I would suggest as a reason for retaining this amount stated in the section that without it no member of a labor union can be a member of the Legislature.

Mr. RALEIGH. Did you ever know a poor man to get to the Legislature anywhere?

Mr. EVANS (Weber). Yes; I think I have known a good many of them in Utah. In fact more poor men than rich men. That has been my experience at least. I remember that Mr. Thurman has been in the Legislature a good many times and he is an extremely poor man. [Laughter.] He will probably be poorer the longer he serves in business of this kind.

Mr. CANNON. Mr. Chairman, I am opposed to both amendments, and favor the original proposition of four

dollars per day. The amount to be expended ordinarily would be in the per diem of members, $15,120, and while this is a pretty large sum, at the same time, it has been agreed upon as the number that would at present constitute the Legislature—63, and I do not think it would be just to men who are poor and who have to leave their homes in different parts of the Territory, and neglect their business and their affairs, and spend their time in public business, to make the compensation less than four dollars. I certainly favor the original article.

Mr. SMITH. Mr. Chairman and gentlemen, I am in favor of the amendment to this section, for this reason: The office of legislator is a very honorable office, and to which any man in the commonwealth may properly and justly aspire. We have increased, under the apportionment bill, our number of legislators. This will place a very heavy burden upon our people, and inasmuch as it is a proposition that we run an economical government, and I have been assured that unless we do provide for an economical government in this Constitution, there may be some barriers in the way of it, and looking upon this matter as a holiday for six weeks during the winter, upon the part of most of the members, desiring to have a good time away from home, I certainly favor the proposition to insert two dollars and a half. The members from the country receive their mileage, which pays their way here. This will provide for their wants and necessities. They can serve the commonwealth with honor and go home satisfied that they did it because they loved their country.

Mr. HART. Mr. Chairman, you cannot have a good time on two dollars and a half a day. [Laughter.] Gentlemen from Salt Lake, who live at home, and do not feel the expenses of members who come from a distance, may get along on an amount like this. While I am in favor of economy, I am not in favor of parsimony. Four dollars a day, Mr. Chairman, will barely pay the expense of a member in attendance upon the Legislature, and as it now stands, it actually requires patriotism upon the part of any business man to accept a position in the Legislature. He cannot afford to leave his business and sacrifice his business interests and go to the Legislature, and then be out of pocket besides, while he is there, not having his expenses paid. I think that four dollars is the very lowest we could place it at. I am in favor of the four dollar limit.

Mr. EICHNOR. Mr. Chairman, economy is all right when it is properly administered. The other day the Convention proper adopted a section that we would have a separate election for judicial, school, and municipal officers. That will entail an expense of from six to ten thousand dollars every year. Gentlemen, you voted for that with the facts right before you. You rushed right into it. Now, when it comes right down to the Legislature, I think that four dollars is small enough. I suppose this motion was made to find out how many were in favor of four dollars—to find out how many were candidates for the Legislature. I am not a candidate, I state frankly.

Mr. THURMAN. You are talking in behalf of your friends, though, are you not?

Mr. EICHNOR. Yes, sir. Four dollars is little enough for a man that lives in Salt Lake City. This time I want it distinctly understood that I favor the outside.

Mr. CREER. Mr. Chairman, I am not in favor of these amendments, particularly the one of two dollars and a half a day. It is nowhere written in the scriptures, I believe, that a man shall serve without purse or scrip. I think they ought to be put on a level at least with ministers of the gospel, and four dollars a day is just about as little as

they get—not many of them much more, and it seems to me that that ought to remain. It is about all we can afford to pay, I know.

Mr. FARR. Mr. Chairman and gentlemen, I am not through with this yet. I want it distinctly understood that I am here to stay. Our session has lasted for three or four weeks. I tried to hurry the thing through. I could not do it. I could not budge it. I have been home and arranged my business to stay here all summer, and I am here to-day and I want each member to understand distinctly that I shall be opposed to high salaries as long as I have anything to say. I give you my reasons. I was a member of the Legislature and served the public of Utah for twenty-eight years. Ten years I served Uncle Sam, our rich government—claims to be wealthy—and only got three dollars a day and I was satisfied with that. Every member was satisfied. At the same time provisions at that time cost about four times what it costs to-day and our merchandise cost us at least four times as much for our family.

I can go on and enumerate but it is not necessary. Everything that we used was at least four times as much. Well, now, if we cannot live on three dollars a day or even two dollars and a half, I should be sorry. I know if we lived on three dollars a day then, when everything was high—four times as high as it is now—we got along first rate. Now, I want to ask this intelligent body of men why they want to pay four dollars a day or to pay high salaries? The people are taxed to-day, some of them are so in debt they can hardly live, between nine and ten hundred persons sold out in Weber County for taxes this winter. They could not get the money, and if they ever redeem their property they have got to pay the expense of advertising and selling it and then one and one-half per cent. per month for that money. Now, for us to pile up expenses, I am opposed to it. I know that my constituents are and I have heard from different ones in different parts of the Territory. They are utterly opposed to the high salaries. It is the general feeling throughout the Territory that they are opposed to these high salaries from the fact that they do not know where the money is coming from. The argument is if you get a man of ability, you have got to pay for them. I tell you if you have got a man of ability he is able to get a living without taxing the poor man, and if we do not cut down our expenses we are going to follow the example of most of the other states of the Union; they are nearly all insolvent, and cannot pay their debts, and I say we had better begin to pay our debts, and I always maintained that a man able to fill an honorable office of legislator or any office of the Territory is able to get a living without taxing the poor man to do that, and if we do not cut down these salaries, there will always be quarreling and wrangling to get office and electioneering to get what? To get the salaries. I tell you the honor of it is worth something, and why should we put our hands in the pockets of the poor and tax them to do that—to pay salaries? I tell you that the man that is capable of filling the position is able to get a living without that. I served as mayor for twenty years and I only earned sixty dollars for the whole twenty years. I got fat on it. [Laughter.] I tell you a man of ability is able to get a living without taxing the poor man to death, and I say two dollars and a half a day will pay a man's board, and he can live well on it with the present prices of food and clothing and so on.

Mr. THURMAN. Mr. Chairman, I am opposed to the section as it stands and am not entirely in favor of the amendment proposed by the gentleman from Salt Lake. I do not think that the Legislature ought to be tied up to

give its members four dollars a day and ten cents a mile each way, when the day may come that mileage in this Territory will not cost over two or three cents a mile. I do not think we ought to be everlastingly bound. I will ask the chair if an amendment is in order?

The CHAIRMAN. The chair rules that an amendment at present would not be in order. There is already an amendment and an amendment to the amendment and the chair would like to dispose of them.

Mr. THURMAN. Then I shall read as a part of my argument the amendment that I shall propose when I can offer it:

The members of the Legislature shall receive such per diem and mileage as the Legislature may provide, not exceeding the sum of four dollars per day and ten cents per mile for the distance necessarily traveled going to and returning from the place of meeting on the most usual route, and they shall receive no other pay or perquisite.

Mr. PRESTON. I second the motion.

Mr. THURMAN. That I shall offer when it comes and I think it ought to meet all the objections raised.

Mr. RALEIGH. Mr. Chairman, there is a good deal in what Mr. Farr of Weber has said on this matter. Now, the young people of this Convention have been born and bred in different times to a certain extent. It does not follow that simply because we have flush times now that we always shall have, and I am in favor of the amendment to the motion. I would, however, vote for the amendment offered by the gentleman from Provo (Mr. Thurman), if he would say not to exceed three dollars per day and ten cents a mile. I would vote for that, if he makes that motion, but we have got to retrench. We have gone ahead too far in high priced salaries and it permeates all through the community in labor, even down to common laborers, and I am satisfied that we never can hold up to that standard of prices, and we may as well commence now to retrench in salaries and per diems and in labor just as well as to be forced to it. We shall necessarily have to do it and we might as well commence right here on this floor according to my understanding. I do not wish to reiterate what Mr. Farr has stated, but I passed through this same routine he has passed through, except that I have not been a legislator all that time, but I have been in the government of the Territory and the city all the while and I have never known any such salaries as prevail to-day in any department of the government of our Territory and I do not expect to see it continue as it is to-day. I know that it cannot. And hence I hope the motion to amend will prevail.

Mr. ALLEN. Mr. Chairman, if there is anything under heaven that the good people throughout the Territory wish it is to have salaries cut down, and they do not want to pay more than two dollars and a half a day to have a good time. But we think they could have a good time here on a dollar a day, because they have a good time working on a ditch all day at a dollar and lots of times cannot get that much. Now, while I know that it would not suit this Convention to cut it down to two dollars and a half or three dollars a day, I want to try and make a compromise and make the people feel a little better. Put it down to three dollars and a half, that will make it about two thousand dollars less that each Legislature would get, and that would help two thousand dollars. Therefore, I propose to vote for three dollars and a half.

Mr. BOWDLE. Mr. Chairman, if it ever comes to the time, I shall support the amendment read by the gentleman from Utah County. I am not in favor of these amendments. I am not in favor of the section just as it stands. I believe that it ought to be left to the Legislature, but I am not in favor of putting it down to two and a half a day or three dollars a day. We do not

want to publish to the world that we are so tremendously poor here that we are going to make everything come down to the last penny. I am not in favor of high salaries, but if you want to have a Legislature in the future that will be composed of the kind of men that you desire, you must at least give them enough that they can live upon it while they are here, and if they are in some kind of employment that they need a substitute, this in a measure supplies for the substitute while they are away. The men who will seek the place as a matter of honor simply to lose money while they are here are not the men that will lose money by the job. They will have one hand out behind all the time ready for some fellow that has a bill, to tickle them with a little retainer. I have seen a little bit of that back in some of the states, and I know that that is the tendency. That does not necessitate that we should make a high salary, but we should make it so that a man with integrity that is not hunting for those perquisites, should be able to live here while he is serving his constituents and go back and not lose money by acting honestly.

Mr. EICHNOR. I would like to ask Mr. Bowdle a question? Were you ever in the legislature in one of the eastern states?

Mr. BOWDLE. No, sir; but I have lived in the capital in the eastern states and seen it.

Mr. L. LARSON. Mr. Chairman, I wish to say a few words on this question. I am in favor of low salaries and if there is enough in this house that will say three dollars, I am going with them. If there is not euough to say three dollars, then I will say three and a half, and if I cannot do any better, of course, I will come to four. [Laughter.] And I hope there are enough in this house to say three dollars, and then the question as to mileage, I am in for fifteen cents and no more, for mileage one way only. That is more than what it costs us to-day to travel anywhere in this Territory.

Mr. CHIDESTER. Would you be in favor of making your proposition to apply to members of the Convention too?

Mr. LARSON. Yes, sir.

Mr. GOODWIN. Mr. Chairman, there is a little conflict here that I wish to call your attention to. We are told that this is a very honorable place. At the same time we are told that the salary sufficient for a man to attend a Legislature and to pay him well and maintain his honorable place is not what either one of these economical gentlemen pay their confidential clerks. I like economy first rate, but the laborer according to the old rule is worthy of his hire. Any man that is fit to come to the Legislature is worth four dollars. If he is not fit, then the State gets the worst of it, and the man who will go to the Legislature for less than that, if he is a poor man, will have one hand behind him sure or he would never take the place, and corporations will want all that class of men. I am speaking in the interests of corporations now. I have in my mind's eye two or three gentlemen who expect to buy their places to the United States senate and other places. I want to make it just as favorable for them as possible, and the lower you reduce the salary of the Legislature the more they will have to pay. Some of them live outside of town and a good many in town. Let us be decent. If we are going to have a Legislature at all, pay them a fair salary. If you want to put a limit, limit the time they shall hold their session. Make it forty days, but give them enough to buy a suit of clothes and be respectable while they are here. I am opposed to all the amendments, but I will support Mr. Thurman's substitute.

Mr. PAGE. Mr. Chairman, I sincerely trust this motion will not prevail—that is neither of the amendments before the

committee. It seem to me it is hardly the proper thing. There is no economy in selecting men to accept the position for that remuneration in my opinion. I think it is rather too much parsimony that we are showing. Besides, it seems to me, it is taking an unfair advantage of a great many delegates on the floor of this Convention who have so strenuously advocated woman's suffrage. They will no doubt be returned continually to our future Legislature until life will be a burden to them.

The motion of Mr. Allen was rejected.

The motion of Mr. Smith was rejected.

Mr. Thurman offered the following substitute for section 12:

Members of the Legislature shall receive such per diem and mileage as the Legislature may provide, not exceeding the sum of four dollars per day and ten cents per mile for the distance necessarily traveled going to and returning from the place of meeting on the most usual route, and they shall receive no other pay or perquisite.

Mr. RALEIGH. Mr. Chairman, I move an amendment that it be not to exceed three dollars per day.

Mr. FARR. I second that motion.

Mr. CANNON. I arise to a point of order. The committee has just refused to consider both three and a half and two and a half; and three dollars being a mean between them amounts to the same thing.

The CHAIRMAN. The chair rules the point of order not well taken.

Mr. JOLLEY. Mr. Chairman, I am one that favors the three dollars in the place of either two and a half or three and a half, and I want to say, gentlemen—you were saying it is worth four dollars to come here and perform the work in the Legislature. How much is it worth to tend the farm and run the plow and go in the canyon and do all of the other work that the majority of the people of Utah have to perform, and how much per day do you suppose they get out of the three hundred and sixty-five days for their labor? I will venture to say here to-day that the farmer of Utah—if his wages were figured up—it would not amount to six-bits a day.

Mr. EICHNOR. I would like to ask the gentleman a question. Were you present the other day when the proposition of the elections and suffrage passed.

Mr. JOLLEY. Yes, sir.

Mr. EICHNOR. Did you vote for that special election after the general election?

Mr. JOLLEY. I voted for the passage of the entire article. I was not here the day the first section passed.

Mr. EICHNOR. You were aware when you voted for the proposition that it was running the people of the Territory of Utah into an unnecessary expense of ten or fifteen thousand dollars, were you not?

Mr. JOLLEY. Well, we were doing that to accommodate the ladies of Utah.

Mr. EICHNOR. No, it was not for ladies. The special election of municipal officers, school officers, and judicial officers—it entails an additional expense on the people of the Territory of Utah of from ten to fifteen thousand dollars.

Mr. JOLLEY. I will just say that I voted against the proposition that he has just mentioned. We have had in the past here in Utah a small tax, and that is the greatest fear the people have of this Constitution throughout the length and breadth of this Territory, is the high taxation, if Utah becomes a State. On the east of us we have our neighbor state, between two and three cents on the dollar—about three times what we have to pay to-day. On the south, we have the same. On the west, I am not so well posted, but I would not think it was much less by the depopulation of that state since it became a state. And it is for us to look after this one particular item, as much as any other one thing, and it will have as great an impression in encouraging the

people to vote for the Constitution of the coming State, if we will have the taxes down low, more than anything else that has been sprung upon this floor. It is something we have got to watch. We have not only got to watch it in this respect, but every other that comes up. I, therefore, support the amendment to the motion, that they should have three dollars a day.

Mr. SQUIRES. Mr. Chairman, I am not in favor of that proposed amendment. I do believe in economy in public expenditures, but I do not believe that it is wise to cut down below four dollars, at least, the compensation of men who are to legislate for the State. I am reminded of something that happened in the city where I lived for fifteen years, which bears directly upon a proposition of this sort. We had a common council in the city of Brooklyn that were paid a salary of two thousand dollars a year, and in a fit of economy on a certain occasion in the passage of a new municipal charter, it was thought wise and prudent to cut off those salaries entirely and make the members of the city council serve without compensation. That goes a step farther than anybody has attempted to go here to-day on this proposition, and I want to say to you, gentlemen, that the result of that was anything but satisfactory to the city of Brooklyn. There was more stealing and thieving and bribery and corruption in the next two years than the city had ever known in all its existence, and the result of it was that the proposition had to be repealed. Now, I do not see how gentlemen can argue from the line that Mr. Jolley argued. Because a certain class of our citizens are unable to make three dollars a day is no reason why we should advertise to the world that we are too poor to pay our legislators at least four dollars a day, and I do not believe it would be wise to make any such change. Four dollars a day, it seems to me, is small enough. I do not expect to be in the next Legislature, gentlemen. I am not talking for myself, but I believe it ought to prevail at four dollars a day.

Mr. FARR. Mr. Chairman, Mr. Thurman has made his motion. I am satisfied to leave it to the Legislature, but I do feel as though I want to put myself on record that my views may be known, and I want to state right here that I would like to have it put on record, if anybody thinks enough of it to put it on record, that those that are in for high prices, above what they think the people can afford to pay, I will warn you the next election that comes in their supporters will be hunting men that have pledged themselves to cut down salaries and men that won't do it won't be elected. You will find that to be the consequence, for I know what I am talking about in regard to the condition of the people and getting in pretty tight corners to pay taxes. We might as well commence here and let it go abroad among our sister states. I would like to have them point to Utah as a State that is out of debt. They pay their officers and they are not extravagant in their salaries. I would like that to go abroad that Utah is free from debt, because they are economical.

Mr. SQUIRES. Mr. Chairman, if I thought what the gentleman says, I should not favor this proposition of the gentleman from Utah County, because at the next session of the Legislature it might be possible they would cut the salary down to two dollars and a half. I do not believe it is so and consequently I am in favor of this amendment.

Mr. HAMMOND. Mr. Chairman, I had occasion, with the aid of Uncle Sam and my good friends, to get a suit of new clothes since I came in here in Salt Lake. I called on the Cutler Brothers—home-made. Democrats believe in home industry, and I inquired of the journeyman tailor what the wages were, whether they worked by the piece or how they work. "Well," says he, "we

work by the day." "How much per day?" "Four dollars." Now, I say to my farmer friends if they cannot make $1.50 or six-bits a day, let us go into the tailor business.

Mr. SMITH. Mr. Chairman, there has been a good deal of talk on this proposition and about corruption that is likely to accrue if men receive small wages in connection with it. I presume if this matter was examined it would be found that more men who receive large salaries were corrupt than men who receive small ones. It is a matter of fact well known that the British parliament serves for nothing, and I presume there has been less stealing in human souls—in their purchases and barter among that body of men, probably, than any body of men in the world. I am decidedly and firmly in favor of a low limit being fixed on this matter. And it is a grave question in my mind whether the proposed State Legislature would not serve us with better fidelity, with more honesty, and more uprightness if they received not one farthing for their services. I trust that the suggestions in regard to men being so readily bought and bartered and traded about in these propositions will have no effect upon the gentlemen in voting upon this matter. I shall certainly vote for the substitute of Mr. Thurman, with the proposed amendment fixing that rate of three dollars, because I can see that if we start in on this proposition those that may be ambitious to go to the Legislature, being now the legislators of the people, in one sense, starting with ourselves, on economical grounds, it is possible to reach this question as we proceed in the salaries of other gentlemen which shall come up for our consideration, and I want to go on record so far as I can, in favor of voting the lowest salaries in the proposed new State that the ambitions of men shall not be excited to secure public office on the ground of securing the emoluments of those offices and taxing the people therefor. Therefore, I made the motion that I did and I shall stand by the lowest amount on these propositions as they present themselves if they are proper and right.

Mr. HART. I will ask the gentleman whether he considers that four dollars a day would excite the ambition of any of our citizens to run for the Legislature?

Mr. SMITH. From the statement of some of the gentlemen, I think it would.

Mr. MURDOCK (Beaver). Mr. Chairman, we will bear in mind, gentlemen, that we are starting out on a new era from a territorial government to a state, and the people feel very sensitive upon the point of trying the new experiment, and that is one of the features that they very much are distrustful of, and that is in regard to salaries. It is very true that four dollars a day is not much for many men perhaps on this floor. Perhaps many men throughout the country would regard that as a very small remuneration for their valuable time, but you must recollect that we have certain classes of men in our counties—in the majority of the counties, and they would regard it as being worth their time for the amount that they would receive and the honor, and you cannot change the quality of men—such men as are in the county, that are sought for by the people, are men that people have the most confidence in as being equal to the calling of a legislator, and I don't think that any man would object to going at the price that has been stipulated; that is the lowest prices—say at two and a half or three dollars a day, compared with what other men are receiving from their labors. And these men in the common avocations of life, they have to pay these bills, and there is not one of them—I doubt whether there is a man in the outside counties, at least, but what would think that they were so much honored to be called to the position; and what the people are looking for—what

they are looking for from this body of men, is to keep down the prices, for that is what they are most sensitive on, is the prices that will be inaugurated by this Convention, and for that reason I fully approve of the amendment of the gentleman from Utah County—the amendment to his motion, of three dollars a day, and I do not think there is a man that would fail to go that the people would select, and it would show a feature to them that we are certainly doing what we have agreed to do. I have agreed to do it if possible—to keep down prices, and you recollect that the Legislature was increased from one-third to nearly one-half in the most numerous branch—is almost increased to double the number, and in the senate to one-third, and for that reason, that will increase the price, which will make an increase in the price of our Legislature. We may be able to cut down the number of days; I cannot say how that will be, but I know the people are looking for it, and they are distrustful. That is one of the features that they are most distrustful of. And because that other states surrounding us in other parts of the country have gone largely into debt, that is no sign that we should. I say that we should study economy.

I do not want to be found in this state—I do not want to be found in the condition that other states are, and for this reason, I am opposed to high prices, not only in the Legislature, but every other officer that may get a position. I say the honor is worth something. It is worth something to every man, and I do not believe that there is any man that will object to accepting the position if he can even get enough to pay his expenses. He is doing nothing at home particularly of any great importance, although there are men that their time is very precious, and even four dollars or five dollars a day is no consideration for some men, but we are now providing for the men who will be the representatives from the country—from the different counties.

Mr. RALEIGH. I would like to ask Mr. Thurman if he won't shape his motion so as to say not exceeding three dollars a day?

Mr. THURMAN. The motion is now not to exceed four dollars a day. I am opposed to the amendment.

The amendment to the substitute was rejected.

Mr. EVANS (Utah). Mr. Chairman, I move to amend the substitute by striking out the words, "and returning from."

Mr. THURMAN. I will accept that amendment.

Mr. L. LARSON. Mr. Chairman, I make a motion that this be amended and insert fifteen instead of ten.

Mr. EVANS (Utah). Mr. Chairman, I do not think that we ought to provide more mileage than it costs. The object of mileage is to cover the cost of travel. I have figured this thing out, on the present ratio it costs about seven cents going and returning—about seven cents a mile, that will leave a little margin of three cents. Some of them have to travel by team. Those who travel by team usually come long distances, and I think that the three cents a mile extra will pay them for the travel that might be necessary by team in reaching the railroads, and I think that we ought not to speculate in that manner, but I am opposed to the substitute in that particular. The prospects are that the railroad fares will come down rather than be higher, and it more than covers it at ten cents a mile, both going and returning. I certainly am in favor of and hope that the amendment will prevail, and I am opposed to fifteen cents, because, while it is not so objectionable as twenty, it would be for the same reason.

Mr. ROBERTS. Mr. Chairman, I think, sir, that it is a positive conclusion that I shall never attend a Legislature in the Territory, so that I can speak im-

partially on this subject. It is just possible that this large amount of mileage will more than meet the bare expenses of reaching the capital, but it must be understood that a great many of the members of our future Legislatures will be within reach of their homes and their per diem will therefore be more serviceable to them than to members that are a long distance from home and who will have to pay hotel expenses. And for that reason, in order to equalize this thing and make the members who come from a long distance and have to meet hotel expenses somewhat equal with those who are within reach of their homes, I would be willing to see them draw more mileage than will meet the bare expense of reaching here, as it would help, perhaps, bear their expenses while here at the capital. I, therefore, shall be opposed to either of these amendments and shall be in favor of the article as it is written and came from the committee.

Mr. EVANS (Utah). Mr. Chairman, I would like to remind the gentleman from Davis County that the fact of a man living ten miles out of Salt Lake City, who comes here, he has to pay the same hotel bill as does the man who lives five hundred miles from here, and you cannot equalize this thing no way you can fix it, so that the burden will rest entirely the same upon each individual.

Mr. CLARK. Mr. Chairman, I move to amend the amendment of the gentleman from Tooele. I believe the purpose of mileage is to bear the expense, and I think ten cents a mile is sufficient to pay all the expenses.

Mr. IVINS. Mr. Chairman, I just want to state that with ten cents a mile, a member would receive $33 for traveling from here to Saint George and back. His actual expenses of transportation, without allowing him anything at all for board bills on the road, would be $36 at the present rate of travel; so that you are actually making the rate, if you place it at ten cents a mile, less than it is for a man to travel and board himself under existing circumstances.

Mr. JOHNSON. Mr. Chairman, I did wish to say a word on this question, as I live a good ways from here and I have just been figuring up the expenses of coming here and returning home, and figuring the mileage at 15 cents a mile, it is exactly the same. Now, while I believe in economy, as much as any ordinary person, I wish to look at it reasonably and use a little judgment in the matter. Now, we are supposed here to get four dollars a day. I want to know if there is a man in this house, outside of those who live here, but what is anxious to lose this four dollars a day from now on and get to go home? If each member here does not consider that his time at home to-day is worth more to him than four dollars is here? What do we each of us clear here each day that we stay, our four dollars a day —the country members, I mean? It is very ordinary wages, gentlemen, my experience tells me after expenses are paid—and we do not have a very good time either. I do not believe we should look at this in such a parsimonious way.

I consider a man that is capable of representing the people, or at least they think he is, at home, when they elect him, ought to have at least enough to hire an ordinary man at home and pay his board bill here. Who of as are satisfied to stay here even if we could pay an ordinary man at home that will go out and do a hard day's work for us, who is willing to give up all of his business at home—the overseeing of it, which amounts to more than the man's wages—who is willing to do this? Now, the honor, so far as that is concerned, we cannot live on it very well. It is very nice I suppose to have, but it is rather a poor quality of food when you take it alone. I am not in favor of cutting down the wages of the legislators

until they cannot come here and live like decent men. I do not believe it is right and I do not believe that the people exact it or expect it, and I, for one, think they ought to have twenty cents a mile one way and four dollars a day for the time actually necessary here, and I am opposed to all measures that make it less than that.

Mr. HAMMOND. Mr. Chairman, is this subject to any more amendments?

The CHAIRMAN. No, sir.

Mr. HAMMOND. I would move to strike out the whole thing and leave it to the Legislature.

Mr. EVANS (Utah). Mr. Chairman, I did not understand the purport of the gentleman's substitute, in regard to the mileage being left to the Legislature to pay, and since reading it, I will withdraw my amendment, with the consent of my second.

The amendment of Mr. L. Larson was rejected.

The substitute of Mr. Thurman was adopted.

Section 14 was read.

Mr. BUYS. Mr. Chairman, I move to amend section 14, by striking out the word "and," in the second line, and inserting after the word "qualification" the words "and returns," so that it shall read, "each house shall be the judge of the election, qualification, and returns of its own members," etc.

The amendment was rejected.

Sections 15, 16 and 17 were read.

Mr. BUYS. Mr. Chairman, I move to amend section 17, by inserting after the word "governor" the words, "or the person exercising the functions of governor."

No second.

Section 18 was read.

Mr. SQUIRES. Mr. Chairman, I notice in section 16 we provided that each house shall determine the rules of its proceedings. Why shall we say that the ayes and nays shall, at the request of five members of any house, be entered upon the journal? I move to strike out section 18.

Mr. CREER. Mr. Chairman, I think that ought not to prevail. Each house is required to keep a journal of its proceedings. I think in framing a constitution it should be directory and positive in that matter. It seems to me it is proper that that provision should remain there.

Mr. SQUIRES. Mr. Chairman, I will amend the motion to strike out all after the word "public."

Mr. RICHARDS. Mr. Chairman, I hope this motion will not prevail. There is no conflict between sections 16 and 18. Section 18 is simply a limitation on section 16. That is to say, neither house would have any right to make a rule that would not permit the calling of the yeas and nays upon the request of five members. I think that is a proper matter for insertion in the Constitution. It is usual and there is really no conflict whatever, as I read it. Of course, the house makes its rules, but it could not make a rule doing away with this provision.

Mr. SQUIRES. Why don't we include in there how the previous question shall be taken and whether a motion to lay on the table should be in order? I think we are providing for rules in the house. We provided for that in section 16.

Mr. VAN HORNE. Mr. Chairman, there are some things that properly go into a constitution as a matter of limitation on the legislature. The legislative article is the one of all others where legislation, if any at all is permitted, should be allowed, because that is the portion of the Constitution which shall govern the legislative department. Now, the object of such a section as this is manifest, I take it, to every member. We provide that they may make their own rules—all ordinary rules they may make, but suppose they wanted to make a rule that they shall not publish their journal? Suppose

they wanted to do something that they were afraid to have the people know by the publication of the journal——

Mr. SQUIRES. We are not discussing that.

Mr. VAN HORNE. I was simply calling attention to the fact that the people who give it a moment's consideration only are attempting to upset the consensus of the opinion of the committee who gave it hours of consideration. The same question is as to the yeas and nays. The Legislature might say, "we are willing to carry this thing through." Some men might stand up there in defense of the rights of the people, and of the freedom of speech, or something else that the Legislature was attempting to infringe. There might be a wrong contemplated by the majority of a Legislature, perchance, and they might say, "we will establish a rule contemplating that the yeas and nays shall not be called, and nobody shall be put on record as to how you vote on this question." The purpose of calling the yeas and nays, and fixing it so that the house could not establish a contrary rule, is in the interests of men being able to force the legislators to put themselves on record, in case they are attempting to pass any law that is against the interests of the people, and I think a simple consideration of that should make the members of this Convention loth to strike out that provision.

The amendment to the amendment was rejected.

The amendment was rejected.

Section 19 was read.

Mr. EICHNOR. Mr. Chairman, I move to amend section 19 by striking out, in lines 2 and 3, the words "except the senate while sitting in executive session." One of the great objections to the senate of the United States to-day is that they go into executive session and no one knows what is going on there. I think it is a good plan in Utah to have our Legislatures act with open doors; that the senate cannot go into executive session and just transact business in there and open the doors and say "we have done this." I believe in legislating with open doors, whether it is in the lower house or in the upper house. It is a relic of barbarism for any legislative body to go into secret session.

Mr. SMITH. Mr. Chairman, I certainly take issue with the gentleman. It seems to me it is a prudential proposition in the Constitution. There are cases where it would be impossible and would be altogether wrong that public questions should be thrown open to the public and should not be considered in private session. Our nation would be in danger. Every nation in the world would be, in its upper branch, in propositions affecting international questions, if they were in a position that they could not retire into secret session.

Mr. CREER. Mr. Chairman, I think it would be very proper that the upper house should have the privilege of going into executive session. Supposing that the question of a man's character or ability should be discussed. That is, the appointment to certain offices recommended by the governor, that would have to be confirmed by the senate. It seems to me they should have the privilege of going into executive session and discussing his ability or his private character, in regard to his fitness for that office. That is all they want to go into executive session for.

Mr. RICHARDS. Mr. Chairman, I desire to remind my colleague from Salt Lake that senates do not legislate in executive session. That was the objection that he made. They ought to legislate publicly. I fully agree with him in relation to that. The object of the executive session, as I understand it, and the practice has been in the senate of the United States and in other senates in this country, is to consider the question of confirmation of officers

and in those cases, as has been stated by the gentleman from Utah County, the question of character arises. An investigation is had and free discussion is necessary as to the qualification of the individual for the position, and certainly no good purpose could be served by having those things made public. If a man got up and made inquiry as to the qualification, either morally or otherwise, of a candidate for a position —some one who had been nominated to an office, the answer that might be given and the discussion of the matter certainly would not be profitable to the public. They investigate it in private. They come to a conclusion. If for any reason whatever they conclude that the man is not fit for the position, they simply reject, and that is the end of it. If he is qualified, they can confirm. Now, that is, as I understand it, always done in executive session.

Mr. EICHNOR. Mr. Chairman, I will say this, that if there is any opportunity to besmirch a man's character, it is by the closed doors. If I am ever an applicant for any office, I would want the senate to sit with open doors. I have never done anything in my life I am ashamed of, and I hope no other man on this floor has, and I believe that behind closed doors is the time you can assassinate a man's character. That is the very gist of this proposition. Just close the doors and then the enemies, whether they be political or otherwise, say, "why he has done this, he has done that." No one knows anything about it. The man outside has no redress. He does not know how he is killed off behind closed doors. I think it is a star chamber proceeding.

Mr. VAN HORNE. Mr. Chairman, it is granted commonly, I believe, that the principal duty of a senate sitting in executive session is the question of the confirmation of appointees of the governor or their rejection. That is, in the ordinary affairs of a state. The term itself, "executive session," bears something further than that weight. It is an executive session, which deals with the co-ordinate branch of the government on matters that pertain to the two alone. In case of invasion or rebellion, we have a provision that our senate is elected for a considerable term and can be called by the governor. It might be necessary for the governor to do something or propose something to the senate by which a danger might be averted. The executive session would be the action of the senate upon a measure of the executive, with regard to something of public interest that lies for decision between the two, and while there might be in ordinary affairs of the State only the confirmation of officers, in extraordinary affairs of the State the executive session of the senate might include the senate's advice upon something where the whole object of that advice would be made of no effect at all if it was to be with open doors, and it seems to me the provision is so universal in all the constitutions, including the Constitution of the United States, that I am surprised at an objection being made to it.

Mr. EICHNOR. Do you say it is in all the constitutions?

Mr. VAN HORNE. Yes, sir; it is universal.

The motion was rejected.

Section 20 was read.

Mr. RICKS. Mr. Chairman, I move to strike out the word sixty, in the third line, and insert the word forty.

Mr. BOWDLE. Mr. Chairman, I move to amend the amendment by striking out the word forty and inserting the word fifty.

The amendment and the motion were rejected.

Mr. STOVER. Mr. Chairman, I propose as an amendment to section 20, in line 2, strike out the words, "except the first, which may sit ninety days." I think that sixty days is the length of time that is sufficient for the first session as well as any other, and it should

not exceed forty days, but the first session should be not longer than sixty days.

Mr. VAN HORNE. I will say, Mr. Chairman, that the committee gave very careful consideration to that question of the first session of the Legislature, and I will call the attention of the members of this committee to the fact that the ordinary Legislature—as a rule a code of laws which have been in operation for some years and which have been found more or less effective certainly for the administration of justice and for supplying the wants of the people—the duty of the first session of the Legislature under a State would be the establishment of a code of laws to govern that State—if ordinarily forty days is sufficient for a Legislature to simply make amendments to the laws as the amendments may suggest themselves during the times between the sittings of Legislatures, certainly twice that amount of time is necessary to leave as the maximum in which the first Legislature may devote their time to the question of settling, revising, and passing a code of laws for the government of the State.

Mr. CREER. Mr. Chairman, I would offer an amendment to the amendment, by inserting between the word "sit" and "ninety" the words "not to exceed."

Mr. VAN HORNE. I call the gentleman's attention to the fact that this does not say that they shall sit ninety days, but they may sit ninety days.

Mr. CREER. It will emphasize that a little stronger.

The CHAIRMAN. The chair hears no second to the amendment.

The motion of Mr. Stover was rejected.

Mr. VAN HORNE. Mr. Chairman, I have an amendment to propose, just in the line of making the two portions of the section agree with each other, by striking out the word "each," at the beginning, and say "no," and strike out the word "not" at the beginning of line 3.

The amendment was agreed to.

Mr. RICKS. I move to strike out the word "sixty," in line 3, and insert "forty-five" in lieu thereof. I believe that any ordinary Legislature can transact all necessary business in forty-five days. From what little observation I have had in that line, it proves to me that a session for sixty days, about the first thirty days is spent about as we spent the first thirty days here, doing nothing excepting to complete the labors in time to adjourn before the sixty days is up, and I believe if the time is less that they will commence to work from the first day, realizing that they have but a short time and they will get the work done just as readily as they do in sixty days.

Mr. THURMAN. Mr. Chairman, I trust this amendment will not be made. If the gentleman had ever had any experience in sitting in a legislature, he would find that sixty days is little enough. Besides, the Legislature is not compelled to sit for sixty days. They are not to exceed that. If they can transact the business and get through they will adjourn, if it is in forty-five days, or thirty or twenty-five. The fact is, when we speak of the first thirty days being thrown away, it would be so if we had only forty-five days. It takes just about so long to get to business, and I think we ought to have sixty days. We have had it in the Territory since the foundation of it, and it has always been found necessary, and even then the last day we have had to crowd business through in a way that was exceedingly dangerous.

Mr. RALEIGH. Did you ever know a Legislature not to use the extreme limit?

Mr. THURMAN. No, sir; and that is my point. They needed it all and more too in Utah.

Mr. RALEIGH. I am in favor of curtailing it.

Mr. HEYBOURNE. I am not in fa-

vor of the amendment. Perhaps it is a matter of economy to cut down the time of the Legislature, but I think if it should prevail it would be a matter of very poor economy. With my observation, Mr. Speaker and gentlemen, I find that the limit of sixty days is not any more time than what is really necessary. With that limit, my experience has taught me that there have been very many important measures hurried through. It is true that a few of the opening days of the session are not taken up and the time utilized to the very best advantage, but I fear that if the time is cut down that measures may be passed that will work a hardship and we would be sorry for it after. Therefore, I trust that the amendment does not prevail and that the sixty day limit will succeed.

Mr. ROBERTS. I only want to call attention to just one fact in connection with this amendment, and that is, that if the Legislature of the Territory needed sixty days, I am very certain, sir, that the new State will need the sixty days, for the legislative duties of the State will be very much increased over the legislative duties of the Territory.

MR. FARR. My experience in legislating has been that when Congress gave Utah the right to make laws, they gave us forty days, and I am aware that it worked a little hardship, for most of us had to work in the forenoon, from 10 o'clock until 12, and then from 2 until generally about dark, and then after supper get together and work until 10 or 12 o'clock at night. We went through it all right and got through in forty days. And consequently I am in favor of limiting the time. I may be a minority on it, but I am in favor of limiting the time to the lowest time that has been put here.

Mr. PETERS. The gentlemen suggested that during his experience as a legislator, they convened for forty days, but if my recollection serves me right, they met forty days in each year, did they not?

Mr. FARR. No, sir; every two years. At no time only once in two years.

The amendment offered by Mr. Ricks was rejected.

Mr. RICKS. I move to strike out the word "thirty," in line 6, and insert in lieu thereof the word "twenty."

The amendment was rejected.

Mr. BOYER. I move to amend by striking out, in line 2, the word "ninety," and inserting "seventy."

The amendment was rejected.

Mr. PAGE. I move to strike out all the section after the word "days," in line 5.

The amendment was rejected.

Sections 21 and 22 were read.

Mr. RICKS. Mr. Chairman, I move to strike out, in line 5, the words "or lieutenant governor."

The amendment was agreed to.

Mr. LAMBERT. Mr. Chairman, I move to amend, on line 5, after "governor," to insert "or secretary of state."

No second.

Sections 23 and 24 were read.

Mr. VARIAN. Mr. Chairman, I notice that the word "copy," in line 3, refers to impeachment. I do not know what a copy of an impeachment is. Impeachment refers to act. It is carried out by specification of the articles. I move to insert after "copy" the words "of the articles."

Mr. RICKS. I would suggest, would not "notice" answer just as well—insert notice instead of copy?

Mr. VARIAN. I will state why a simple notice would not be sufficient. The articles of impeachment, as I understand it, are in the nature of an indictment or a bill of particulars. They sometimes include more than one specification, in many instances numbering fifteen or twenty. The articles ought to be served as prepared upon the accused.

Mr. VAN HORNE. I would like to ask you if you would include in your

motion the word "service" for the word "notice," in the fourth line?

Mr. VARIAN. Yes, as this is simply to correct the context, with the permission of the committee and the chair, I will include striking out "notice" in the next line, and inserting "service." That would make the arrangement proper.

The amendment was agreed to.

Sections 25 and 26 were read.

Mr. FRANCIS. Mr. Chairman, I move that we insert after the word "times," in the sixth line, before the word "and," in the seventh line, the words "on three different days," so that the bill will have to be read on three different days, that they would not be able to pass a bill through both houses in half an hour as has been done sometimes.

Mr. VAN HORNE. Mr. Chairman, I call the attention of the gentleman to the fact that a bill might be returned by the governor toward the close of the session and that there might not be time to cure a defect, and for that reason it was thought best to leave that question to the Legislature, which might pass by their rule something of that sort and then suspend the rule, if necessary.

Mr. GOODWIN. Mr. Chairman, as the amendment reads all bills would have to be read nine times—three times on three different days.

Mr. VARIAN. Mr. Chairman, it is almost generally the case, I believe, that necessities arise toward the close of a session when bills must be put through in less than three days. That ought to be left to the discretion of the Legislature, subject to the just public opinions. Many times—in fact, I apprehend in nearly every case where a Legislature convenes—important questions arise at the last hour which require prompt action. I see no reason why we need fear the Legislature sitting in open session, under those circumstances.

Mr. FRANCIS. Mr. Chairman, I wish to say that though occasions may arise when they may have to pass the bill in such a way that it is often likely to be abused, and I will cite for instance the measure that passed our last Legislature with regard to the inspection of meats. I understood from gentlemen who are interested in the business that this measure was brought up three times during our Legislature and each time it was defeated, but during the last hours of the Legislature, without any notice at all being served on those who were connected with the business, that measure was brought up and finally passed and they had no opportunity of objecting to it, so that it looks as if this measure might often be abused without such a provision as this being put in.

Mr. RICHARDS. I desire to call attention to the fact that however much danger there is the provision might be abused, that if it were inserted here in the Constitution it would be absolutely impossible for the Legislature to suspend the rules and operate otherwise. The great danger and harm that might result from their inability to act in an emergency of that kind it seems to me would overweigh all other considerations. I think the section ought to remain as it is.

The amendment was rejected.

Section 27 was read.

Mr. VAN HORNE. Mr. Chairman, I would suggest as a matter of clearness in the phrase of that section that it should begin with the word "except;" it is a mere matter of arrangement. It seems to me if we put the word except at the beginning of the section——

Mr. THURMAN. Leave it to the committee on arrangement.

Mr. VARIAN. I would like to ask the purpose of the last four lines? That is simply a declaration, as I understand it, of constitutional law. Is the rule any other way now? Can the court ever hold any other way? The act is only void as to the parts so expressed. I suggest unless there is some reason that the chairman of the committee de-

sires it in that we strike it out after the word "laws." I move to strike out all after the word laws, in line 5.

The motion was agreed to.

Mr. VAN HORNE Do I understand that we have the consent of the Convention to make that change I suggested as a matter of order?

Mr. RICHARDS. I object, Mr. Chairman, I think it is better as it is.

The CHAIRMAN. The chair would regard it as a matter that would probably be considered by the committee on compilation and arrangement.

Mr. BUYS. Mr. Chairman, I seem to be very unfortunate this afternoon. It seems strange that out of 106 intelligent men here I can only get one to agree with my ideas.

Mr. SQUIRES. That was the way I was fixed this morning.

Mr. BUYS. I wish to amend section 27 by adding to the section the following:

The general appropriation bill shall contain no item or items of appropriation other than such as are required to pay the salaries of State officers, the necessary expense of the government, and of the institutions under the exclusive control and management of the State, and no bill making an appropriation of money except the general appropriation bill shall contain more that one item of appropriation and that for one single and certain purpose to be therein expressed.

The reason I wish this amendment is that I do not think that the Legislature should have the right if they wish (and sometimes we find they do wish to do so), to incorporate anything that they wish in a general appropriation bill. I think that the appropriation bill should only contain such items as are mentioned here, and that if they wish to have appropriations made they should be made separately—have a bill passed separately and not allow the Legislature to incorporate anybody that a person may wish to get an appropriation for—allow the Legislature to pass that too in the general appropriation bill. I do not think it is right and I think that the amendment should pass.

Mr. VARIAN. I would like to ask why—what is the objection to it?

Mr. BUYS. Because they are not considered. Very often an appropriation is not considered fully; and another thing, very often many of these items could be defeated if they were put otherwise, but they do not wish to defeat the whole appropriation bill and for that reason it is passed in that form.

The amendment was rejected.

Section 28 was read.

Section 29 was read.

Mr. VARIAN. Mr. Chairman, I do not know whether it would be determined to retain the subject matter of this section under the head of the legislative article or under the head of executive. I do not know as it makes any difference, but if it is to be retained here, it seems to me some provisions incorporated in section 8 of the executive article ought to be added to it. For the purpose of informing the committee as to what I have in mind, with your permission I will just read. I think as far as this section has gone it is just as appears in section 8 of the article on executive, but that section includes this further matter:

If any bill presented to the governor contains several sections or items, he may object to one or more sections or items while approving other portions of the bill; in such cases, he shall append to the bill at the time of signing it a statement of the section or sections, item or items, which he declines to approve, together with his reasons therefor, and such sections, item or items shall not take effect unless passed over the governor's objection as in this section hereinbefore provided.

This would obviate in some degree the objections suggested by my friend from Wasatch County, in the previous motion, and as I think it is utterly immaterial whether it appears in the legislative article or the executive article, I move as an amendment to this section, leaving the question to be determined

hereafter by the committee on compilation and arrangement, the words I have written, taking it from section 8 of the executive article.

Mr. VAN HORNE. No objection.

The amendment was agreed to.

Mr. PETERS. Mr. Chairman, inasmuch as we have passed section 8 of the article on executive in the committee of the whole, I move we strike out all of this section 29.

Mr. VARIAN. To test the sense of the house, I will withdraw my motion for the present.

Mr. VAN HORNE. Mr. Chairman, I hope that motion will not prevail in just that way. I have no particular objection to both of these sections going to the committee on compilation and their choosing therefrom one or two things, perhaps that are better in one than in the other, and they are the same except the matter of arrangement.

Mr. VARIAN. They are just the same. I have compared them.

Mr. VAN HORNE. For instance, with reference to its becoming a law without the signature of the governor. Section 8 says it shall become a law in like manner as if he had signed it, as I remember the reading, and I think it says without his signature. This is shorter and fully as clear. There are some matters of simple arrangement and wording and it seems to me it might be just as well to let both of these go to the committee and let them choose the wording and the revision.

Mr. VARIAN. I think the reading is exactly the same, except that in one it is five and in the other ten.

Mr. RICHARDS. Mr. Chairman, of course we do not want both of these articles in the Constitution, but section 29 as proposed to be amended by Mr. Varian is, I think, what we want, and I understand there is some difference between that and section 8. As to whether it should go in the legislative article or the executive article, I think that is a matter that should be left to the committee.

Mr. LOW (Cache). Mr. Chairman, I am in favor of striking out this section. It is almost identically the same language contained in section 8 of the executive article. I believe that that section should remain in the executive article, more especially since it refers to the power of the governor, and if for no other reason, I would be in favor of retaining it in that article.

The motion to strike out section 29 was agreed to.

Section 30 was read.

Mr. CANNON. I would like to ask the chairman of the committee if they considered this second clause, changing the name of persons. I believe it has been the habit in our Legislature, at different times, to change the name—legalize the names of different people, especially foreigners, who come here and had been using a name under a misapprehension.

Mr. VAN HORNE. In answer to the question, I will say that while that was the practice in the Territory of Utah for a considerable time, the power to do so was taken away from the Territory by Congress of the United States. The objection, as I take it, to the Legislature being called upon to do matters of that sort by special act is the question of time. One question is the question of time. To take up the time of sixty-three members elected by the people of the various sections of this country, and coming here at the munificent reward of four dollars a day to serve the people to change somebody's name, when a law can easily be passed that by making certain declarations in a court the name could be changed, would be something of an anomaly in an economical administration of government.

The CHAIRMAN. There is nothing before the house.

Mr. BUYS. Mr. Chairman, I have an amendment that I wish to have read. I do not suppose I can get a second. I got one the first time and two the

second and I hope to get three on that one.

The amendment proposed by Mr. Buys was read as follows:

To section 31. By adding after subdivision 11 the following:

12. For the assessment or collection of taxes; 13. For the limitation of civil or criminal actions; 14. Exempting property from taxation; 15. For the punishment of crimes and misdemeanors; 16. Giving effect to invalid deeds, wills, or other instruments; 17. Changing the law of descent or succession; 18. Summoning or empaneling grand or petit juries; 19. Regulating the jurisdiction and duties of justices of the peace, police magistrates, and constables; 20. Regulating the practice in courts of justice; 21. The opening or conducting of any elections or designating the place of elections; 22. Regulating the interest on money.

The amendment was rejected.

Mr. WELLS. Mr. Chairman, I move to strike out subdivision 9, of section 31. The bill of rights, section 24, covers it. That has been adopted and passed its third reading.

The motion was agreed to.

Mr. VARIAN. Mr. Chairman, I think there is some misapprehension about that subdivision 9. Unfortunately I did not vote in the affirmative or I would move to reconsider it. I want to call attention to the fact that section 24 of the declaration of rights covers generally the subject. This article is designed to prevent special legislation. It is only relating to private or special laws. Section 9 prevents the granting to any individual, association, or corporation any irrevocable privileges, etc. It means that no special or private law might be passed in that particular. It is the only prohibition, as I understand it, that you have on the subject. If you strike it out it is not fully covered by section 24 of the bill of rights.

Mr. PETERS. Mr. Chairman, I voted in the affirmative. I move that the vote by which subdivision 9 was stricken out be reconsidered.

Mr. VARIAN. Let us reconsider it, and if we find that my objection is not well founded, it can be corrected at any time on the third reading.

The motion to reconsider was agreed to.

Sections 32, 33, 34 and 35 were read.

Mr. BUYS. Mr. Chairman, I move to strike out section 35, as it is covered by section 2 of the apportionment article.

The motion was agreed to.

Mr. EICHNOR. Mr. Chairman, I now propose in the way of amendment to the article a new section which should really follow section 33, but I introduce it as section 35, as follows:

The Legislature shall not pass any law authorizing suits to be brought against the State.

Mr. VARIAN. I would like to hear from the mover of that motion what good purpose he hopes to subserve by it. I would like to know at this stage, why the State should not be sued under such circumstances and limitations as may be prescribed by law. Every state in this Union, or most of them, I presume, provide for suits in certain instances. The United States government provides for it. It ought to be left to the Legislature to determine that question.

Mr. THURMAN. How is Wyoming on the subject?

Mr. EVANS (Utah). Or Washington?

Mr. EICHNOR. The state of Arkansas provides that the state shall never be made defendant in any suit in any of her courts.

Mr. VARIAN. She repudiates her bonds, then.

Mr. EICHNOR. The state of Illinois provides that the state shall never be made a defendant in any court of law or equity.

Mr. VARIAN. What does Washington say?

Mr. EICHNOR. I do not know. Now, Mr. Chairman, I think the state of Kentucky has a similar pro-

vision. I have not examined the late constitution of the state of Kentucky on that point, but in the constitutional convention of the state of Kentucky, of 1890 and 1891, possibly as much time was spent on this question as on any question before that convention, and they came to the conclusion there, that a state should not be hampered with suits, and that is my idea that the new State of Utah should not be hampered with suits, and that is the reason that I introduced that additional section. I believe the State should not be hampered in any way, shape, or form, with suits.

Mr. VAN HORNE. The government of the United States provides for a court of claims, before which, where there would ordinarily be a defendant in a suit, a man may bring his claim and have it passed upon, and if the claim is allowed, the government pays it. It seems to me, unless we are to provide in our judicial article for a court of claims, there is nothing in the world that would prevent a man that thought he had a just claim against the State, from suing the State in the courts of the State, and if they decided that the claim was just, undoubtedly they would make recompense.

The section offered by Mr. Eichnor was rejected.

Mr. EVANS (Utah). Mr. Chairman, I move that we now rise and report.

The motion was agreed to.

The committee of the whole then rose and reported as follows:

Your committee of the whole have had under consideration the proposed article, legislative department, and report progress.

Mr. RICKS. Mr. Chairman, I move we take a recess until 7:30 p. m.

The motion was rejected.

The Convention then, at 5:05 o'clock p. m., adjourned.

THIRTY-NINTH DAY.

THURSDAY, April 11th, 1895.

The Convention was called to order at 10 o'clock a. m. by President Smith.

Roll call showed a quorum present.

Prayer was offered by Reverend R. G. McNiece, of the First Presbyterian Church.

The President called Mr. Eichnor to the chair.

The journal of the thirty-eighth day's session was read and approved.

Petitions and memorials.

The following petitions were presented asking that the question of woman's suffrage be submitted as a separate article to the vote of the people.

File No. 246, signed by J. H. Brown and 36 others, from Salt Lake, by Hill, of Salt Lake.

File No. 247, signed by S. H. Lynch and 32 others, from Salt Lake, by Mackintosh, of Salt Lake.

File No. 248, signed by Albert Stevens and 9 others, of Holden, by Crane, of Millard.

File No. 249, signed by Richard Williams and 52 others, of Park City, by Kearns, of Summit.

File No. 250, signed by Wm. D. Smith and 125 others, of Coalville, by Kearns, of Summit.

File No. 251, signed by Thos. D. Pitt and 77 others, of Corinne, by Roberts, of Davis.

File No. 252, signed by Ripley S. Lyon and 181 others, of Logan, by Roberts, of Davis.

File No. 253, from citizens of Ogden in mass meeting assembled—434 for separate submission and 28 against, by Kiesel, of Weber.

Ordered filed.

The following petitions were pre-

sented asking that an equal suffrage clause be placed in the Constitution:

File No. 254, signed by Sarah M. Dell and 272 others, of Beaver City, by Murdock, of Beaver.

File No. 255, signed by Ann E. Webster and 443 others, of Ceder City, by Heybourne, of Iron.

File No. 256, signed by I. O. Wall and 104 others, of Wallsburg, by Murdock, of Wasatch.

File No. 257, signed by Hyrum Defries and 141 others, of Fairview, by Peterson, of Sanpete.

File No. 258, signed by H. E. Desaules and 32 others, of Piute County, by Allen, of Piute.

File No. 259, containing 1,313 names from Salt Lake City; 121 names from Grand County; 229 names from Emery County; 266 names from Juab County; 85 names from Tooele; 248 names from Grantsville; 1,110 names from Utah County; 128 names from Pleasant Green; 159 names from Iron County; and 25 names from various points in the Territory, by Chidester, of Garfield.

Ordered filed.

Mr. Raleigh, of Salt Lake, presented file No. 260, signed by 30 ministers of the the different denominations of Salt Lake City, asking that the question of prohibition be submitted as a separate article to a vote of the people.

Referred to committee on schedule, future amendments and miscellaneous.

The committee on education and school lands reported as follows:

Constitutional Convention Hall,
April 11, 1895.

MR. PRESIDENT:

Your committee on education and school lands present herewith an article upon the subject of education and recommend that it be put upon its passage.

FRANK PIERCE,
Chairman.

Ordered printed and referred to the committee of the whole.

Mr. RICKS. Mr. President, I move we resolve ourselves into committee of the whole and take up the regular order.

The motion was agreed to and the Convention resolved itself into committee of the whole, with Mr. Squires in the chair.

COMMITTEE OF THE WHOLE.

The article on legislative was then considered as follows:

Mr. RICHARDS. Mr. Chairman, I ask that the section reported by the minority of the committee be read.

Section 1 was read.

Mr. RICHARDS. Mr. Chairman, I desire to say in regard to this section, in behalf of the minority of the committee, that the purport of the section of course is apparent and must be to the members of the Convention. In the opinion of the minority of this committee, it is no part of the duty of the government to engage in business or private enterprises. In their opinion the public funds that are derived from the taxes of the people ought to be devoted strictly to governmental purposes, and it is with a view to accomplish that that this section is proposed. The minority of the committee think that this provision should be inserted in the Constitution. As I understand it, the duty of this Convention in relation to this particular article is to provide for the legislative department of the government, and to provide such restrictions upon the legislative department as should properly be imposed. We think that this is one of the restrictions that ought to be imposed, that the State ought not to be authorized to engage in any business enterprises, construction and operation of railroads, or the building of manufactories of any kind or the giving of support by public money to any such enterprises, or for any purpose except strictly governmental purposes, and that is why this section is proposed.

The CHAIRMAN. Where do you desire to insert that?

Mr. RICHARDS. We desire to have

this follow the sections that have already been passed upon by the committee. It would be section 35, I think. I am not sure but what some sections may have been stricken out, but we desire to have it the next section after those that have been passed

Mr. RICKS. Mr. Chairman, if there is no motion before the house in regard to this, I move that we adopt the report of the legislative committee as we have passed it.

Mr. RICHARDS. I supposed that the report of the minority committee placed this in the attitude of being in the nature of a motion to put this in the article without a special motion to that effect. If such a motion, however, is required, I make the motion that this section be added to the article.

The question being taken on the motion to adopt the section, the committee divided, and by a vote of 43 ayes to 50 noes, the motion was rejected.

Section 2 was read.

Mr. RICHARDS. Mr. Chairman, I move that this section be added to the legislative article, and I desire to say in explanation of this section that it is intended to prohibit the State from subscribing to the capital stock of any association, corporation, or company. It is intended to prevent the pledging of the credit of the State for any private enterprise whatever. The reasons that I have already assigned as to the first section will apply as reasons why the committee think this should be incorporated in the legislative article. A great deal has been said during the session of this Convention as to the financial condition of the Territory and the embarrassments that the new State will be under in supporting its government. And yesterday a great deal of time was consumed over the compensation that should be paid to the members of the Legislature. A great deal of discussion as to whether the Legislature should be permitted to pay four dollars a day or whether they should be restricted to the payment of two and a half, for the legislators. Now, it seems to us that if that is a matter of such importance as some gentlemen on the floor of this Convention seem to think, that here is an excellent opportunity to interpose some restrictions in the way of the Legislature that will be beneficial and substantial and not go to a few dollars—a dollar and a half or two dollars a day, on the question of legislation which would amount to but a few hundred dollars. This restriction would perhaps prevent tens of thousands or hundreds of thousands of dollars being given in the way of bonuses to railway companies and manufacturing institutions. We think that this section ought to be added to the article.

The question being taken on the motion to adopt the section, the committee divided, and by a vote of 45 ayes to 52 noes, the motion was rejected.

Section 3 was read.

Mr. RICHARDS. Mr. Chairman, I move that section 3, just read, be added to the article on legislative. It will be observed that the purport of the prior section was to prevent the State from lending its credit. The object of this section is to prevent the Legislature from empowering any city, town, township, county or other political subdivision of the State from lending its credit or aid in any of these private enterprises.

The question being taken on the adoption of the section, the committee divided, and by a vote of 44 ayes to 52 noes, the section was rejected.

Section 4 was read.

Mr. RICHARDS. Mr. Chairman, I move that section 4 be added to the legislative article. I desire to say, Mr. Chairman, to the gentlemen of the committee that this section does not in my opinion partake of a partisan character, and perhaps there may be gentlemen enough on this floor, who would be willing to support it. The object of this will be clear to gentlemen who will

stop and consider it for a moment. It is to prevent people who are in power in any department of the State occupying public positions from letting contracts, at low figures and then afterwards increasing the amount of compensation in this way: A man who is a favorite with a county court or a city council or with any other public officer, who might have it in his power to let public contracts, might come in and underbid all bona fide bidders for this work and get the contract, with the understanding afterwards that if the work cost him more, he would be reimbursed by the county or by the city as the case might be. This is an evil that has occurred a great many times in different places as you are all aware if you have given this matter any consideration, and the object of this is to prevent that sort of thing and to compel bona fide transactions in the letting of public contracts. Also if any unauthorized agreement is made, as for example, to prevent an officer of a city or a county or of the State who has no authority in law from going out and letting contracts to some favorite, when if the contract was let in the regular way the public would have an opportunity to bid—declaring that such contracts would not be valid and could not be enforced. And I say, I do not see, and I do not believe that there is anything in this section of a partisan character. Whether it is such a section as you gentlemen approve of, or not, of course remains to be seen by the vote, but it seemed to the minority of the committee that it would be a proper provision to insert in the Constitution. It appears in the constitutions of other States. I think that this particular provision is taken from the constitution of the state of Missouri.

Mr. KIMBALL (Weber). Mr. Chairman, I move to amend that section by striking out, beginning with the word "and" in line 11, and ending with the last word in the section. I do that for this reason, that I think all contracts that are made without authority of law are null and void without repeating it in here.

Mr. RICHARDS. I agree with the gentleman on that proposition.

The amendment was agreed to.

Mr. VAN HORNE. Mr. Chairman, I agree with the gentleman that there is nothing particularly partisan in this provision that is proposed to be introduced here. I think, however. there are some things that are very objectionable in it. In the first place it is a limitation on the power of the Legislature that seems to me unnecessary and out of line with the proper construction of the Constitution. In the second, it does not provide any way in which an uncontracted service—one that is done without a contract being made for it, could be paid for. In the third case, that suggests itself at once, it seems to me, to every one in the exercise of the power of the State, to repel invasion or suppress rebellion, that a great many things are done by a state, under a stress of such an emergency as that, that are without authority of law. The United States government recognizes that in its court of claims. The claims for Indian depredations and matters of that sort, the claims for material furnished in time of war—under such a provision as this, there could be no payment by the State of the claim And altogether with those facts being so it seems to me that it is unnecessary, that we are just simply trying to do something here that we might fairly trust to the Legislature. I do not believe in the limitation.

Mr. RICHARDS. I would like to ask the gentleman from Salt Lake a question. Does not your objection only relate to the latter part of this section? That is, the objection that you have stated?

Mr. VAN HORNE. Part of it.

Mr. RICHARDS. As to unauthorized contracts?

Mr. VAN HORNE. Suppose an extra service——

Mr. RICHARDS. After the word "pay" in the seventh line—that is the part that relates to the objection, but the other part, as to the increase of compensation and the paying of an additional amount beyond the contract—what is the objection to that?

Mr. VAN HORNE. The objection I had to that, Mr. Richards, was this: Suppose a public officer, whose duties are defined, in case of a public emergency of some sort, performs duties at a loss to himself, that are wholly outside of the ordinary scope of his office, why should he not be paid for that? If the State or the municipality says that his services are worth pay and that he rendered them at a disadvantage to himself, why should they not recognize them?

Mr. RICHARDS. The answer I make to that is, that when a public officer assumes the office, he takes all these contingencies, and he ought to be made to bear these burdens, if they are burdens.

Mr. VAN HORNE. He takes it in the scope of his ordinary duties?

Mr. RICHARDS. He takes the emoluments and honors attaching to the office and also the burdens that will follow, and it seems to me it would be a very bad thing for the Legislature to have the power to increase salaries under those circumstances or under any circumstances. That is exactly the reason why the minority desire to see this thing.

MR. VAN HORNE. You seem to be directing your argument towards an extra salary for the officers.

Mr. RICHARDS. Extra compensation of any kind, I care not whether it is salary or what.

Mr. VAN HORNE. Do I understand you as saying that a public officer, who accepts a public office, accepts it with the understanding that he performs all services for the State, regardless of whether they are within the line of his duty or not, without compensation?

Mr. RICHARDS. No, sir; I did not say that.

Mr. VAN HORNE. Would not that be the effect of this amendment?

Mr. RICHARDS. No, sir; I think not.

Mr. VAN HORNE. Why not?

Mr. RICHARDS. I do not see how it is possible to give it that construction. The language does not seem to me susceptible of it.

Mr. BUTTON. I would like to ask a question. Under this clause, last year, when the governor ordered the deputy sheriffs out here when the commonweal army came through, could the sheriff collect pay for those deputies he swore in under this clause?

Mr. RICHARDS. I think so; I do not think this has any reference to that at all. There was service that he was performing that he would be entitled to pay for; but this is intended to cover a case where a person has undertaken to do a certain thing, either as a public officer, in the performance of his public duty, or as a contractor, under contract; he has undertaken to do a certain thing, and do it for a certain sum. Now, this is intended to prevent the granting of any additional sum afterwards, and the reason for it is just as stated in the illustration I made. If men would always bid honestly they would probably all get a fair compensation for their work.

Mr. BUTTON. So far as that goes, I think it is right.

Mr. RICHARDS. Why should not the same thing apply to a public officer? For example, should the county court or city council appoint a man to perform a certain public duty—that is, the office is created by ordinance or by statute, the duties of the office are defined, the man is elected or appointed to that position. He enters upon the duties of the office, he agrees to perform his duties, and after his term has expired or after a certain period has expired and the work

has been done, they come in and pay him more than his salary or than was provided by law for him to receive for this service. That is not right, and it is just to prevent those things that this section is proposed. Now, if the section is not properly worded, if the gentlemen can suggest amendments that will make it any clearer and more specific upon these points, there would be no objection on my part to receiving any such amendment, but those are the objects and purposes for which this section is introduced, and it seems to me that every member of this Convention ought to be willing to support that kind of a proposition.

Mr. KIMBALL (Weber). Mr. Chairman, I desire to move a further amendment to that section by striking out all of the section as it now stands after the word part, in line 7.

Mr. GOODWIN. Mr. Chairman, I have an objection to this section. We are anticipating in advance that the Legislature of the future would be composed of rogues or idiots. We have been talking several years about the vassalage of the territorial rule and we are putting a provision for vassalage in the Constitution. There will be a code of criminal laws to punish dishonest contractors. We are discounting the good faith of the Legislatures in advance.

Mr. PIERCE. Mr. Chairman, on the last proposition of Mr. Kimball's amendment, it seems to me that part of it any way ought to go out. I believe it is pernicious. If I understand that correctly, it would, for instance, prohibit any officer working for the county court—we will say, a road supervisor—from buying a shovel. If he bought a shovel, he could not come back and have the county court authorize that under this section, because the authority has not first been given by the county court, so that it seems to me that every idea of it should cause it to be stricken out.

Mr. RICHARDS. Does the gentleman hold that the road supervisor would not have authority to buy a shovel without an express order from the county court?

Mr. PIERCE. I simply use that for illustration. If he was an officer of the county court he would not have if they appointed him. If he was elected by law, he would.

Mr. RICHARDS. My understanding is that all of these officers have certain powers that attach to their office, and this of course would not interfere with the exercise of any of those powers to where an officer went clearly outside of his authority, then it might.

Mr. PIERCE. It would be an agreement or contract made without authority of law, if they bought the shovel and they had not the proper authority to buy it. To carry the illustration a little further, suppose a man that was working on the street bought a shovel that he thought was in the interests of the city and it was actually in the interest of the city, or in the interests of the county, the county court could not authorize payment for that shovel, neither could the city authorize it if he was working for the city.

Mr. ALLEN. Mr. Chairman, I have another thing in mind, that I remember transpired in one of the southern counties. A man took a job of building a bridge for the county, and he entered into the contract and he was building the bridge according to contract. When he got partly done, he found that if he built it according to contract, the bridge would be worthless or nearly so. Therefore, he went to work and made additional expense—put on additional work and afterwards brought in an extra bill and the court was glad that he had done it, because the bridge would have been useless without it, and was glad to pay him an extra amount, which was considerable, therefore, I think under this they could not have done so; therefore, I would

motion that this ought to be stricken out.

Mr. RICHARDS. May I ask the gentleman a question? Could not the same result have been accomplished, even if such a provision prevailed, by his reporting that fact to the county court and making an additional contract for the extra work, and would not that be the proper way to do it, instead of allowing the contractor to exercise his own judgment and discretion as to when he should vary from the contract?

Mr. ALLEN. That might be true. It might work in that way or it might not; I am not prepared to say.

Mr. JAMES. Mr. Chairman, I quite agree with Mr. Richards' position regarding this particular part of this section. But there seems to be such a difference of opinion among the legal gentlemen, that I believe the safe thing for this Convention to do is to reject the whole section. Allow it to go to the Legislature where they can legislate specifically, where they will know what they are doing, and that understandingly, and then we will make no mistake. This is a legislative matter that we should let alone and refer to our Legislature.

Mr. BOWDLE. Mr. Chairman, I believe that I should favor striking out the words intended in the amendment of the gentleman from Weber, but I would favor the retaining the remainder of the section. There certainly can no harm come to us by retaining the first part of the section. I should favor the striking out the latter part of that, because there might occasions arise in which the power that is sought to be limited there, ought to be used. That far I go, as to the other, I do not care to say anything now.

The question being taken on the amendment of Mr. Kimball, of Weber, the committee divided, and by a vote of 47 ayes to 51 noes, the amendment was rejected.

The question being taken on the adoption of the section, the committee divided, and by a vote of 51 ayes to 46 noes, the section was adopted.

Mr. Roberts offered the following as a section to be added to the legislative article:

Neither the State of Utah nor any political subdivision thereof shall become a stockholder in or loan its credit to nor make any appropriation for the benefit of any person, company, association, or corporation, unless two-thirds of the qualified voters at a regular election to be held shall assent thereto.

Mr. ROBERTS. Of course, Mr. Chairman, I look for the fate which has befallen the amendments offered or rather sections offered by the minority, for the reason that it involves a question of difference in regard to the policy of government, and as the majority on the floor of this house are not in favor of placing any limit upon the Legislature, in regard to the exercise of the taxing power, naturally they would be expected to vote against every proposition which would look to establishing such a limit. But if they refuse to place the limits upon the Legislature suggested by the minority of the committee on legislative, I think, sir, that at least there ought to be required in the exercise of so great powers such a majority behind the Legislature as to make two-thirds of the qualified voters interested in such proceedings necessary. The majority on this floor, I can very well understand will be satisfied to leave the Constitution silent upon this subject of taxation, for the reason that by that very silence they have what is equivalent to an affirmative of the right of the Legislature to loan its credit, to grant bounties, and to authorize subdivisions of the State to loan their credit and to pay bounties in the encouragement of enterprise.

Therefore, silence in the Constitution is to them equivalent to affirming that power in the Legislature, while the only

way that we who are in the minority could get an assertion in the Constitution of the principle in which we believe, is to place a limit in the Constitution on this subject. The taxing power of government, it is conceded by all, is the very highest expression of sovereign power. In the exercise of that authority is best seen the sovereign power of the State. It has always been by that means that tyranny and oppression have been expressed. In the days when arbitrary kings ruled that power was exercised without any control whatever, even the consent of those taxed not being expressed, and the whole fight for liberty has been along the lines of demanding modification of this taxing power in governments. It first came up upon the question that there should be no taxation without the consent of those taxed, and when our ancestors at last obtained that advantage, then the oppressive government still in existence sought to evade the direct issue by compelling the subjects of the government to grant loans and benevolences to the crown. This power in government was afterwards stricken down and the principle that there could be no just taxation without representation was asserted and this principle too was eventually won, its final victory being obtained on our own soil in this land of America. Since the settlement of that question, the war has been waged on the lines of the purposes for taxation; the doctrine and belief gradually becoming firmly established that there can be no just taxation, but for public governmental purposes.

The majority of the members of this Convention, however, are of the opinion that the taxing power of the government may be justly exercised in the promotion of private enterprises and to build up private fortunes, a doctrine to which, for one, I never can assent, for the reason that it involves the prosperity of the whole community. It makes it possible for the powers of government to be so exercised that one class of the community may be made rich at the expense of another portion of the community. And in proof of these doctrines that I have laid down, I propose to read a brief extract or two from one of the highest authorities in the United States. I read from the opinion of Chief Justice Miller of the United States Supreme Court, in the celebrated Topeka bond case, where he says:

> Of all the powers conferred upon government, that of taxation is most liable to abuse. Given a purpose or object for which taxation may be lawfully used and the extent of its exercise is in its very nature unlimited. It is true that expressed limitation on the amount of tax to be levied or things to be taxed may be imposed by constitution or statute, but in most instances for which taxes are levied, as the support of government, prosecution of war, national defense, any limitation is unsafe. The entire resources of the people should in some instances be at the disposal of government. The power to tax is, therefore, the strongest, the most prevading of all the powers of government, reaching directly or indirectly to all classes of the people. The power to tax is the power to destroy. A striking instance of the truth of the proposition is seen in the fact that the existing tax of ten per cent imposed by the United States on the circulation of all other banks than the national banks drove out of existence every state bank of circulation within a year or two after its passage. This power can as readily be employed against one class of individuals and in favor of another, so as to ruin one class and give unlimited wealth and prosperity to the other, if there is no implied limitation on the uses for which the power may be exercised.

Mr. ANDERSON. Mr. Chairman, I arise to a point of order. According to amendment of rule 20, no member can speak more than five minutes.

Mr. SNOW. The gentleman can have my time.

Mr. HART. I give the gentleman my time.

The CHAIRMAN. The chair would rule that as long as the gentleman can secure time from his associates he should be allowed to speak.

Mr. RICKS. I appeal from the decision of the chair on that point.

Mr. CANNON. Mr. Chairman, I certainly am in favor of sustaining the chair. I think the gentleman has the right to speak as long as he chooses, where his colleagues have offered him their time. I do not think that the rule where it says he shall not speak at any one time more than five minutes means that he must speak five minutes, sit down, get up again and speak another five minutes and sit down. It would be ridiculous to put that construction upon it; and the rule is as the chairman has interpreted it.

Mr. HART. Mr. Chairman, the rule reported by the committee on rules covers this matter. Its terms are so definite, I do not think there will be any misunderstanding about it.

Mr. JAMES. While he is hunting that, I wish to say that I think there is no doubt about the position of the chair on this, but I think there is one matter that has been overlooked, and that is when one man rises to grant his time his name should be given and taken down.

(Mr. Hart reads rule 20.)

The decision of the chair was sustained.

Mr. ROBERTS. Now, Mr. Chairman, I trust the gentlemen have not forgotten the remarks of Chief Justice Miller, relative to the very great power of the government in the matter of taxing its people. It is a power that I grant you should be unlimited when it comes to be exercised in the preservation of the government. The amendment or section that I submit and ask to have made part of the legislative article does not undertake to limit the power of government when the question is as to the preservation of government. It is only to limit its powers in regard to the purposes for which it shall limit the exercise of that authority. Since this high authority has said that this taxing power is the one most liable to abuse, certainly every guard that can be placed about it ought to be provided for in the fundamental law of the land.

The following doctrine has taken a firm hold on my convictions, and with that great authority upon the subject of government, now that we are laying the foundation of a commonwealth, I should say let us make laws or provide for the making of laws where there shall be no governmental partnership with favored classes. Let us protect all in life, liberty, and property and then say to every American citizen:

> With the gifts which God has given you, your brain, and brawn, and energy, work out your own fortunes under a just government and equal laws.

Whenever government accomplishes that purpose it answers the end for which it is created. Gentlemen will remember very readily those immortal words in the Declaration of Indepen dence:

> We hold these truths to be self evident, that all men are created equal; that they are endowed by their Creator with certain inalienable rights, among which are life, liberty, and the pursuit of happiness. That to secure these rights, governments are instituted among men.

There you have the great doctrine laid down as to what the purpose of government is. It is to secure men in their inalienable rights of life, of liberty, of freedom to pursue happiness, of securing domestic tranquility and preserving society or the nation from invasion of foreign foes, and to secure men in these rights and the enjoyment thereof; and whenever government accomplishes that end, why that completes its mission. There is nothing in the mission of government, as understood by our American statesmen, that permits it of right to enter into co-partnership with any part of the citizens, looking to their enrichment, directly, and trusting to compensation to come

from the masses upon whom the few feed.

I wish to call attention to some disastrous calamities, which have overtaken at least some parts of our country, in departing from these fundamental principles. I select for an example of the mischievous effects from departing from these doctrines, the state of Tennessee, for the reasons, sir, that from 1880 to 1886, I spent the greater part of my time in that state and became somewhat interested in its political affairs, and had an opportunity in the city of Nashville of attending the meetings of the legislature when involved in one of the most interesting discussions that ever occurred in that state. About 1851, the internal improvement act was passed by which it was made possible to use the credit of the state for such internal improvements, and the counties and towns could do the same. No sooner was this internal improvement act passed and the credit of the state was at the disposal of those engaged in internal improvements, than the legislature was besieged, companies were organized, railroad building almost became a mania in that state, and, sir, there was no letting up on the part of enterprising companies in their petitions for state aid, in furthering their enterprises, until the state of Tennessee was plunged into debt from forty to forty-two millions of dollars.

In 1870 the state constitutional convention of Tennessee met and adopted this amendment which I have proposed. In 1870 that was incorporated into the state constitution of Tennessee, and it had the tendency to check the evil of plunging the state further and still further into debt, because, sir, it was extremely difficult to get two-thirds of the inhabitants of the state or any political subdivision thereof, to vote to lend its credit in the furtherance of private enterprise, but the evil had been done. The debt of over forty millions of dollars had been contracted, and I very well remember the message which the governor of the state sent to the legislature in 1883, in which he called attention to the fact that notwithstanding all the splendid resources of the grand old commonwealth of Tennessee, notwithstanding its salubrious climate, notwithstanding its immense forests, notwithstanding its fertile fields, its industrious inhabitants, that state was being outstripped by neighboring commonwealths and that for the reason that the whole state was helplessly and hopelessly in debt, and proposed some new adjustment of the debt of the state. In other words, sir, the state was confronted with repudiation of its debts. The discussion to which I listened was long and bitter, and finally, in 1883, the debt settlement act was passed, by which the debt of the state was scaled down from forty-two millions to twenty-one millions. The bonds were refunded at an interest of three per cent. per annum and up to this time, of that old debt there still remains unpaid some eighteen millions of dollars, a burden with which the people of that commonwealth are still struggling. Now, sir, I have selected the evil effects of this principle of loaning the credit of the state in aid of private enterprises—I have selected the state of Tennessee, because of my personal acquaintance with the question as it appeared there, but other states have had similar experiences. Missouri is a notable instance. Kentucky, while it prohibited the state from loaning its credit in aid of individual enterprises, still permitted the subdivisions of the state to loan their credit—the counties and the cities. One county in that state—Muehlenberg county—voted bonds to a railroad and that county became bankrupt, absolutely, and I am informed that for twenty years the county has had no regular steady county government. Counties and cities of the great state of Illinois were also permitted for some

time previous to the late revision of its constitution to loan their credit in aid of individual enterprises, and the result has been followed with disaster, showing, sir, that this doctrine is vicious in its results, as it is vicious in its principle. These examples, as I take it, are a warning to the State of Utah, just about to start upon its career—a career that I believe will be magnificent and of which we shall be proud, especially if at this particular time, when forming the fundamental law of the land, we shall take care to lay its foundation upon such principles that shall secure to the people equality before the law and make it impossible to exercise the powers of the government in aid of private enterprises and to the building up of private fortunes.

I wish to state further, that the propositions that have been offered here by the minority of the committee on legislative, which are in the line of prohibiting the State from taxing its citizens in the interests of private industries and which have been voted down—to discard these doctrines is to lay the foundation for future mischief in the State and inequality, and I wish to say that these doctrines offered by the minority and voted down by you and now brought before you under a modified form are in line with the great constitutional doctrine as announced by the courts of this country. In proof of which I will read to you still further from the decision of Chief Justice Miller, in the case before cited. The circumstances of this case are these: The city of Topeka, under the general law of the state of Kansas incorporating cities, issued bonds of the denomination of one thousand dollars, one hundred in number, in aid of a bridge manufacturing company—in aid of establishing a home industry, which it was thought would greatly benefit the city of Topeka and bring to that city more prosperity by reason of the establishment of this industry, within their borders. Some of these bonds found their way into the hands of the loan association of Cleveland, Ohio, and suit was brought before the courts in trying to collect the interest due on those bonds. The learned judge, in the discussion of the principles involved, gave a wider range to his decision than the mere case before him, and in the course of that opinion, he says:

To lay with one hand the power of the government on the property of the citizen and with the other to bestow it upon favored individuals, to aid private enterprises and to build up private fortunes, is none the less robbery because it is under the forms of law, and is called taxation. This is not legislation. It is a decree under legislative forms. Nor is it taxation. A tax, says Webster's dictionary, is a rate or sum of money assessed on the person or property of the citizen by a government for the use of the nation or state, Taxes are burdens or charges imposed by the legislature upon persons or property to raise money for public purposes. We have established, we think beyond cavil, that there can be no lawful tax which is not laid for public purpose, It may not be easy to draw the line in all cases, so as to decide what is a public purpose in this sense, and what is not, but it is undoubtedly the duty of the legislature which imposes or authorizes municipalities to impose a tax to see that it is not to be used for purposes of private interest instead of public use, and the courts can only be justified in interposing when a violation of this principle is clear and the reason for interference is cogent. If it be said that a benefit results to the local public of a town by establishing manufactories, the same may be said of any other business or pursuit which employs capital or labor; the merchant, the mechanic, the innkeeper, the banker, the builder, the steamboat owner, are equally promoters of the public good and equally deserving the aid of the citizens by forced contributions. No line can be drawn in favor of the manufacturer, which would not open the coffers of the public treasury to the importunities of two-thirds of the business men of the town.

That, sir, is the doctrine laid down by the courts on this subject. Nor is that the only case in point. There are several others. The notes, however, giving reference, I have mislaid, but that is the doctrine in regard to this ques-

tion. There can be no just taxation, but for a public purpose. Yet, by your votes this morning, you have rejected, gentlemen, this restriction to the Legislature and now, sir, the proposed article that I submit to you is that if you are determined that governments shall vote public money in aid of private enterprises, I ask you at least that you get the consent of two-thirds of the people whenever such a proposition or such a use of public moneys is to be made. The true doctrine to be observed in this matter is that which is laid down in the principles here announced. Let us form a government which shall prevent men from interfering with each other and leave them otherwise free to pursue what course they may choose in their industries. It is not the business of government to aid in the establishment of private interests or to build up private fortunes. I take it that the only safe course to pursue in this instance is to leave every individual in the new State free and equal before the law, and you cannot do that if it is your purpose and intent to use the great taxing power of the new State in the interest of any class or association of individuals. There is no equality in that. I think, sir, that I may illustrate my own views on this subject by reference to the course that the founders of this great government of the United States pursued in regard to religion. There were men in those days who would have been delighted as they termed it to have put God into the Constitution of the country and make an establishment of religion, but there had been such an exodus of men of the various faiths from the old world to this land that it was impossible for the founders of the new commonwealth to single out any one of them and make that the state religion, because the moment that one was selected to be supported by the state there was a discrimination made against all the rest, and when confronted with these facts our fathers of this country acted wisely and well when they refused to enter into governmental partnerships with any one of the many sects which had sprung up in existence and declared that the government should make no provision for the establishment of religion or prohibit the free exercise thereof.

So I say, now that we stand upon the threshold of the new State of Utah, make all the people in regard to their industrial pursuits equal before the law by proclaiming that the powers of the State shall not be exercised in favor of one class or division of the citizens. Declare divorce between the State and the industrial pursuits of the people. Say to all the people: "The government shall protect you in your rights, in your liberties, in the pursuit of happiness, and it will leave you free in every other particular to carve out your own fortunes."

I grant you that in the past our Legislatures have been free from bribery, and remarkably so, from corruption. Perhaps it is due to the fact that whatever the Legislature should do might be reversed by the Congress, because in our territorial capacity, the enactments of our Legislatures were subject to revision by the Congress of the United States, but now, sir, there will be increased powers given to the State, and if the Legislature is left free to grant the credit of the State or to give its public moneys in aid of private enterprises, do you suppose that the corridors and ante-rooms where the Legislature meets will not be filled by men begging public aid to build up their private enterprises and to launch out their various schemes? I believe, sir, that that will be the condition that will confront the Legislature, and that we ought to guard against this temptation to corruption. I have confidence in the men of Utah. I admire the men of Utah in the past. I have confidence in the great majority of them in the future, but we all know that in almost

every legislative assembly in the land there are men who find their way that are corruptible and it may be that the corruption of just a few will be sufficient to draw to the aid of individual enterprises public funds and the credit of the State. We to-day are living in the midst of conditions which did not confront the early legislatures of this country. There have risen in the past few years corporate powers, trusts and combines, which are a menace to free government. They secure such legislation as they need to aid them in their several enterprises, and they are sufficiently strong to contend with the government itself, not only the state governments, but even the great government of the United States; in proof of which you need go back no further in the history of legislation in this country than the past two years, where gigantic monopolies have written into the enactments of Congress the very clauses that they required to benefit them in their particular line of business, and while they have been able to hold the people afar off and to defy their influence, with the other hand they have been able to clutch government by the throat and compel it to yield to their demands. We are living in a country rich in its resources. Combinations that are foreign to us—that is, I mean companies organized outside of the new State will send their agents here with means to corrupt all who can be corrupted, and they will seek to lay their hands upon every resource of our commonwealth, and the great danger is that while for a few brief years there may be a stimulation in our industries, in the end it will prove that the wealth has fallen to the hands of the few while the masses are bereft of opportunities to make themselves comfortable in the midst of rich resources until, sir, the few shall be enriched and the masses shall be the hewers of wood and drawers of water. I am not content with this mushroom growth of prosperity. I would prefer to follow means where the growth and the development would be slower, but when it does come, that the wealth might be in the hands of the masses and have, if not millionaires in our midst, as least a people who shall have attained an independence so that they can be masters of their own time, so that they may feel the blessings which come from an enjoyment of the blessings of this earth. I offer this amendment, sir, in the interest of the people of Utah, that the government shall not favor classes, and if you are determined to exercise the 'powers of government for the enrichment of any class I at least ask you that those powers shall not be exercised unless two-thirds of the people shall favor it.

Mr. GOODWIN. Mr. Chairman, I submit that it is a little unfair for a gentleman to load up a cannon when we thought that all he had about him was a revolver and fire a shell into this committee which is calculated if it does not knock anyone down, to at least stun them. The understanding was when we began here that we should have nothing partisan. At least that was the understanding on the other side. They told us that all the summer through and all the winter. I object to this amendment for this reason, that it is contrary to the principles of the government of the United States. It took the world six thousand years to get up to the point where they could form a perfect republic in which the majority was to rule. The gentleman from Davis County goes the world one better and insists upon a two-thirds majority. The fathers did not think of that when they organized this government. He very shrewdly said that the gentlemen of the opposition were content to leave this sort of legislation out, because it amounted to an affirmative for them, and I suppose he thought that in the happy way in which he spoke it, he would conceal the fact that if he could get through this amend-

ment, he would accomplish all that had been voted down this morning, because there are no two-thirds majorities in this country. I believe in the bill of rights and that no voter shall vote upon any proposition to tax the property of his neighbor unless he is a taxpayer himself, and the qualified voters referred to by the argument we have just heard are the property owners, and if this amendment were to pass it would require two-thirds of them to carry any measure. It amounts to inhibition. It is just as good as a clause in the Constitution declaring that the State should never through its Legislature give up anything in the way of bounties or subsidies and should never permit any city or county in the State to do the same thing. That is, it takes from the people the liberty to do with their own what they may want. I do not wish to meet any further his argument, except in a few general words. He has referred to the state of Tennessee, that got into debt by voting subsidies to railroads. Probably it did, but there was very much more the matter with Tennessee. At the time the property in Tennessee through another cause was falling two per cent per annum. At the time too there was an idea running in the minds of the people of Tennessee that the most important thing in the world was not to create and increase their industries, but it was to vote solidly the democratic ticket. That was what was the matter between 1880 and 1886; in a great many places in that state at that time, gentlemen could not express their real sentiments without being insulted, if not mobbed—on political questions I mean. The gentleman has cited other places that have been unfortunate through the carrying out of this principle. Some of them have some pertinency, but not very much, and it would be easy enough to cite on the other side innumerable cases where, by the very carrying out of this principle, such prosperity has come as the people never dreamed of before. For instance, he spoke of the city of Topeka, that voted a hundred thousand dollars for a certain purpose. Very well, I stand that off by the city of Joliet, in Illinois, that wanted to give seventy-five thousand dollars in bonds to have steel works established. They went to the legislature. It was passed. The governor vetoed the bill. The legislature carried it over his head. The bonds were voted and the city advanced from four thousand to twenty-five thousand people in four years. It made a city of it. It is a great place yet and is steadily growing. Again, the state of Illinois had voted a large tract of land to the Illinois Central railroad. There was a fight that lasted for weeks on the proposition. At that time, in the spring of the year, through Illinois it was the habit that a man who rode in a stage had to carry a rail, because the stage went down every little while. There was no way to carry products to market. The result is that that land which was worth very little at the time when it was given to the railroad, produces something which gives every man throughout the whole length of Illinois a near market for what he produces. Further, that road pays the expenses of the state. Take the city of Washington for instance. You remember when Boss Shepherd was banished and execrated by the democratic press of the United States as a monster, because he insisted on transforming Washington from a swamp to a fit place to reside in. He went back a few years later and they received him with an ovation. Why? Because, through his work and his foresight, Washington had been transformed from a mud hole to the most beautiful city in America, and the landed values of that city had advanced five hundred per cent. I do not wish to discuss the tariff principles. The newspapers can do that, or it can be done on the stump, but I do wish to

say that this Convention has no business to put its hand on the free thought of this people. The gentleman tells us about the fathers declaring for life, liberty, and the pursuit of happiness. I believe particularly in that part of it called liberty. I believe the men of this Territory, when they come to be a State, will increase in wisdom, increase in judgment, and that they should not have a shackle on their wrists to prevent the majority from doing any legitimate thing that it pleases them to. Of course this argument can be continued here six days. We had one last week or week before last that lasted six days. Some gentlemen made great reputations on it, but when they got through the matter stood exactly where it did when they started and the vote was just the same. It will be so with this. There is no end to it. They tell the people that there is no power to tax the people to benefit a certain individual or a certain class. I grant that, but when the people find that by benefiting a certain class they can benefit themselves, they ought to have the right to do it. That is behind all questions of taxation, is the right of the American people to do what they please to do so that they are within the laws and so that there is no injustice to any man, or any class of men. We need not go to Tennessee. We need no go to Illinois.

You know, Mr. Chairman, that if this city had had the right and the power three years ago to have mortgaged itself for five hundred thousand dollars to build a road west the result would have been that every property holder's property in this city would have been worth fifty per cent more—yes, one hundred per cent more to-day than it is worth. They cried out that territorial rule inhibited all that, and that was true. And would you have that continued through the State? There is a point where I would agree with the gentleman. I would agree that this Convention should say that no city, no county, nor the State itself should ever negotiate a loan or vote any subsidy or bounty above a certain small percentage of the actual property value of the State. That is true. This other is simply taking the people by the throat and saying, "you will probably have corrupt legislatures. We know that great corporations will come here and try and corrupt you." And there is where all the trouble comes in, Mr. Chairman. People do not realize the power of money. If I have a hundred dollars and you have a thousand, you would not only have ten times the chances to increase your fortune, but if with that thousand you can get a dumb machine that works without food and without sleep to multiply your forces three or four or five hundred times, it would not be fair to say ten years later that when you began life you had but ten times as much as I, whereas, now you own everything and I have nothing. And other causes are working. This is the metallic age and money is what counts and money has opportunities. It is a rolling snowball and to say that to vote for the substitute starts a snowball of that kind does not prove the fact. These snowballs are rolling all the time and they are drawing to them the wealth of the country. A limitation must be upon the corporations themselves and on the powers that hold these moneys and not on the free thought of the people to do what they want to do.

The committee then took a recess until 2 o'clock p. m.

AFTERNOON SESSION.

The CHAIRMAN. The matter before the committee is the amendment offered by Mr. Roberts.

Mr. MALONEY. Mr. Chairman, I had not expected to make any remarks whatever upon the important question now under discussion and I have never taken the time to prepare a single word,

but as a native son of the old volunteer state of Tennessee, I am not going to sit by and allow my native state to be assaulted and its good name traduced by the gentlemen upon this floor, without resenting it and stating the truth in regard to the matter. What the gentleman from Salt Lake does not know about the state of Tennessee and her people and her financial ability will fill a large library, beside of which the congressional library at Washington would sink into insignificance. He talks about in 1880 and 1886, a white man could not utter his sentiments in the state of Tennessee. Why, Mr. Chairman, does the gentleman from Salt Lake, who made the statement, know that during that time the state of Tennessee had three republicans in Congress and part of the time four and part of the time the governor of the state was a republican? If there is one place on this earth where a man can speak his sentiments, that place is in the state of Tennessee. So the gentleman who gave utterance to such sentiments does not know anything about what he is talking about. The state of Tennessee has had three constitutions. The first was formed and adopted in June, 1796. The second in 1834. Under the constitution of 1834, there was nothing in that constitution by which the Legislature was prevented from lending aid to state institutions or corporations or associations. In 1851 and 1852, when Andrew Johnson was governor, something took hold of the people of Tennessee by which the idea was to issue bonds in aid of railroad companies and turnpike companies and for the purpose of opening the waterways in the state. About forty-seven millions of dollars in bonds were issued by these corporations and upon the back of each one of those bonds was the faith of the state of Tennesee pledged for the payment of those bonds. The state of Tennessee by its secretary, its treasurer, and its governor, guaranteed the payment of every one of those bonds and the interest. What was the result? Mr. Roberts has told you the truth in regard to that matter; but not the whole truth. The state of Tennessee was compelled to force a settlement with her bondholders at about fifty cents on the dollar. I say it is a shame and a disgrace to the great state of Tennessee, but we were compelled to do that. Thus, the period about which Mr. Roberts speaks. Now, I want to tell you that in 1864, 1866 and on down to 1870, the republicans had control of that state. I think Parson Brownlow was our governor. During that time and prior to the constitution of 1870, from which Mr. Roberts has read, there was nothing to abridge the governor and the state legislature from issuing bonds, or rather endorsing and guaranteeing the payment of bonds for railroad companies and turnpike companies. During that time I want to say to you, Mr. Chairman, and the members of this committee, that they guaranteed the payment of bonds issued in behalf of railroad companies, which began nowhere on earth and ended at the same place. Now, then, that indebtedness was piled up million upon million until it aggregated in round numbers forty-seven millions of dollars, and we were compelled to scale the indebtedness in 1883 at the rate of fifty cents on the dollar. So, then, Mr. Chairman——

Mr. BUTTON. I arise to a point of order. I would like to know if this has anything to do with the question before the house?

The CHAIRMAN. I think the gentleman is in order.

Mr. BUTTON. I do not think it has anything to do with it.

Mr. MALONEY. I think it has. My friend from Salt Lake brought the question up and he gave utterance to a sentiment which was not true, that a white man could not give utterance to his sentiments in Tennessee. I deny it. If there ever was a stalwart party that

gave utterance to its sentiments, it is the republicans of Tennessee.

The CHAIRMAN. Especially east Tennessee.

Mr. MALONEY. Especially east Tennessee. It furnished 33,000 soldiers for the army. Speaking of Tennessee, I do not approve of everything the democratic party in Tennessee has done. Far from it. The democratic party in Tennessee to-day is doing that which from my standpoint is wrong. The republican governor was elected and the democrats insisted on counting him out. I believe in honesty in politics. I do not say that I object to a provision preventing the Legislature from giving bounties. This Convention is republican. They were elected upon that, but I want to caution the gentlemen of this committee that there was nothing in the republican platform by which they are pledged to see that nothing shall go into this Constitution preventing the Legislature from endorsing or guaranteeing the payments of bonds issued by individuals, corporations, or associations. Suppose the great Utah corporation should ask the State of Utah to guarantee the payment of its bonds, so that they could float them. I tell you now, I want to give you notice in time, not only that corporation or any other corporation, may in time get State aid to float their bonds and in the end the people of this State may have these bonds to pay. I do not speak of the Utah corporation more than I do any other corporation—any railroad corporation. Why, in Tennessee, when the question came up before the legislature in 1851 and 1852, the finest hotels in Nashville were filled with lobbyists. They set up there private bars. The members of the legislature were treated. They got all the state aid they desired, and to day the state of Tennessee is almost bankrupt, by reason of having to pay those obligations. I appeal to republican members in this house whether it is not the right thing to do to prevent any future Legislature of this State from succumbing to the lobbyists and voting State aid and guaranteeing the payment of any such bonds.

Mr. CANNON. Mr. Chairman, I believe that I voice the sentiment of republican members of this Convention when I say that so far as they were concerned, they did not desire to consume time in debating the question that is presented to them. It is not, Mr. Chairman, either, with a desire to avoid a debate upon this question that they desired to pass upon the matter without debate, but it is because of the fact that we have a great many matters of importance before us upon which there is an honest difference of opinion and which possibly may be changed by the debate. There cannot be any very great change upon the subject that we have before us to-day. Our democratic friends declared time and again that they believed in making the organic law of the State free from partisanship. That they desired to make it one that the people of Utah could endorse and not interject into it that which is of a partisan nature. I am sorry that they have departed from this declaration, for while I did not believe it at the time that it was made, so far as I am concerned, I would myself oppose inserting in the Constitution anything that I believed to be of a partisan character. The amendment which has been offered on this section which is proposed by the gentleman from Davis County is only in another form the same principle that has been advocated by the democrats in different places and at different times. In the Confederate constitution they provided that no bounty should be given, and provided that tariff should be for revenue only and not for the purpose of protection. In various states they have made similar provisions. In the proposition that was voted down this morning, you have it only in a little stronger dose than is presented by the gentleman

from Davis County. He presents it to us as it were in the homœpathic form and expects us to swallow it just the same in that way. The people of Utah, I believe, settled this question so far as that is concerned, in returning to this Convention a majority of members who are republicans. They believed that it is right to leave it to the Legislature and our friends—many of our democratic friends have said from time to time that they did not believe in legislating, but in leaving the Legislature as free as possible. I trust that the result of the vote which shall be taken upon this section will show that they are earnest in that which they have said. The gentleman this morning, speaking upon the subject, declared that government must be limited to protection of life and to the protection of the rights to pursue happiness and to exercise liberty.

I claim, Mr, Chairman, and gentlemen of the committee, that there is no great government to-day upon the face of the earth, but that aids its citizens in various forms, in the establishment of the different industries that may be established in those various countries. I claim that the people of Utah will be benefitted by an application of the principles believed in by the republican party, but so far as I am concerned, I am willing to leave the whole matter to the people of Utah and to their representatives in the Legislature. We do not seek to place here in the Constitution a proposition that it shall be compulsory with the Legislature to foster and promote different industries, and on the other hand, I believe that it is a firm doctrine of the republican members to see to it that nothing is placed in this Constitution which shall prohibit the fostering care and the aid of the State of Utah being given to such industries as the people may desire to have established from time to time. I claim that from the beginning—from the time Utah was settled her people have believed emphatically in establishing home industries and in building them up—in extending to them such aid as may be necessary, and that they have done it by enactment as well as by private practice, as was noted by the gentleman from San Juan the other day. I do not desire—because I know it to be the express feeling of republicans—to take up the time of this Convention with a lengthy address upon this subject, but I desire to call your attention for two or three minutes to the case which is most prominent before the people of Utah on this branch of the question. That is, to the sugar question in Utah Territory.

By the Legislature which provided for the payment of a bounty upon sugar before the division upon national party lines, men who afterwards went out as democrats and men who afterwards went out as republicans, voted to provide a certain amount of bounty for the establishment of this industry. The result was a factory was built in Utah Territory, and I claim that it was a fact that cannot be disputed honestly by any man, that, but for the bounty, that factory would never have been built, and that the men who engaged in that enterprise, both democrats and republicans, refused to have anything to do with it until they were assured of the bounty that had been proposed. I claim that that is the fact and I claim in addition to that, that the people of Utah have in dollars and cents received more money back than was expended from the public treasury. I claim that it can be shown by actual figures that the benefit the people derived was greater directly than the amount that was taken from them, and that, in addition to that, they have the benefit which came from the circumstance of a large amount of money being expended and the large amount of means being retained in Utah Territory. If we take the year in which the factory was built and every year following that, you will find that

every time that Utah sugar was placed upon the market, there is a drop in the price of sugar; you will find that every time Utah sugar retires from the market, there is an advance in the price of sugar, and that the amount that is thus affected has ranged from a quarter of a cent to one and three-quarters cents a pound. What is the benefit that came from the establishment of this factory? You are all familiar with it. It would not pay to take up your time here explaining to you members of the different localities in the Territory the benefit that came to the people of Utah from the establishment of this factory. It is simply an illustration of that which can be done, and when we refer to it we follow in granting bounties and in doing that which has been done the course of the most enlightened nations upon the face of the earth. When first the bounty was proposed, the beet sugar industry in the United States amounted to practically nothing. It grew at a most marvelous rate. We find that in 1880 beet sugar produced in the United States amounted to only 357 tons. In 1890 it was only increased to 2,800 tons. At that time the McKinley bill went into effect, providing for a a bounty, and in one year the amount was increased from twenty-eight hundred tons to fifty-four hundred tons. The succeeding year, under the stimulating effect of that bounty the product increased to twelve thousand three hundred and fifty-five tons, with a corresponding increase in the year 1893 and the year 1894. Factories had been established and they produced the desired results.

We find that other countries are not without this aid. You go back to Germany and you will find that while Germany to-day controls the beet sugar market, we find that Germany paid on an average of twenty million dollars per year in bounties to her citizens on beet sugar. We will find that from the year 1876 to 1890, she paid the enormous sum of $220,652,647. This is the manner in which Germany built up her industries, and I claim it is a fundamental principle that no civilized government exists upon the face of the earth to-day that does not assist its people in establishing its industries and promoting thereby their welfare.

I trust that this substitute or section will not prevail for another reason, a reason referred to by Judge Goodwin this morning. Instead of leaving it to a majority of the people, it provides that you must have after the Legislature has enacted a law a two-thirds vote of the people before the bill can go into effect. How would that be in connection with other measures? Why not apply that to other principles of legislation? Why should we single out one which tends to build up the industries of the country and center an attack upon that, and leave all others so that when passed by the Legislature they become a law? I claim that it is wrong in principle. I claim that when the people elect their representatives and they are elected upon party platforms which pledge them to build up home industry in the form of bounties or to oppose that principle, that the people know what they are doing and that their representatives in the Legislature should have power, free from any restraint of the Constitution, to pass such laws as they see fit.

Mr. MURDOCK (Beaver). Mr. Chairman, I am opposed to the amendment upon the ground that we are, as I regard it, taking the agency away from the intelligent men that are chosen by the people at large throughout the State to come here and transact business, and prevents them from entering into anything that would be in the way of advancement. It is all right—it is a principle that I thoroughly endorse to throw certain protections, certain guards around the interests of the people. And that is what I am here for. And I am not here to carry out

any particular system of the party. That is, that is not a general interest, that does not equally apply to every individual. I am not here to look after simply the republican part of the business, but I am here to look after the general interests. Now, what kind of a fix would you place the Legislature in to trammel them and to throw a prohibition around them that they cannot enter into anything that would promise the well being of the people? I think it would be certainly a very grand mistake that we should make here upon this floor.

I take it, Mr. Chairman, that we will be able to send a legislative body here that are men of experience, men of intelligence, men who are looking after their own interests, and when they are looking after their own interests they are looking after the interest of the general whole. Of course, we cannot be responsible for men that use their power in recklessness and carelessness and in a way that would bring harm to the people. We cannot help that. We have many instances of men that have made bad use of their power, that has been placed in their hands. We also find men that make bad use of their money—of their means that is placed in their hands, but I take it, Mr. Chairman and gentlemen of the committee, that we shall send a body of men here that will know when to protect the rights of the people and how to do that, that will promote their welfare. We know of instances—we can quote many instances where the governments, or the legislatures, and even Congress have had the power to do some things that have greatly enhanced the interests of the people of the nation—also of legislatures of states. While there are others perhaps that have made a grand mistake. No doubt of that. But we find individuals, that have entered into business, that have also made mistakes from time to time, and of course, we want to throw safeguards around the people; but I do not feel that it would be competent for us to, as it were, tie the hands and the feet of the Legislature, and send them here to do business for us. I think it would be entirely out of character of such a body of men as are here. We should leave it to the Legislature to conduct this matter and not throw any embargo upon them. Hence, I am entirely opposed to the amendment that is introduced by my friend from Davis County. We might quote many things. Of course we see it in print—the rulings of judges, but that does not signify that we are compelled to follow these channels that have been laid down and have been participated in by individuals or by companies. Failures frequently prove a benefit to individuals—failures, because one legislature makes a failure, we will understand how to steer around that, as you may when you see your neighbor make a mistake in his business transaction. When you come to that place where he began to make a mistake, why you are enabled to benefit yourself. I have always made the experience of other men be of some use to me when I could adopt the principle, and it is so in these matters and I think it would be perfectly out of character for us to trammel or hedge up the way for a Legislature to perform that that they thought would be best for the common weal.

Mr. JAMES. Mr. Chairman, I consider it a waste of time for me to arise here, or any other gentleman, and discuss this question. This question was discussed from St. George to Logan on the stump last fall. It is the issue that the campaign was upon, and it is the issue that buried the democratic party from California to Maine. Consequently, I believe it should be kept out of this Convention, and I was in hopes that the honorable gentleman from Provo would do so and that the broad and generous provision in the platform would be adhered to and nothing of a partisan nature would be brought up in this

Convention, and I regret to say that this is the first action that has been taken that was distinctly of a partisan nature since we have come together in this Convention.

Mr. THURMAN. Let me ask the gentleman a question. Why do you say this is of a partisan nature?

Mr. JAMES. Why, simply because it was made an issue last fall; it was on the stump; it was discussed and it is the issue to-day in the United States between the two great parties.

Mr. THURMAN. It was in the platform too, was it not?

Mr. JAMES. What platform?

Mr. THURMAN. Your platform.

Mr. JAMES. I believe it was in every platform in the United States.

Mr. THURMAN. That was just put in to catch votes, was it?

Mr. JAMES. No, sir.

Mr. THURMAN. Oh, there was a meaning to that?

Mr. JAMES. Because the republican party stood upon that issue. That is why it was put in. Now, I want to say to my distinguished friend from Davis County, that his position is not tenable, nor does he stand upon the position that he took upon this floor here to-day. He will not maintain that he is not in favor of taxing the public in the interests of the individual, because he has voted to do it ever since he became an American citizen, and he will continue to do it so long as he remains one if he votes at all. I ask him is he opposed to taxing the public for the purpose of educating the poor? Is not that for individual interests that the public is taxed, and is not it for the good of the public that it is done? That is the proposition.

Mr. CREER. Is that the strongest argument the republicans have?

Mr. JAMES. That may not please you, you can sneer as much as you have a mind to, but you cannot——

The CHAIRMAN. Mr. James, I must insist on the rules of order that require gentlemen to keep still when the gentleman is addressing the house, and refrain from talking.

Mr. JAMES. I ask the gentleman again, is he opposed to educating the individual in the arts, as France has done, which is the secret of her greatness as a nation to-day? Did not France establish schools? Did not she educate her people to manufacture the finest article to be found in any of the markets of the world, and is not that the secret of her success everywhere all over this broad world, of commanding a price above the brands of all other nations as a rule? Now, I want to call the gentleman's attention, who made the speech upon the proposition that there was corruption, and that this policy of the republican party of advancement and of enlightenment in this nation was responsible for it. Now, I disclaim that that is true. I ask the gentleman why were there not laws enacted that prevented the shameful and disgraceful corruption of the Tammany ring, in New York, exposed by the Lexow commission last winter? Was the republican party responsible for the class of legislation that caused the disgraceful doings in the state of New York last winter? Why not get up here and on the stump and preach to everybody that it was democratic principles? Now, I do not claim anything of that kind. It was the corruption of mankind. That was the secret of that wrongdoing down there, just the same as it was the corruption of mankind that did the wrongdoing in my friend's state of Tennessee, it was not republican principles or republican policy that was the secret or the cause of that wrongdoing. I ask the gentleman again, has not France enacted laws to prevent corruption? Where has there been any other so gigantic a swindle in the history of the world as that of the Panama canal? Was it owing to republican laws or republican principles that the great DeLesseps, the

greatest engineer of the age, fell and disgraced himself? No, sir, it was the weakness of mankind; and I say to you gentlemen assembled in this Convention here, there is no grander thing that you can do, nothing that will go more to your credit or the credit of this Territory, than for you to use your public funds where they will build up the industry, the prosperity, and the resources of this Territory. I am just as much opposed to bounties, unless it is for public good, as any man upon this floor, and I will be just as shy, if ever I have a chance to vote against them, I think as any other.

I say to you, as an example, you have it right before your eyes; many of you do not appreciate it, but it is a fact, you have the opportunity of making the greatest State out of this State that there is to-day between the Missouri river and California. Your resources, or our resources, are greater than any other state in the Union and more diversified, but you cannot do it by pursuing a policy of obstructionists, you must pursue a policy of advancement, you must establish a school in this Territory that will be the grandest and greatest of schools there is anywhere between Maine and California; you must go to work and educate your young men; you must lay a foundation for a school that will cost a million dollars or more, you must make of your young men, competent men to go up into these mountains and take charge of the wealth that Providence has placed in those hills for you, and unless you do it, it will remain there until after you are dead and gone and a more enterprising class will come along and establish a school that will turn out practical young men, men that have knowledge of mining engineering, mechanical engineering, assaying, and superintending and managing of mines; such mines as the great Ontario will soon be exhausted; then the resources of the Territory will be the small mines that will last for generations to come, and they have got to be managed by men that have all of the faculties of managing every branch of the mine. You cannot have a staff of officers. You cannot have an assayer, a mechanical engineer, a blacksmith and a carpenter. All those forces cannot be there. It has got to be confined in one man, and if you will establish a school here, you will lay the foundation of that school in this Convention and put it under way that will turn out a class of that kind of men; and you will then be accomplishing a great deal more good than you will if you are here simply to make capital for political parties next fall. But I say to you, gentlemen, if you want to go to your second Waterloo next fall on this issue, I welcome you, and I invite you to be found there.

Mr. EICHNOR. Mr. Chairman, I move that we now rise and report progress, and for this reason: that there is not a republican on the floor of this house that is afraid of this question, and we will meet them on the stump next fall, but it is not the time here to spend the money of the United States discussing the issues of the two great parties. [Applause.]

Mr. CANNON. I would like to ask what is the advantage of rising? Why not vote upon the question?

Mr. EICHNOR. When we get back in the Convention we can take up some other article.

The CHAIRMAN. You can take it up in committee of the whole.

Mr. EICHNOR. I say right here, I am not afraid of this question. I say to the democrats next fall, "Lay on, MacDuff, and damned be he that first cries hold, enough."

The motion was rejected.

Mr. HEYBOURNE. Mr. Chairman, I have just received a very polite note from a very dear friend, a member of this Convention, not to consume too much time. If he knew me as well as I do myself, he would not have made that

request, for I do not think I ever made a speech that was as long as five minutes, but I have a few words to say on this matter. I am opposed to the gentleman's motion that is now pending before this body. While I have great respect and regard for my distinguished friends on the other side, I have to part roads with them at this junction. I do not intend to go down to Tennessee or east here for statistics, but I am laboring for the interest of Utah Territory—presumably for the new State of Utah. And I am, Mr. Chairman and gentlemen, in favor of leaving the Legislature of the State of Utah untrammelled. am sorry that this matter has been introduced here, because it smacks considerably of partisan feeling. As has been remarked, these issues were made fairly and squarely upon the stump during the last campaign and the voice of the people of this Territory as it occurs to my mind has been such——

Mr. ROBERTS. I would like to ask the gentleman a question. Was it at all a party issue in the last campaign, as to whether the credit of this State should be loaned in aid of private enterprises?

Mr. HEYBOURNE. I think not.

Mr. ROBERTS. That is the question that is involved in my article, and not the question of bounties.

Mr. HEYBOURNE. I understood that your article provided that the Legislature should be prohibited from extending any aid or assistance to institutions either public or private, without two-thirds majority of the people.

Mr. ROBERTS. No, sir—will not lend its credit.

(The section offered by Mr. Roberts was read.)

Mr. HEYBOURNE. I do not think that I am mistaken in the object or the wording of the proposition, as I understand it.

Mr. ROBERTS. It does involve the loaning of the credit of the State.

Mr. HEYBOURNE. Yes, that is one.

Mr. ROBERTS. That was not a party issue.

Mr. HEYBOURNE. That was not a party issue as I understand it. I am in favor of encouraging the industries of our country. I have the honor of representing upon the floor of this Convention one of the greatest counties in matter of resources that I guess there is in the Territory of Utah, I wish to state, sir, that we have mountains of iron, and we have, I may say, thousands of acres of coal, both of which are required to make a great country, and this wealth is lying, you might say, dormant, for the want of some assistance, some encouragement, something that will develop and bring out these hidden resources of our lands, and I am in favor of giving the Legislature of our Territory a free scope in these matters that whenever it is thought wise and necessary and will be productive of good to the general community, that they might have it in their power to assist either by way of bounty or exemption from taxation or in whatever way they may think proper and just. In so doing I am of the opinion that it will be wealth or means wisely expended. Allusion has been made to an industry that has been established a little south of us here, that has produced very good and beneficial results. It has not only been a blessing to the people generally, but it has afforded labor for those who are immediately associated, who reside in the vicinity. It has enabled men to procure employment. It has been a benefit to the Territory generally, and it has assisted in furnishing the revenue that was necessary for the governmental force of our Territory. And in looking upon this matter from this standpoint, gentlemen, I am of the opinion that other industries that might be established in our midst—that there is room for plenty of them—that it would bring about the same happy results and would make of the State of

Utah what she is destined to become, one of the brightest stars in the constellation. I am opposed to the gentleman's motion from the fact that I hold that it will embarrass our lawmakers in the future, and where they might see proper to extend some assistance in this regard that they will be prohibited from so doing, therefore, I shall oppose the amendment.

Mr. THURMAN. Mr. Chairman, I do not intend to take up the time of the committee by attempting to make a speech, but I think it is due to the party to which I belong to correct what I believe to be a misapprehension, if I may judge from the remarks of some of the speakers. There seems to be a complaint that a partisan question has been brought into the proceedings of this Convention by the democrats on this floor. I take it that the gentlemen who stand upon that position are either very unfair (and I do not wish to accuse them of that, because from what I know of the gentlemen personally they are always fair) or else they are not aware of the fact that the republicans here stand by their principles upon this question in a way that by saying nothing or doing nothing upon this question they are thereby maintaining a position of extreme partisanship. Because, it is a fundamental principle of constitutional government of the states which has been declared here time and time again in one form or another, that unless the Constitution prohibits, the Legislature has power to act, so that the theory of the republican party as to state government is fully maintained and exemplified when they say, "We will do nothing; we will say nothing; we will place no limitations whatever upon the Legislature." In fact, it is suggested by my very esteemed friend on the right from Beaver and others, "Leave all these questions to the Legislature."

What are we here for, Mr. Chairman? What is the purpose of this Convention? Its only purpose is to place limitations upon the power of the State government, because if we leave everything to the Legislature we might just as well have stayed at home. And my friend over on the right (Mr. Eichnor) would not have to get up on this floor and appeal to this Convention to protect the treasury of the United States against the raid that we are making upon it daily. We could all go home—go about our business. But the very purpose for which this Convention has assembled is to form the outlines of a State government and place in the Constitution a limitation upon the powers of the Legislature and other departments of the government. Now, the democrats went into the campaign and they fought against the Legislature having certain powers. The republicans went into the field and in their campaign have contended that the Legislature should have these powers. Now, because republicans who are in the majority here have not seen fit to place in the Constitution anything upon that subject, where does it leave them? It leaves them in an extremely partisan position in this Convention. By saying nothing, by doing nothing, they accomplish their partisan purposes. In order for the democrats to show their constituents who sent them here that they have not forgotten the reasons why they were elected last fall—in order for me to show the people of Utah County who sent twelve democrats to this Convention (and that is the place where the sugar factory is built) that we have not forgotten the rock from whence we were hewn and the character of the voice that sent us to represent them in this Convention, we have got to ask you to consider for a few brief moments a proposition such as that submitted here by the gentleman from Davis County.

I do not believe in acrimony. I do not believe in bitterness and abuse. Was he abusive? Was there anything

bitter, rancorous or partisan in his remarks beyond the mere statement of the proposition and the doctrine that he believed in? I think not. Now, gentlemen, we are in this position. Men throw out their challenges, they throw out their banters about "We will meet you next fall, we will meet you to-morrow, we will meet you anywhere else, but we are so anxious to protect the government of the United States against the ravages of this body, who day by day are taking money out of the treasury, that we want to shut off debate and discussion." Now, we have got nothing to say about what we are going to do next fall. We have no insinuations to throw out, but we say this, Mr. Chairman, we do not want some future Legislature—we do not want the republican party in the future to be able to say that this entire Constitutional Convention, democrats and republicans, were all in favor of bounties, for the reason that they framed a Constitution, they sat for days and weeks and months, and there was not a man in it who dared to ask that an inhibition be placed in the Constitution against it. The democrats believe to-day, as they did last fall, that the principle of bounties is wrong and that it is a danger to the commonwealth.

We want to put ourselves on record as to that, without any lengthy speeches or remarks, without saying anything which will tend to irritate or stir up the feelings of our republican friends, but we simply want to put ourselves on record as believing as we did last fall that the public money ought not to be expended in the interest of private enterprise. I am in favor of the motion of my friend. That is to say, it is not what I desire. In fact, I know it is not what he desires. He believes that it is wrong, even with the voice of two-thirds of the people, to expend the public money for private enterprise. That is the doctrine that I believe in, but I would rather have half a loaf than no loaf at all, and consequently, I would rather vote for his motion than to have nothing in the Constitution.

Mr. EICHNOR. I would like to ask Mr. Thurman a question. Is the object of this debate for the democratic party to place itself on record here, or to convert the republicans to your ideas?

Mr. THURMAN. Well, I am not presumptuous enough, Brother Eichnor, to believe that you are capable of being converted to anything that is right in a political sense.

Mr. C. P. LARSON. Would you consider the sugar factory in Lehi as a private enterprise?

Mr. THURMAN. Yes, sir, I do; most emphatically.

Mr. C. P. LARSON. Did you not, in the Legislature, vote for a bounty to establish that?

Mr. THURMAN. I did, sir. I did, sir. I will tell you why I did it. The same reason that the republican party voted to demonetize silver in 1873. I did not know what I was doing at the time.

Mr. C. P. LARSON. Mr. Thurman, the republicans are sorry for that. Don't you think in the future that sometime you would change?

Mr. THURMAN. They have not shown much sorrow yet. Whenever they show enough sorrow to undo the wrong they have done this country will be better off.

Mr. EICHNOR. I would like to ask Mr. Thurman another question. When silver was demonetized, who moved the previous question in the United States senate?

Mr. THURMAN. I do not know. I shouldn't wonder if it was some republican who moved it in order to cut off debate.

Mr. EICHNOR. Thomas Benton, the great democratic senator.

Mr. RICHARDS. Mr. Chairman, I shall not detain you long, but at the risk of being regarded as an obstruc-

tionist, I want to say a few words on the subject. I regard this as an important matter. I understand that we are here to form the fundamental law for this new State. I would like to refer to some fundamental principles as we go along. Of course, I understand that we have been notified that there is no hope of conversion of our republican friends. Unlike my friend, Brother Thurman, I was presumptuous enough to believe that it was possible for them to see the right if it was made clear enough to them, but I may be mistaken about that. However, there is only one thing for us to do and that is to point out that which is right and if they choose to see it, well and good, if not, the responsibility does not rest with us. Now, this proposition, as has been said, is not such a proposition as I would like to see go into this Constitution, and I think that before it is submitted I shall propose an amendment to it, because I should dislike to see it go in even as it is. If it goes at all, I should want to see it limited to public institutions—that money could not be voted even by a vote of the people unless it was to some institution for some public purpose and public use. Now, a good deal has been said during this discussion about what the government might do. One of my colleagues from Salt Lake talked about establishing educational institutions and all that. I do not understand that this amendment has anything to do with the establishment of educational institutions.

Mr. JAMES. May I ask the gentleman a question? Can you establish educational institutions without funds, and have not you got to tax the people in order to get them?

Mr. RICHARDS. I presume not. But I understand and have faith to believe that this State will have one of the best educational systems in the whole country and it will be supported by taxation, of course, and this amendment would not interfere in any way with providing for the support of educational systems.

Mr. JAMES. Was not the argument made this morning that taxes could not be used for building up any institution except—some private privileges here or something of that kind—would not that have something to do with educating children?

Mr. RICHARDS. I did not get the gentlemen's question, if it is a question, so I am not able to answer it. I do not understand that this amendment has anything to do with those educational matters. We proposed to establish a system of public education and have free instruction in this Territory, and that to be provided for out of the public funds. Properly it should be. That is all right, but this is intended to prohibit the State or any political subdivision of the State from going into any business or from becoming partners with anybody else in any business, or lending its credit to any private institution for the purpose of carrying on any business. That is what it is intended for, and I say it is right—it is fundamentally right, and anything in conflict with it would not be in harmony with the institutions of our free government, and upon that point I want to read to you a few words from gentlemen of eminence on these questions. I will first read from Mr. Cooley, a man who stands as high as any living man on the question of constitutional law, and see what he says about collecting taxes and using them for such purposes.

Mr. Cooley says:

> The right to exercise the power of taxation in aid of manufacturing enterprises or of private persons or corporations has seldom been asserted, and whenever asserted, has been most emphatically denied.

Now, if you pledge the credit of the State or of any political subdivision of the State, that credit has got to be backed by funds and those funds have got to be collected from the people by

taxation, if ever collected at all. He says:

It has been well and forcibly said that individuals and corporations embark in manufactories for the purpose of personal and corporate gain. Their purposes and objects are precisely the same as those of the farmer, the mechanic, or the day laborer. They engage in the selected branch of manufactories for the purpose and with the hope and expectation not of loss, but of profits. The general benefit of the community resulting from every description of well regulated labor is of the same character, whatever may be the branch of industry upon which it may be expended. All useful labors, no matter what the field of labor, serve the state by increasing the aggregate of its profit, its wealth. There is nothing of a public nature.

Now, I cite this to the point that has been suggested by the question that was asked but recently upon this floor, in regard to a private institution:

There is nothing of a public nature any more entitling the manufacturer to public gifts than the sailor, the mechanic, the lumberman, or the farmer.

Mr. GOODWIN. Mr. Chairman, I arise to a point of order. Assuming that to be good law, it applies just as much to a two-thirds majority as it does to a majority. The gentleman cannot urge that a two-thirds majority may be given under that law, while a plain majority would be insufficient.

The CHAIRMAN. I think the gentleman is in order to proceed.

Mr. GOODWIN. If he is going to move for a substitute altogether, that would be in order. Under this it is not.

The CHAIRMAN. The gentleman may proceed.

Mr. RICHARDS. "Our government is based upon equality of rights. All honest employments are honorable. The state cannot rightfully discriminate among occupations, for a discrimination in favor of one branch of industry is a discrimination adverse to all other branches. The state is equally to protect all, giving no undue advantage or special or exclusive preference to any." That is what I say. That is the doctrine that I am advocating here to-day, and I say that the state has no right, no political subdivision of the state has a right to pledge its credit or to give public money for any private enterprise, no matter what it may be. Again, I quote the language of Mr. Justice Dickinson; in a case reported in the 58th Maine, in which he characterized taxation in aid of private enterprises as being to load the tables of the few with bounty, that the many may partake of the crumbs that fall therefrom. Now, the supreme court of the United States has spoken on this subject. It has referred to the theory of our government, and I desire to read a few words from the supreme court decision in relation to this matter:

It must be conceded that there are rights in every free government beyond the control of the state. A government which recognizes no such rights, but which wholly leaves the liberty and the property of its citizens subject at all times to the absolute disposition and unlimited control of even the most democratic depository of power is after all but a despotism.

It is true. It is a despotism of the many—of the majority, if you choose to call it so, but it is none the less a despotism. I do not want to apply such a term as that to a majority in this Convention. I hope you will not insist upon assuming an attitude that will make such an application proper.

It may well be doubted if a man is to hold all that he is accustomed to call his own, all in which he has placed his happiness, and the security of which is essential to that happiness, under the unlimited dominion of others, whether it is not wiser that this power should be exercised by one man than by many. The theory of our government, state and national, is all opposed to the deposit of unlimited power anywhere. The executive, the legislative, and the judicial branches of these governments are all of limited and defined powers.

And we are here to-day, and it is the

duty that is enjoined upon us, as the representatives of the people, not as the representatives of corporations—I do not stand here representing a wealthy company or any kind of a corporation, I stand here as the representative of the sovereign people of this State—of this Territory, hoping soon to be a State, to place upon this legislative power the limitations and restrictions referred to in this language that I am reading from the supreme court. There are limitations on such powers, which grow out of the essential nature of free government. This is one of the limitations, gentlemen, that grow out of the essential nature of free government. That money that has been taken from the people for governmental purposes, that has been contributed, not voluntarily as a bonus, to any public enterprise, but that has been extorted and coerced by the force and power of the government for governmental purposes—that that money and those funds shall not be taken from the poor man and poured into the coffers of the rich to assist him in any sort of an enterprise, no matter what guise it may be done under. It is not to be done at all, and it is contrary to the theory and the nature of free government, says the supreme court of the United States.

Now, then, a word or two in answer to my distinguished friend who called me to order just now. In his speech this morning, he referred to the unfortunate fact that this city had not the power three or four years ago to issue half a million dollars in bonds to construct a railway from here to some other point, and he says that if that railway had been constructed, if the city had had the power to issue the bonds, it would have done so, and if it had done so, and the road had been constructed, property here would have been worth from fifty to a hundred per cent. more than it is worth now. How does the gentleman know that? I am willing to give him credit for great wisdom and foresight, but that is a point that I do not think even his great wisdom and foresight enables him to answer with certainty. If that road had been built, in my judgment, we would have been here to-day in the same stagnant condition that we are in, and that the whole country is in, so far as business is concerned, and we would have had half a million dollars more of debt and burden upon our shoulders than we have to-day, and the Lord knows we have enough now.

We have an illustration of this thing right here in this city of what men will do. I do not need to refer to the corruption of men. I do not need to assume and I do not assume that men will be corrupt in the new State. I do not say and I insist that it is not discrediting those men or the characters of those men who are to come after us as legislators to place these restrictions in the Constitution, but I say that men may be misguided, men may be honest, men may be sincere, but they may be mistaken, just as the city council of this city was mistaken a few years ago when they undertook to give twenty-five thousand dollars to an institution here within the limits of this city, that was going to erect a large copper plant, going to employ hundreds and possibly thousands of men. It was going to cause Salt Lake City to rise at once to great prominence and become a great metropolis in the tops of the mountains. Where is the copper plant and where are all these men that were coming here? The city council, I believe acted in good faith. I believe they were sincere and honest in their purpose, but that they were mistaken there is no doubt, and it is for the purpose of preventing just such mistakes as that that these restrictions should be placed in the Constitution. I do not ask to have them placed there that they may prevent corruption, because I believe if men are determined to be corrupt, they will find some way of accomplishing their

purpose, but men who are honest, men who are sincere, men who want to do right, would be guided and controlled by such restrictions, and so I say, gentlemen of the committee, in conclusion, that in my opinion a provision should be inserted in this Constitution—the provision that is now under discussion is not what I desire and I do not care to vote for it, unless it can be limited so that even when submitted to the people they cannot authorize the investment of money unless it be for some public purpose. But I say that such a restriction should be placed there and that it should not be left with every legislature that comes along to be carried on as people are in the excitement of booms and prosperity, and looking ahead and anticipating great things to go on and plunge the State or the county or the city into debt and then when the bubble bursts, as it did with us, let this load come down in crushing weight upon the taxpayers and upon the poor people.

Mr. EVANS (Utah). Mr. Chairman and gentlemen of the committee, as has been stated here by the gentlemen upon this floor, that they did not expect to convert any of our republican friends to our idea, I perhaps may be in the same condition, but my position is now and it always has been that it makes no difference to me whether I am converted or not, if I think that my position is right. I desire to make a few remarks upon this question. The gentleman from Salt Lake (Mr. Cannon), told this committee of some of the history of the Utah sugar factory, which I believe was not true. I am very sorry to have to enter into that question. I avoided it last fall as much as I could in the campaign, but I am on record in my own town and in my own county as against bounties in every shape and form, because I believe it is wrong. Mr. Cannon says that if it had not been for the bounty the Utah Sugar Company would not have been established. I would like to call the attention of this committee to the fact that before the bounty was ever passed by the Utah Legislature, and that was passed before the bounty was passed by the United States, that the Utah Sugar Company had incorporated, and I want to suggest here that before any company can incorporate under the laws of the Territory of Utah, they have to subscribe an oath that they have begun or it is their bona fide intention to begin, that ten per cent of the capital stock has actually been paid in and that they verily believe that each subscriber is sufficiently able to pay in the balance of the stock subscribed. Now, when a gentleman takes the position, if my statement be true, that that company was incorporated before the bounty was passed——

Mr. CANNON. May I ask the gentleman a question? I would like to have you give me the date on which the sugar company was incorporated.

Mr. EVANS (Utah). I think it was in 1889.

Mr. CANNON. Do you know the date?

Mr. EVANS (Utah). No, I do not.

Mr. CANNON. Would you kindly give me the date on which the law was passed providing for a bounty?

Mr. EVANS (Utah). I think it was in 1891—in 1890. It was incorporated in 1889, and the factory begun in 1890, as I remember it.

Mr. CANNON. I would like to ask the gentleman if he makes his statement from his own knowledge?

Mr. EVANS (Utah). I make my statement from my own knowledge, that it was before the bounty was given.

Mr. CANNON. I ask the gentleman if he has compared the dates and knows that to be a fact?

Mr. EVANS (Utah.) I am not positive about the dates, but it was the year preceding the time of the giving of the bounty, which I think was in 1890. That part I assume to say I am positive on. Now, I assume to say that

whenever a man takes that position that he charges the incorporators of that company and particularly those honorable gentlemen who went before the probate judge and subscribed an affirmation that it was their bona fide intention to incorporate, with bad motives; and I think it ought to be resented. And if that logic be true, then, sir, I submit to this committee that the fact of passing the territorial bounty, nor the United States bounty, was the immediate cause of the erection of the Utah sugar factory. He stated that that had been growing and continuing to be built since. I would ask the gentleman to point out and name a single one that has been built since the passage of the bounty bill by the United States. I want to say to you, sir, that my opinion is that whenever the time is propitious—whenever the industry and the investment that is to be entered in is profitable or it is believed to be profitable, by those who are to enter into it, that the capital will be furnished and that those industries will be started whenever they think that the end will justify the means.

One gentleman from Iron says that they have plenty of iron—their mountains are teeming with it. They have coal in abundance. Then, I ask if that be the fact, ought they to ask other parts of the Territory which are not teeming with these facilities, to assist in paying to them to establish an industry in their midst? That argument might be used individually. I know of a very beautiful place, not far from where I reside, where great flocks of sheep might be spread over a thousand hills, and, sir, I know of individuals who would be very likely to care for them and make a very profitable investment out of them, if somebody would come to their assistance and their aid, for the purpose of assisting them to start. Now, the objector will say that such an argument as that confines it down too close, that the great emoluments that accrue to those in the Territory will not be received the same as it would from an industry. I say to you in answer to that, sir, that it does not require the same amount of assistance, and in proportion to the assistance that he receives in starting that individual enterprise, so will the public be benefitted by reason of that just as much as will the public by reason of a corporation being instituted and establishing an industry, therefore, I think the argument is not good and I am opposed to it. We talk about starting in this new State under a heavy taxation. I want to suggest to you, gentlemen of this committee, that I believe we ought to guard the taxing power more than any other one thing that should be instituted in our State government. I say, Mr. Chairman and gentlemen of the committee, that if there is one thing that we shall guard in this Constitution—if there is one thing to my mind that will have a tendency to defeat this Constitution—we have heard from gentlemen upon this floor in most eloquent language, in glowing terms, of certain things that were proposed to be put in the Constitution, that would have a design and a tendency to defeat it, but my candid conviction, sir, is, that there is not a thing that will be placed in this Constitution that will have a tendency to defeat it as will the fact that we shall make it possible for the people to be burdened and laden with unjust taxation. I am opposed to it for that reason. I think the power ought not to be granted. I believe that the people of this Territory are sufficiently proud. I believe that they are sufficiently industrious. I believe that they are sufficiently united, that, as each question shall be presented before them, as the necessities shall demand, that they shall join together heart and hand and walk abreast. That they will accomplish the designs of building manufacturing institutions and industries in this

Territory by their own frugality and by their own efforts without the aid of any state, and I, as one, shall be more proud in looking upon an industry in which I am interested as an individual where I shall have accomplished with my mite, in connection with those of my fellow citizens in rearing it under the broad canopy of heaven, to shed abroad in the Territory or the new State, as I hope it shall be, its benign influences and emoluments and benefits to those who are less fortunate than perhaps I myself have been. I am opposed to it on principle. Talk about entering into party questions. I say to you, gentlemen, that if I stood here alone upon this floor with the convictions that I have, not as a party—if there was no party in it, I would stand up and declare as I declare this afternoon, that I am opposed to it upon principle, because I believe it is a vicious system.

Mr. L. LARSON. Mr. Chairman, I do not rise to discuss this question, because to me it appears to be a useless question to indulge in upon this floor. This question has been gone over pro and con in the country and I am utterly tired and disgusted about all this talk on this question here to-day, and I appeal now to my republican friends upon this floor to refrain from any further indulgence in the discussion of this question. It takes two to make a quarrel and if one side will refrain and be silent I suppose by the time they have blowed their guns everything will be silent and then we can get to a vote on the question. [Laughter.] I am a republican. I believe in home industry as my friend said from San Juan County; but I will go a little further. I believe also in protection to home industry.

Mr. MORRIS. Mr. Chairman, I would like to correct one idea of some here in regard to the sugar bounty. I think I know something about the sugar factory. I have had a go with it from the beginning. In regard to the incorporation of that company, I will say that there were fifteen men of us joined issue and deposited a hundred dollars apiece to form a company for investigation. Those committees went upon their own means, for they subscribed in this stock—a portion of the committee was selected out of the fifteen to investigate the sugar factory in the east. That was the cane factory, and the beet sugar factory in California, and we took plenty of time to investigate, and we came to the conclusion that the beet sugar factory could be established with great benefit to these people in Utah. After we had had the soil analyzed we found that this climate and this soil was equal to any for a sugar factory, so it was not jumped in all in a hurry. I will say, before we made a contract for the machinery for the Lehi factory, the McKinley bill had passed, because one prominent member in the company who did not favor bounties questioned very seriously whether that bill had passed, because he had not read it, and we took the pains to send for a copy and have it read to that gentleman before he gave in. Then he gave in. And I will say to the credit of Honorable George Q. Cannon, who deserves the credit of that Lehi mill to-day—the Lehi factory, he says, "I will give in thirty-five thousand dollars to start with, for the sake of finding employment for the people and market for the farmers for their produce." That inspired the balance of us to join issue in that thing, and I can tell you, gentlemen, that if ever a company was organized with a pure motive for the benefit and the welfare of the country—I should question any outside of the Lehi factory, for we did not expect to get returns and neither have we, but I will say this right here before my friends, the minority, that if it had not been for them misrepresenting in their campaign to kill that enterprise as far as they could, it would have been a grand success—a grand success. But the country was flooded with misrepresentation in regard to this company,

that it was a monopoly to make fortunes, and I will say here that we have not received a single dollar in return for our investments, and while they say it was a monopoly, we offered a portion of our stock to them for twenty per cent. less than we gave, after spending the time and starting that company, and I will say further we received thirty thousand dollars bonus from Salt Lake City, but I am safe in saying that they received seventy or ninety thousand back, and when they charge that voted for this company in getting bounty to rob the poor—ask the poor who have been sustained by the sugar factory how they feel about it. [Applause.]

Mr. CREER. May I ask a question? The gentleman states that it is plenty of benefit to the poor. How is it, Mr. Morris, that in the immediate vicinity of the sugar factory—take it in the district where beets are raised, that they have elected members to this Convention who are democrats, and who run ahead of their ticket, even in the town where the sugar factory is located? If it has been such a great benefit to the poor, why is it then that they are not appreciated? Please tell me that, in every district?

Mr. JAMES. I arise to a point of order. What has the voting of the people down in that part of the country got to do with the question before this house?

Mr. CREER. The gentleman cannot crack that nut, that is what is the matter.

Mr. MORRIS. I don't know anything about politics at all. I never interfered. I will say from personal knowledge, and I question any man to contradict it, if Utah County has not received benefits from the Lehi factory, three or four to one, whatever it cost them in bounty. I also state here that for the year 1894, we paid something in the neighborhood of forty-five to fifty thousand dollars in salary alone on that factory. We paid the farmers of Lehi and Utah County to the amount of one hundred and sixty-five thousand dollars for beets, and if they have not been well paid for the bounty that they gave to establish that factory, I would like to know. But I will say this, gentlemen, if the bounty of two cents and Utah one cent, was not given at the time, I question whether that factory ever would be built. That is all I have got to say now. I oppose the section presented here.

Mr. CANNON. Mr. Chairman, the statement that has been made by me has been questioned on this floor by a gentleman who has stated that I did not tell the truth. I do not know why he should make such a statement. I can prove that which I asserted. It is a fact. It is borne out by the statements of every man to-day connected with the sugar company. The Utah sugar factory would never have been built, and the machinery, as it now is, paid for, had it not been for the McKinley bill, providing for the bounty that it did, and the aid also which was furnished by the Territory of Utah. I was one of the original incorporators of the company, but the amount of stock that was subscribed by the men who started it out was too small to ever conduct their enterprise to a successful termination. I have examined within the last ten minutes, since the gentleman made his assertion, the articles of incorporation in that company. They are on file in this building and are open for your inspection, if you wish to examine them, and if you will examine them and find the amount subscribed by the gentlemen who did subscribe, if they had paid the full amount in cash, it would not have commenced to pay more than one-thirtieth of the cost of the Utah sugar factory. In order to build that factory and to conduct the enterprise, it was necessary to enlist more capital, and to that end the services of different men were brought into play, and those men

refused to take part in the building of that factory or in having anything to do with the stock of that company until assured that the bounty had been provided for by the McKinley bill. In addition to that, one of the most prominent promoters—one of the directors who is a democrat and a very able man, refused to have anything to do with the matter until he had in addition a copy of the McKinley bill and until he had the opinion of an attorney to the effect that it was considered a binding contract, which he did have, and that the United States would, in all probability, be compelled to pay it for fifteen years. That was what was done upon that subject.

Mr. EVANS (Utah). Is not it a fact that that incorporation took place before the passing of the Territorial bounty—not speaking now of the re-incorporation or the increase of capital stock, but just as I stated, is it or is it not a fact?

Mr. CANNON. I would call attention to this fact, away back when this valley was first settled, a Utah sugar company was organized that brought machinery from France, and built right out here in the ward in which I live——

Mr. EVANS (Utah). I asked you about 1889.

Mr. CANNON. Permit me to answer the question in my own way. I will answer it if you give me time. They built a factory here and it was a failure and an attempt was made at different times, including one time when five thousand dollars was paid—I think the exact amount was five thousand dollars. Mr. Thurman was a member of the Legislature and can correct me if I am wrong, for four or five thousand pounds of sugar. The gentleman who made the first five thousand pounds of sugar in Utah Territory, I think, was Mr. Arthur Stayner. I believe he received five thousand dollars which was promised. The gentleman from that time to this has been earnestly seeking to establish sugar factories. He had different men interested with him at different times, but the company which now exists was not on its present basis and the capital could not be induced to go into that until, as I stated, the bounty had been promised by the government and by the Territory of Utah. Those are the facts in the case.

Mr. EVANS (Utah). I would like the gentleman to answer that question more direct.

The CHAIRMAN. Mr. Cannon's statement this morning, as the stenographer's notes will show, or his first speech this afternoon, was to the effect, that the factory never would have been built. He did not say anything about incorporation.

Mr. EVANS (Utah). My point was——

The CHAIRMAN. You said that that was not true, and that is what he is controverting.

Mr. EVANS (Utah). My point was that it was incorporated before, and there were certain stipulations that that money was paid in. Now, are we to charge those men with bad faith? If not, then——

Mr. BUTTON. Which one of those gentlemen is on the stand?

Mr. CANNON. I will state in explanation of that point that a man may not be in bad faith that wants to carry out an enterprise that he may lack funds for. The fact that a man is poor, but is struggling to establish a factory, would not be an evidence of bad faith on his part; but I stated before, and I reiterate it, that without the promise of that bounty, it would not have been possible to have induced the investment of the capital necessary to build the Utah sugar factory. I am surprised at the gentleman posing that he comes from that town, and that he would not be true to himself if he did not speak against bounties and against the principle by which that factory was established. If we go to that town, the fact that the gentleman was elected from it

and is a democrat is no evidence to my mind that the sugar factory is not a benefit. I believe he is an honorable gentleman.

Mr. EVANS (Utah). I did not make that argument.

Mr. CANNON. I will call attention to this fact, that this year at that place, according to the company's statement published the other day, they paid for beets of 1894, 32,694 tons of beets, a cash amount of $175,539.99; the total amount which was paid out, exclusive of the amount paid for interest was $261,699.79. The amount of sugar manufactured and sold to the people was 5,106,500 pounds, while this estimated the amount of sugar now in process of manufacture, at 438,000 pounds. I would call attention to the fact that in addition to the amount paid directly in this way, they used coal of the coal miners 5,130 tons, they used lime rock furnished by the quarrymen on Pelican Point, 1,768 tons; they used of coke, 220 tons; of Utah sulphur, 11 tons. Then a great many other minor details that were used in the same way. The gentleman may laugh at the idea of that being important in this matter, but I say to-day that if we had more factories and less democratic doctrine the people of Utah would be in a better condition. [Applause.] I say to-day, that under the democratic rule, and with democratic principles, that has been one of the things that has alone saved our people from greater financial distress than they have already suffered. While the gentleman this morning said he did not want mushroom prosperity, I claim that mushroom prosperity is better than the kind of democratic prosperity that has been given to us in the last few years.

Mr. CREER. May I ask a question? Is there not as much democratic capital invested in home industries in Utah as there is republican capital?

Mr. CANNON. I hope so. Because if there is, I think we will probably have them after awhile apply correct principles to their own industries. The gentleman this morning, in his remarks, declared that the gentlemen believed in taking the money of the poor to build up the rich. That he did not believe in taking that from the masses to confer it upon those who were wealthy and comparatively few in number. I would call the attention to this fact, that in the building of that factory, the amount taken from Utah—from the people of Utah was very trifling indeed. Take a man who had a farm worth two thousand dollars, and in any one year when Utah bounty was in operation he did not pay on that two thousand dollars to exceed nineteen cents. Is that too much? Is there a farmer in Utah with a farm worth two thousand dollars who would not be glad every year to put his hand in his pocket and pay nineteen cents toward the establishment of factories in all parts of this country? I would claim that the most money that is taken for bounties comes from the rich and not from the poor. You take the banks of Salt Lake City alone. They pay more towards the bounty by which that sugar factory was established than the farmers of any county in Utah combined, the wealthiest county that you may select, and the money came principally from the wealthy and not from the poor. The widow who had a home worth five hundred dollars was taxed a little more than four cents, and it was used in establishing an industry that has benefitted the whole people. Not only has it kept money at home, but it has taught the people of Utah a better way of using their land and tilling their soil and has benefitted them vastly in that respect. It is not applied to one class, but it has been to the agriculturist, to the coal miner, to the merchant, for the money kept here has benefitted him and every class throughout the Territory.

Mr. PIERCE. I would like to ask the gentleman if the price of sugar has not

been higher in Utah than any similar market in the United States, since the factory was established?

Mr. CANNON. I do not believe that it has. But I can say this, that as I stated this morning, it has been lower in Utah every time when the Utah product was upon the market, than it has at any other time, and that before the Utah product comes in, it is higher, and then drops after it comes in, and after the Utah product goes out of the market, it immediately rises. I have the amount in each year here, if any gentleman desires to hear it. The other day it was stated by Mr. Cutler, in answer to a question, that as soon as the Utah product was off the market, within one week the price of sugar advanced from fifteen to twenty-five cents a sack in this market.

Mr. PIERCE. Mr. Chairman, there was an argument made upon the floor sometime ago, that Utah County was represented in this Convention by democrats, and that was an indication that Utah County was opposed to bounties. The figures do not tell stories, and I have before me the statistics, and I want you to take the analogy of it. Take this statement that we have. Utah County in 1891—the democratic vote was 1,958, the republican was 1,011. The sugar company was established, if I recollect correctly, in 1889, and the bounty first granted by the Legislature of 1890. Ever since that year, 1891, the republican vote has been increasing, and every year the democratic majority is less and less, and because the sugar factory is now in Utah County, I expect to see at the next Legislature, Utah return all republican delegates to the Legislature. [Applause.] That is the argument made by the gentleman of Utah County, and I say that the statistics that we have here are a complete answer to his argument. I would like to read the figures:

In 1891, democrats, 1,958, republicans, 1, 11.

Now, let us look and see in 1894: the vote was, democrats, 2,632; republicans, 2,551; less than one hundred majority. The next time we hear from Utah County upon this bounty question, we will have a solid republican phalanx here.

Mr. THURMAN. Have you got the vote there by precincts?

Mr. PIERCE. I have not the vote by precincts.

Mr. THURMAN. I wish you had. I would like you to compare the vote of Lehi, where the sugar factory is, in 1892 with 1894. You will find a gain of about fifty democratic votes right on the very spot where the factory was built.

Mr. PIERCE. Bring in your statistics. I have the statistics here to back me.

Mr. VAN HORNE. I would like to ask one question of Mr. Thurman. Is not it a fact that you yourself accounted for the local majority of Lehi on an entirely local cause, and separated from the question of the sugar factory there?

Mr. THURMAN. Not that I am aware of. I do not know that I ever made any excuse for it, except that the people over there, when they came to send a man to this Convention, they voted ahead of the ticket to send a democrat here with a view of putting into the Constitution just such a clause as we are seeking to get now.

Mr. CANNON. Was not that because he was such a troublesome neighbor that they wanted a rest?

Mr. ANDERSON. Mr. Chairman and gentlemen, I am opposed to this motion. The principles expounded by the members in favor of this motion may sound very well in theory, but according to my experience, they did not result and they have not resulted so happily in practice. The people of Utah do not want this prohibition in the Constitution. And I think they spoke in emphatic tones at the last election.

Mr. JOLLEY. Mr. Chairman, I was a little surprised to hear the question

asked in relation to the factory being a blessing to Utah County. If you think it is not a blessing to Utah County, you people that live in Utah County go out into the adjoining counties on the south and stop there. Some people when they gather in their harvest of wheat and oats and barley, and have to sell it out for about thirty or thirty-five cents a bushel in order to get money to pay their taxes——

Mr. EVANS (Utah). Might I ask the gentleman a question? I would ask if that statement came from the democratic side of the house?

Mr. JOLLEY. The question was asked from the democratic side of the house, if the factory had been a blessing to Utah, why did they send democrats here.

Mr. EVANS (Utah). There was no such question asked.

Mr. JOLLEY. I would like to ask another question. That is about all I have to say, and that is if it is not a blessing and a benefit to the people of Utah, why do they keep putting in thousands of acres more of beets every year from the beginning? When your beet harvest is going on you inquire of the little boy that is going into the field to gather up the beets and he will tell you that he will get from fifty cents to six-bits just for picking up beets and his parents have the money in a few days to pay their taxes, whereas if it was not for that factory, Utah County would be put about to hunt money as other counties have to in order to find a little something to pay their taxes with. I say that the ones that depreciate anything the most are the ones that you make a present to of anything and I think that that is the ungratefulness of Utah County, if there is any. The blessing is dumped down in their laps and in order for them to see and derive the blessings therefrom, they should get off a little distance and look back at those receiving the fifty cents and six-bits for their children daily gathering up the beets and sending them to the factory.

Mr. EICHNOR. Mr. Chairman, I asked Mr. Thurman of Utah County a little while ago who moved the previous question in the United States senate. The question was an absurdity. The question should have been this, who was the chairman that reported the bill for the demonetization of silver? The answer would have been Senator Bayyard of Delaware.

Mr. GOODWIN. Mr. Chairman, is Mr. Eichnor to be permitted to explain all of his absurdities?

Mr. ROBERTS. Mr. Chairman, when we had under discussion on this floor, the question which involves the right of eminent domain and the taking of private property for public uses and the taking of private property for private uses, a very prominent republican upon this floor made this statement, that he was opposed to taking private property for private uses under any circumstances. He believed it to be a vicious principle and that, sir, I take it is the question that underlies the discussion that is now in progress—the taking of private money by the strong arm of government for private uses. That is the principle against which the democrats are contending in this issue. I hold it, sir, for one, to be worse than highway robbery, for the reason that if you are met upon the highway by a man who takes it upon himself to command you to throw up your hands while he goes through your pockets, you have then some chance in the personal encounter to hold onto that which is your own. But when you give unto the government the power to go to every man in this Territory and take from him in the form of taxation money which the hand of the government may confer upon favored classes, engaged in private enterprises, I take it, sir, that it is an outrage and it is useless for men to tell me that that power will not be

abused and in the end bring disaster to the people.

The gentleman from Salt Lake this morning in discussing the power of wealth was certainly correct in his statement that its power had not been properly estimated. I, sir, am not very particular about looking after the rich. They are competent of taking care of themselves, but it is in the interests of the masses, it is in the interests of the people, it is in the interests of the poor, that the strong arm of the government be not allowed to aid those individuals, already strong, in increasing their strength by making them the patrons or giving government patronage. Now, I take it, sir, that this discussion is not altogether unfruitful and that in reality we are making some progress. The gentleman from Iron County conceded that last fall the question of allowing the State to loan its credit in the aid of private enterprises was not an issue in the campaign. We always knew that our republican friends were in favor of giving public moneys in aid of private enterprises, but hereafter, when we reject this amendment that is offered or this section that is offered, we shall forever know that you are not only in favor of giving public moneys in aid of private enterprises, but you are also willing that the credit of the State should be used in the same way and that you would vote upon the people burdens of debt, in order to accomplish the same purpose. We shall know that hereafter, and I freely believe that had this issue been made in the campaign of last fall, we would have had a very different complexion politically to this Convention, because however much you might persuade the people that it was right to use public moneys in aid of private enterprises, I think you would never have brought them up to the point of consenting that you plunge the State into debt for the same thing.

I am exceedingly sorry in one respect that this question of the sugar factory in this Territory has been brought upon the floor of this Convention. Personally, I have a very high regard for that enterprise, and for the gentlemen who launched it, and in answer to the remarks of the gentleman from Salt Lake (Mr. Morris) in which I understood him to accuse the democratic party of having made misrepresentation in regard to that enterprise in the last campaign, I wish for myself at least, to resent the statement that there was any misrepresentation made in regard to that enterprise. I know, sir, that when it became notorious that the great sugar trust of the United States had laid its hands upon that industry, with a determination to choke out its life, from that time on at every democratic meeting that was held, I for one, at least urged the people to stand loyal to that industry and to patronize its product, even if they had to pay a higher price for its sugar than they could purchase it in the general market for. Resolutions were sent to nearly all of the meetings held under the auspices of the democratic party as soon as that became known, and for one, I was willing and am willing in this way to assist that enterprise. But, I am not willing even that this enterprise, laudable as I grant you that it is, should be sustained and supported at the expense of the people of this State, because, however laudable this enterprise might be, it is very likely, sir, that other companies will form and other projects will be innaugurated which will not be so laudable, and gentlemen engaging in them will not be moved by such patriotic sentiments as those that actuated this present company. I do not wish to take up the time of this Convention unprofitably, but, sir, you shall not find another question that will come before this Convention that is more important than the question as to whether there shall be any limitation put upon the power of the Legislature to tax the people.

Nor shall you find a question more important as to what the purposes of taxation shall be, and when gentlemen undertake to tell me that this is a political question and try to side-track it, and to ride on to the accomplishment of their purposes and not listen to the objections of those who have objections to urge against their proposed plan of construction of this government for the new State, I wish to say that I take issue with them, sharp and clear, so that even the minority, however small it might be, has a right to be heard upon this great question of fundamental law. It is a mistake to say that there is no importance to these questions. They are important, and the minority have just as much right to expound their views upon this question as the majority have, especially when you take into account that the majority, by merely keeping silent, as was pointed out this afternoon, affirm their political doctrines, because if there are no limits put upon the Legislature in the matter of taxation, and if there is no purpose under heaven but what they may exercise that taxation for, by being silent upon it obtain, and I take it that the minority who do not see the question in that light, have a right to be heard in argument upon that issue. I was about to remark, that I regretted that this sugar company had been referred to, that in some respects, I am sorry, in other respects I am not sorry that it has been alluded to for the reason that it gives a very good illustration of the abuses that are apt to arise under the bounty, because of the policy of our republican friends. Gentlemen have stated upon this floor that this factory has affected the price of sugar to the people. That when its product is upon the market sugar is lower. That when its product has been consumed sugar is higher. We learned last year how that came about. It came about, sir, not because of the existence of the sugar factory in this Territory, but it grew out of the fact that the gigantic monopoly, now so strong, that it is able to measure arms with the government itself, was operating here and endeavoring to crush out the life of this home enterprise. It quoted its prices and the factory here in Utah had to cut its prices to meet the reduction, still the home product was left in the hands of dealers and the foreign sugar was being purchased by our merchants. And why? Because that sugar trust was giving a rebate, was cutting under its prices, and our merchants were purchasing the sugar at quoted prices with a rebate, and hence our home product could not find a market here among us and they had to reduce again to meet the cut, and thus the sugar trust of the United States operated against our home industry, until it was compelled to put its product upon the market at the same price that the trust was selling its sugar for, and the effort of the trust was to destroy the life of the home industry.

And, Mr. Chairman, it is yet a question whether they will not succeed in this instance as they have succeeded in other instances. And now, you go on feeding this industry. What assurance have you that instead of aiding our own citizens in an enterprise, it will not finally terminate that you have been feeding bounty not to our home factory here, but to the sugar trust of the United States? It is herein that the viciousness of this principle in part is seen.

Mr. CANNON. Will the gentleman yield for a question? Would a bounty of one cent give the sugar trust the same advantage that a tariff of one cent would?

Mr. ROBERTS. I do not know, sir.

Mr. CANNON. Is it not a fact that that which we consume in the United States amounts to from eight to ten times that which we produce of sugar?

Mr. ROBERTS. I am not acquainted with that fact.

Mr. CANNON. That is a fact.

Mr. GOODWIN. May I ask Mr. Roberts a question? Is not it true that the sugar trust never attempted to make any inroads on the Utah sugar factory until the bounty was taken away?

Mr. ROBERTS. I cannot say, sir. I am not acquainted with that fact.

Mr. GOODWIN. Well, that is the truth.

Mr. ROBERTS. Mr. Chairman, whether bounty or no bounty is given to the home industry, you will find that sugar combine making war upon these enterprises outside of the combine, until they are forced into the trust. That is the purpose of the war made upon the independent factory, and it is true, sir, that the gentleman alluded to by my friend from Salt Lake, Mr. Cannon, who has been engaged in the establishment of sugar factories in this Territory, had a long conversation with me upon that subject and I asked him how it was that he did not establish or seek to establish a factory up here in our county that has a soil and a climate unsurpassed for that industry. He said that he dared not. The enterprise could not be launched for the reason if we undertook to establish too many independent factories the result would be that the trust would make war upon those factories until the life was crushed out of them. The gentleman from Salt Lake made the statement that from the beginning of our history in this Territory this policy of paying bounties had been favored by the people of Utah, but I wish to say that there was at least one prominent—the first governor of this Territory, who has left himself upon record as against the principle involved in this issue. I read from the governor's message to the senators and representatives of the State of Deseret—that is, the prospective State of Deseret, in 1850. He made these remarks:

There is no doubt but that the demand and price consequent upon the distance of any successful competition will prove sufficient inducement for the capitalists to invest their means in whatever will necessarily prove a safe investment and insure an abundant return. Any and all kinds of encouragement by throwing around them an energetic and efficient government should unquestionably be given. It is wisdom to let capital be associated in infant settlements, because there is a necessity for it, for a time, but to lay the foundation for money capitalists to monopolize against labor is no part of my policy, politics, or religion. To engage enterprise in constituting works of magnitude, it may be well to guard the privileges, but they should be so guarded as to be made amenable to the power granting them at all times, for the abuse of the powers granted, or directing them to another object than the one designed.

I take it, sir, that that is one of the "nuggets" that escaped publication. I recommend it to the consideration of my friends in their new additions. The gentleman from Salt Lake (Mr. James) believes that I in reality am not against using the taxing power of the government in aid of individual benefits, and he points to our school system—that is, our system of free schools sustained by taxation, and I presume means to infer that by sustaining schools by taxation, which results in the education of individuals, that therefore, since I favor a free school system in that particular, I am in favor of using the taxing power of the government for individual benefit. Such I understood to be his argument.

Now, in answer to that, I have only this to say, that that is not for a private benefit. It is for a public good that the citizens of the State shall be an educated people. It is not for the purpose of securing private gain or building up private fortunes. That is not the question at issue in the argument presented by the gentleman on that particular point. And that is open to the rich and poor alike. My friend from Utah suggests it is altogether a different question. The question involved in the point under consideration is, is

it a benefit to the State, is it a benefit to the public that all the people shall be educated? There is but one answer to that question and that answer is in the affirmative. It is the State's security. It is the State's welfare, that is provided for in our public educational system, and not the individual who receives the education. The State is not interested in that issue in looking after the individual, but it is looking to the interest of the entire community, and it is quite a different question to that which involves the building up of private fortunes, by taxing the people to that end, whether they be rich people or poor people. Now, I have, as already expressed, full confidence in the gentlemen who have started this enterprise that has been spoken of, the Utah sugar factory, at Lehi. I am willing, sir, to say with the gentleman from Salt Lake that their motives are pure. But what are corporations largely formed for—nay, what was this company formed for? To benefit the people, we are told, and in this particular instance, since I have a personal acquaintance with many of the founders of that scheme, I am ready to grant that, but that is only part of it. It does not only involve the benefit of the community, but that corporation, however pure its intentions were, also believed that they were engaging in an enterprise that would result in increasing their own wealth, as well as being a benefit to the people. Corporations largely are not formed for the sole and patriotic purpose of giving employment to people, but for amassing wealth to be used by themselves personally and individually.

And I take it, sir, that that will be the purpose in the future, and if you put no limitations either to the amount of taxation or the purpose for which taxes shall be levied, and require only a bare majority to secure the levying of these taxes, then I wish to say that the future experience of Utah Territory will be just what the experience of other states has been, that you will find your Legislature besieged by the agents of corporations, who will come here for the purpose of feeding upon the substance of the people, collected from their hard earnings, by the strong arm of the government, and it will not always be to build up our own citizens either, but foreign companies will be organized, and their agents will be here for the purpose of securing legislative aid. Now, sir, it is to provide against these evils, that the minority have offered the various sections which you have voted down. Now, that you have voted three, as I remember it, of these sections touching this point of political doctrine, we offer you a modification and say, that if the people are to be taxed in aid of private industry, then at least it ought not to be done unless two-thirds of the people are willing that it should be done. Gentlemen have asked, how is it that you single out this particular power of the Legislature and purpose to limit its power in this respect? Why not require a two-thirds majority for the passing of any enactment of legislation? If the gentleman would but pause a moment and reflect upon it, he would not want that question answered.

The reason for requiring a two-thirds majority for loaning the credit of the State to any individual or company or association, or granting its public moneys in aid of private enterprises is of such vital moment and touches so nearly the interests of the people that we are justified in saying that in this particular instance you shall not exercise this power of government unless the majority in favor of it is so large that it amounts to two-thirds of the voters. Now, Mr. Chairman, I take it, that we have placed our friends upon record. We have placed ourselves upon record in this issue. We have done what we could by argument, by reason, by offering sections to this Constitu-

tion limiting the power of the government in this particular, and if in the future disaster, which has overtaken other states which insisted on following the same policy that you now insist upon, when these calamities come, we will have freed ourselves from the responsibility in the case, and it cannot be said in future years that there were men upon the floor of this Constitutional Convention who believed that granting to the Legislature power to use public money in aid of private enterprises and to use the credit of the State in aid of private industries—it cannot be said that we remained silent and allowed you to draw the lines of the fundamental law in such a manner as to grant these powers without our objection. We have, at least, in this issue discharged our duties and we are willing to stand upon the record made here, whether it shall result in a second Waterloo or not.

Mr. MURDOCK (Beaver). May I just ask the gentleman one question? Do we understand that the incentive of the sugar company was the emoluments that they would derive from the investment?

Mr. ROBERTS. I say, Mr. Chairman, that in part that was it. I tried to explain myself that I was willing to accord to those gentlemen patriotic motives, but that was not their whole object. That they considered that they were engaging in an enterprise that would result, not only in benefit to the people, but good for themselves.

Mr. MURDOCK (Beaver). Of course that is very true.

Mr. RICHARDS. Mr. Chairman, I desire to offer an amendment. I desire to have added to the section the following words, "and then only for public purposes." I understand the gentleman from Davis accepts the amendment.

Mr. ROBERTS. Yes, sir; I accept the amendment.

The question being taken on the adoption of the section proposed, the committee divided, and by a vote of 36 ayes to 49 noes, the section was rejected.

Mr. CANNON. Mr. Chairman, I move that when we rise we report the article for adoption.

Mr. VARIAN. Mr. Chairman, I want to call attention to paragraph 9, section 31, that was reconsidered on yesterday, in order that it might be examined a little further. I would like to have it considered for a moment in connection with section 24 of the bill of rights. The committee will observe that section 24 of the bill of rights prohibits generally the granting irrevocably of any franchise, privilege, or immunity, while paragraph 9 of section 31 is relative to special laws. The intention is to prohibit the granting to an individual, association, or corporation of any privilege, immunity, or franchise by special law. Inadvertently it seems to me the standing committee have incorporated in there the language, "irrevocable, special or exclusive."

If it shall stand there, it would seem that by implication the Legislature might grant by special laws to associations general privileges, immunities, r franchises. In order to harmonise it with the general intention of the Constitution, taking the two sections together, the one of the bill of rights and the other here, I submit that the words "irrevocable, special, or exclusive," should be stricken out, in which event we would have in the bill of rights a general provision against irrevocable grants, and in this article you would have a provision against granting by special law any privilege, immunity, or franchise. I would like to call the attention particularly of some of the lawyers in the house to that question, in order to be certain that I am not making any mistake about it, and I move to strike out from this paragraph the words "irrevocable, special, or exclusive."

Mr. RICHARDS. Would you have any objection to letting this be re-

ported with that language in and bring the matter up on third reading, which would give us an opportunity to consider this question.

Mr. VARIAN. Not at all; I prefer to have it that way, if the gentlemen will kindly give it their attention.

Mr. RICHARDS. We will try and be prepared at that time to act upon it.

Mr. VARIAN. There was another matter I wanted to direct attention to in order that I might bring it up on the third reading. I purposed offering this amendment here, but in accordance with the suggestion of my friend from Salt Lake, Mr. Richards, I think it is better to delay it in order that it may be considered a little further. To add at the end of this section:

But nothing in this section shall be construed to deny or restrict the power of the Legislature to establish and regulate the compensation and fees of county and township officers, to establish and regulate the rates of freight, passage, toll, and charges of railroads, toll roads, ditch, flume, and tunnel companies, incorporated under the laws of this State, or doing business therein.

With that informal notice, I would be glad if the gentlemen would be thinking about it.

The motion of Mr. Cannon was agreed to.

The committee of the whole then proceeded to the consideration of the article on executive.

The CHAIRMAN. The chair is informed that we had progressed to the twelfth section of the article on executive and the question is on the adoption of the substitute offered by Mr. Eichnor.

Mr. EICHNOR. Mr. Chairman, that is a substitute for section 12. The substitute I proposed gives the governor the power to pardon for misdemeanors, without the consent of the board of pardons; if a person is convicted of a misdemeanor, if you have a board of pardons, before you would have a hearing before the board of pardons, the man has generally served out his sentence in the county jail or in the city jail, or wherever he may be confined. In cases of felony—that is, an offense of imprisonment in the penitentiary, it ought to go before the board of pardons, and the board of pardons in this substitute consists of the secretary of state, the attorney general, and the state auditor. In section 12, as it stands, the board of pardons consists of the governor, justices of the supreme court, and the attorney general. I believe there are two states in the United States where the justices of the supreme court constitute the board of pardons, or a part of the board of pardons, namely, the state of Nevada and the state of Florida. In many instances cases are appealed to the supreme court of the state. The judges of the supreme court pass on the judgment of the lower court. If they affirm the judgment I think there would be very little show for any man to get a pardon, after they had affirmed the judgment. In other words they would almost stultify themselves if they would grant a pardon after they had affirmed the judgment. And there is another thing. A board of pardons should not be constituted of judges. I look upon a board of pardons somewhat in the light of a jury of mercy. It is true they examine the evidence, but they examine all the surrounding circumstances. They should not weigh every little technical point, whether the question was material, competent, or relevant, but they should view the whole case through the eyes of human wisdom, not hedged by technicalities. If we place this power in the hands of the judges of the supreme court, you virtually say to the people of the State of Utah, "We will grant no more pardons." Whether my substitute is perfect or not, I claim that it has this advantage, that it takes the power away from the supreme court, after they have passed upon it, that the governor, in misdemeanors, can pardon the of-

fender, without the offender resorting to the board of pardons.

Mr. MALONEY. Do I understand you to say that the attorney general is on the board of pardons?

Mr. EICHNOR. Yes, sir.

Mr. MALONEY. Is he the officer that in all probability will prosecute the offense?

Mr. EICHNOR. In all probability, I presume he is.

Mr. MALONEY. He would invariably think the conviction is right.

Mr. EICHNOR. I have found a prosecuting attorney is more apt to sign a pardon than a judge.

Mr. MALONEY. I do not think the attorney general ought to be on a board of pardons.

Mr. EICHNOR. The attorney general represents the State; I think the State should have one representative on there, that is fully in accord with the judicial machinery of the State.

Mr. MALONEY. I should think the governor would represent the interests of the State in granting pardons.

Mr. EICHNOR. You have good authority on your side. Senator Hill, of New York, does not believe in pardoning boards.

Mr. VARIAN. Mr. Chairman, this is a question of importance, evidently misunderstood. I should infer from the remarks of my friend from Salt Lake, if I understand him correctly, after you have exhausted all of the machinery of the government, provided for the enforcement of the criminal law, in aid of society, he would constitute another court of appeals, as it were, who are not guided by fixed and settled rules in their judgment, but are to determine these questions in accordance with the shifting views of the different persons who may from time to time compose the board. He fears that the judges who have passed upon the records, if there should have been an appeal in the individual case taken, might stultify themselves if, when called upon in another and entirely different capacity, they should vote in favor of a pardon or a commutation of sentence. My friend on the other hand also fears that the law officer of the State to whom the people have entrusted the administration of the criminal law, would be so committed against a defendant, because he had occasion to discuss and argue the case in the appellate court, and he too might be counted on all the time to throw his weight and his vote in the scale against the application. Now, I do not understand that these objections are founded in principle and in fact. I believe that there are eight or nine states where the system of a board of pardons is in operation. Only two or three, as suggested by Mr. Eichnor, make up the board as this article proposes to make it up. The system has been in operation in your neighboring state ever since it became a state. It operates well. It operates in the administration of the law for the preservation of society as we wish it to operate.

It is founded upon this principle: after a defendant has been indicted by a grand jury and he has been charged by twelve men or such number of men as you may determine shall constitute a trial jury, and the court who tried the case has had an opportunity of passing upon his guilt or innocence and denies his motion for a new trial, and he goes still further to the court provided for the supervision of all these proceedings of the lower court, and the judges there, after careful considerate investigation in the light of the law and the fact, affirm the judgment, I say, sir, under the rules which ought to and must govern society that that fact of that man's guilt, as a general rule ought to be taken to be established, and in the very nature of things you must adopt that principle, that then, after all the methods provided by law have been exhausted in the absence of course of fraud or wilful and wicked wrong doing in an individual case,

which you cannot presume and which would correct itself by arresting the attention of the public instantly, you must assume that the man is guilty. Now, when you reach that point in the administration of criminal law, you have reached a point that the good of society requires that he must be punished, not only for his own reformation, but in order that others may be deterred in like circumstances from doing the act which has been adjudged to be an offense against society, and if the question of mercy is presented at all, it must come on other grounds and for other reasons than those connected with the guilt or innocence of the defendant. My belief is, and my position is based on a somewhat extended experience in the administration of the criminal laws, both here and in other places, that a a man ought not to be pardoned unless there is some good or sufficient reason accruing after judgment, as a rule, that it is better for society that its laws should be enforced, and to enforce them it means that the punishment provided by law must be meted out to those who offend against the law.

The design of this article is (and it is in accord with the advanced penalogical thought of the age, the tendency is that way day after day and year after year) to put this question of pardons on a different and broader basis than it has been heretofore. First, constitute a board upon whom shall rest the responsibility. Second, require that the hearing must be had in public, that the State may be represented there as well as the defendant; do away with this whispering, and pulling and hauling on the streets and on the side by interested persons, where only one side of necessity can be heard. Require notice to be given of an application; that the State and the applicant be represented there, and hearing had and a judgment given practically as in other cases. That in theory and in principle underlies the system in which the governor alone has the power of pardoning or commuting sentence, and in some instances, in some states, this rule is adopted of having a hearing, requiring applications to be filed, requiring notice to be given to the state's attorney, and proceeding in that way. So far as that is concerned, it can be no matter where the power is vested. As a matter of fact, I have never heard yet (and I lived under this system for some seventeen years) any complaint made that the judges or the attorney general permitted themselves to carry into the board of pardons any such feelings, or any such littleness, as Mr. Eichnor, my friend from Salt Lake, fears might be done. It works well, but if you do not like this board, re-arrange it in some other way. I would suggest and submit that the state auditor and the secretary of state should not be the persons to revise and review practically the administration of the criminal law. It requires, and ought to have, trained minds and intellects in those who are called upon to pass upon this great question and prerogative—I mean trained in that particular line relatively, taking into consideration the duties of society to the citizen, and the citizen to society, and the general interest of the entire community as a whole. This I believe is a statement of the ideas of the several members of the committee concerning this subject; further than that, I do not know that the committee is interested in sustaining this report. It is of course a matter of public concern and interest, but we submit that the amendment offered by the gentleman from Salt Lake does not begin to reach the question. It is conceived in a misapprehension, I think, of the entire subject, and is not at all comprehensive enough to meet the suggestions set forth in this article.

Mr. EICHNOR. Mr. Chairman, I would like to ask Mr. Varian a question. Under section 12, would not it almost be impossible to have a man

pardoned who was convicted of a misdemeanor—would not it be the next thing to impossible to get the judges of the supreme court and the attorney general together?

Mr. VARIAN. Not at all; not at all. As a rule these boards meet every quarter; it has a regular calendar, but the gentleman will notice that the governor has the power, pending the sittings of the board, to grant respites or reprieves, to suspend the operation of the sentence until the case can be acted upon at the next sitting of the board of pardons. It is inserted in here with that special purpose. I want to say only one thing more, that my observation has been that gentlemen of my profession, when they are engaged in the defense of a man charged with crime as a rule, want to carry it clear through to the last court permitted them by the law, and when they get through with that they are still not satisfied, and they immediately bend their energies towards securing influence and pressure enough upon the pardoning power to evade the execution of the sentence or getting their man turned loose through the medium of the pardoning power.

Mr. EVANS (Utah). I would ask whether you know of a case where that has ever been abused in our Territory—where men of your profession have prevailed on the governor, and it has been abused under the present system?

Mr. VARIAN. There are peculiar instances, with which I have been surrounded and connected, which, under the circumstances, prevent me from answering the question.

Mr. BOWDLE. Mr. Chairman, when this matter came up a few days ago, I understood the objection that was made to this article was on the ground that the judges of the supreme court would probably be so biased in a case on which they had passed that they would practically be settled in their opinion. I first thought that there was some trouble with it, in that, but I believe that the practice upon questions of that kind removes the weight of the objection. As I understand it, when you take a case of that kind to the supreme court the court very generally does not look at the facts. They do not weigh the evidence particularly; they have left that for the jury and the trial court. They are more particularly concerned about whether the conviction was had in the manner laid down by law, and whether the legal matter was correct, and not so much the weight of the evidence in the matter, so that I do not believe that the supreme court judges would go into the question of hearing a pardon with minds made up, or prejudices, so that they could not sit there fairly and listen to it, and if it were right to grant it. I do not believe in making pardons an easy matter; I do not think we ought to do it. When a man has wilfully violated the laws of his state, has been convicted of doing that thing, we ought not to make it an easy matter for him to evade the punishment that has been put upon him, and if you leave it to the governor, or if you leave it to men who have not been trained in that particular thing, they are about like a jury—it is simply trying it over again to another jury, where they would not be even tied by the rules of evidence, and would be free to try the case over again without any rules of evidence, practically, binding them, and therefore I am opposed to this amendment; and while I do not know that I am entirely in favor of the section, as a whole, as it stands—upon that part of it, I shall oppose the amendment.

Mr. LOW (Cache). Mr. Chairman, I have a serious objection to the article in the report of the committee on executive, as well as to the substitute offered by the gentleman from Salt Lake.

The original is too voluminous and contains too much legislation, according to my views, and the form of the

substitute has serious points of objection, in my estimation. I do not believe that the governor should have the power to grant pardons absolutely as first appears in this substitute. I do not think that he should have this power outside of the regulation that the Legislature may provide for the control of the board of pardons, and in order to give my views concisely upon the section, that I think will cover both the original and the substitute which have been offered, I would prefer the following:

The governor, secretary of state, and attorney general, shall constitute a board of pardons, and shall have power to grant reprieves, limitations, and pardons for all offenses, excepting treason, etc.

You will find in the report that after the third line in that section that which follows is legislation, pure and simple, and of such a nature that the Legislature should have control of it, and they should have the power to change it when the necessities of our government may demand it. You will find, too, by further reference to the thirtieth and thirty-first lines, that in case of conviction for treason, reports have to be made to the Legislature of what has been done. The sanction of the Legislature is given to the acts of the governor before the pardon, and for this to be the case, as the provision remains here, the Legislature must act upon the matter. Why not leave it to the Legislature to make all provisions for it to control the board of pardons? In answer to the complaint or objection offered to the secretary of state becoming one of the board of pardons, or a member of that board, it was stated that he was not supposed to know anything of the merits of the case. I call attention to the fact that in the eleventh section of this article which we have for consideration, the secretary of state is constituted governor in case of disability to the governor himself, and he would be placed in the position of governor. Therefore, if this be voted down, I shall offer my suggestion as a substitute for the original motion, that the governor, secretary of state, and attorney general shall constitute a board of pardons under the simplest form in which we can put this section. It will relieve us of a great amount of legislation, a tendency which is added in most constitutions of states recently formed, because we have tended in that direction too much. I prefer that we leave some little to the Legislature.

On motion, the committee then rose and reported as follows:

The committee of the whole have had under consideration the legislative article, which they report as amended, and desire to have it placed on the Convention calendar for third reading.

Also report progress upon the article on executive.

On motion, the Convention then, at 5:15 o'clock p. m., adjourned.

FORTIETH DAY.

FRIDAY, April 12th, 1895.

The Convention was called to order at 10 o'clock a. m. President Smith in the chair.

Roll call showed a quorum present.

Prayer was offered by Rev. Geo. E. Jayne, pastor of the Second M. E. church.

Journal of the thirty-ninth day's session was read and approved.

The following petitions were presented asking that the question of woman's suffrage be submitted as a separate article to the vote of the people:

File No. 261, signed by J. Hegney and 46 others from Salt Lake, by Goodwin, of Salt Lake.

File No. 262, signed by G. A. Whitaker and 28 others from the board of labor

of Salt Lake City, by Goodwin, of Salt Lake.

File No. 263, signed by Mary Ramjue and 26 others from Wellington, by Howard, of Emery County, by request.

File No. 264, signed by Fred Yates and 101 others from Millville, by Maughan of Cache, by request.

File No. 265, signed by L. H. Outzen and 90 others from Richfield, by Brandley, of Sevier, by request.

File No. 266, signed by H. Hughes and 144 others from Spanish Fork, by Creer, of Utah.

File No. 267, signed by S. W. Sharp and 53 others from Provo, by Corfman, of Utah.

File No. 268, signed by W. W. Davis and 24 others from Carr Fork, by Squires, of Salt Lake.

File No. 269, signed by Mrs. J. Niven and 40 others from Murray, by Haynes, of Salt Lake.

File No. 270, signed by W. W. Smith and 32 others from Rockport, by Eldredge, of Summit.

File No. 271, signed by Thos. Bradley and 86 others from Hyrum, by Thoresen, from Cache, by request.

File No. 272, signed by Isaac C. Emery and 8 others from Center, by Stover, of Tooele.

File No. 273, signed by F. A. King and 37 others from Hooper, by Kiesel of Weber.

File No. 274, signed by Wm. Harcombe and 54 others from Ogden, by Kiesel, of Weber.

File No. 275, signed by R. G. McQuarrie and 20 others from Silver Reef, by Ivins, of Washington.

File No. 276, signed by F. L. Cushing and 49 others from Carr Fork, by Squires, of Salt Lake.

Ordered filed.

The following petitions were presented asking that an equal suffrage clause be placed in the Constitution:

File No. 277, signed by L. P. Oveson and 114 others from Cleveland, by Howard, of Emery.

File No. 278, signed by George Harding and 237 others, by Wm. Lowe, of Box Elder.

File No. 279, from citizens of Brigham City in mass meeting assembled 150 favoring a clause be placed in the Constitution for woman suffrage, and forty against, 75 not voting, by Peters, of Box Elder.

File No. 280, signed by Geo. C. Murdock and 258 others from Beaver City, by Murdock, of Beaver.

File No. 281, signed by Henry E. Reddish and 203 others from Davis County. by Call, of Davis.

File No. 282, containing 1,010 names from Salt Lake City; 107 names from Deweyville; 23 names from Leeds; 163 names from Utah County; 285 names from Spring City; 290 names from Manti; 527 names from Salt Lake County, by Chidester, of Garfield.

Ordered filed.

Mr. Raleigh, of Salt Lake, presented File 283, signed by Geo. F. Goodwin and 47 others, asking that the question of prohibition be submitted as a separate article to a vote of the people.

Referred to committee on schedule, future amendments and miscellaneous.

The article on legislative was then taken up on third reading.

Sections 1, 2, 3, 4, 5, 6, 7, and 8 were read.

Mr. EICHNOR. Mr. President, I move to amend section 8, line 6, after the word "commissioner," by adding "school trustee."

Mr. CORAY. Mr. President, I would like to ask a question for information. Is the state commissioner supposed to be an officer of the State and if so, is it the intention to bar him out?

Mr. VAN HORNE. Mr. President, I should judge it would be a good thing to bar the commissioner of schools out of the Legislature. He is a salaried officer under the State. This says, "no person holding any office of profit or trust under the authority of the United

States or of this State," and I thought it was not necessary to put school trustees in and for that reason did not put it in.

Mr. THORESON. Will this bar municipal officers in cities of the third class being elected to the Legislature? If it does, it should be amended.

Mr. VAN HORNE. I think that would not bar officers under the authority of the State perhaps. That is a question for construction by the courts.

Mr. THORESON. Just as much so as school trustees?

Mr. VAN HORNE. I think they are not officers of the United States. He gets his certificate of election in a different way. A justice of the peace gets his certificate from the State at a general election. I do not think that comes under the authority of the State.

Mr. EICHNOR. I think every officer in the State of Utah holds an office under authority of this State—by virtue of the authority of the State of Utah, no matter whether it is directly or indirectly.

Mr. KIMBALL (Weber). Mr. President, I hope this amendment proposed by the gentleman from Salt Lake will not be adopted. If you follow out the doctrine announced by him, you will have to include here road supervisors, dog killers, and everybody else. Now, it has never been considered in any state that school trustees come within this prohibition. I venture to state, if you will look up all the constitutions in the United States, you will find that the exception stops with postmasters of the fourth class or postmasters whose salaries do not exceed four hundred dollars. If you follow out the logic you will never get through putting in amendments here.

Mr. EICHNOR. With the consent of my second, I will withdraw my amendment of the words "school trustee" and insert the words, "local officers."

The amendment was rejected.

Mr. ANDERSON. Mr. President, I move as an amendment to this section that we strike out the words, "or of this State." I think there are so many officers of the State that should be eligible to the Legislature.

Mr. EVANS (Weber). Then you would permit the governor, would you, the secretary, or any other officer of the State to sit in the Legislature, or members of a city council, sheriffs, collectors, or anything else?

Mr. ANDERSON. Yes, if the people elected them.

The amendment was rejected.

Section 9 was read.

Mr. HART. Mr. President, it seems to me that the exception given in lines 6 and 7, namely, justices of the peace, comes within the objection made by Mr. Kimball, of Weber, to the amendment proposed sometime ago by Mr. Van Horne of Salt Lake. That exception seems to be upon the theory that "officers of the State" includes all officers, including local, precinct, and county officers. I move, therefore, Mr. President, that the words, "justice of the peace" be stricken out. I think the construction would then be as Mr. Kimball suggests, that "State officers" means officers of the State at large.

The question being taken on the amendment, the Convention divided, and by a vote of 33 ayes to 40 noes, the amendment was rejected.

Mr. HAMMOND. Mr. President, I am not in favor of this section, but it seems to be going through. These State officers that are to be supported by the taxpayers—I would like to see a provision that they should be freeholders.

The PRESIDENT. Will the gentleman make a motion? There is nothing before the house.

Mr. HAMMOND. If I could get a second, I would like to——

Mr. NEBEKER. I second the motion. [Laughter.]

Mr. HAMMOND. Now, San Juan is square on the floor.

The PRESIDENT. We haven't any motion.

Mr. HAMMOND. The suggestion was seconded. I make a motion, sir, that all the State officers that are supported by the taxes of the people, that they themselves shall be taxpayers and freeholders. In a country where land is cheap as it is here, it seems to me that all these officers at least might have a piece of land, if it was not any larger than sufficient to bury them upon or in. I have seen a great deal of this in my day. Office holders crying loudest for office pay but a very small tax, and I would like this to be provided.

Mr. VAN HORNE. I would ask Mr. Hammond if he has contemplated the fact that we passed in the declaration or bill of rights a provision that no property qualification should ever be required to vote or hold office?

Mr. HAMMOND. Yes.

Mr. VAN HORNE. Then I arise to a point of order that that could only be——

Mr. HAMMOND. Could not that be reconsidered, sir?

Mr. VAN HORNE. I arise to the point of order that that could only be by a reconsideration of that article.

The PRESIDENT. The gentleman's point of order is well taken.

Mr. EVANS (Weber). I call Mr. Van Horne's attention to the fact that that article in the Constitution provides, "except as otherwise in this Constitution provided," so that the gentleman from San Juan would be right now, if he wanted to make a motion.

The PRESIDENT. The gentleman will present his amendment in writing and we will entertain it.

Mr. VAN HORNE. I would ask if the provision of property qualification was not thoroughly gone over in the article on elections and rights of suffrage?

Mr. EVANS (Weber). It was gone over, but there was an exception made that there should be no property qualification, except as in this Constitution otherwise provided.

Mr. VAN HORNE. I ask about the elections and suffrage article. That did not go into that article.

Mr. EVANS (Weber). The other provision did, however.

Mr. KIMBALL (Weber). The gentleman's amendment does not pertain to section 8 at all.

Sections 10, 13, 14 and 15 were read.

Mr. CORAY. Mr. President, I move to strike out the word "smaller," in line 3, and substitute in place of it the word "less."

The amendment was rejected.

Sections 16, 17, 18, 19 and 20 were read.

Mr. BOYER. Mr. President, I move you to amend section 20 by striking out, in line two, the word "ninety," and insert in place thereof the words "sixty-five."

The amendment was rejected.

Mr. L. LARSON. Mr. President, I move that in line 3, section 20, the word "sixty" be stricken out and the word "fifty" inserted in lieu thereof.

The question being taken on the amendment, the Convention divided and by a vote of 38 ayes (noes not counted) the amendment was rejected.

Sections 21, 22 and 23 were read.

Mr. THORESON. Mr. President, I move to strike out the word "party," in the seventh line, and insert the word "person."

The amendment was rejected.

Section 24 was read.

Mr. THORESON. Mr. President, I would like to see this matter harmonized and for that reason I move that we strike out the word "person," in the first line of said section, and insert the word "party."

The amendment was rejected.

Sections 25, 26 and 27 were read.

Mr. SQUIRES. Mr. President, I move that a transposition be made in that section so that as amended it would read as follows:

Except general appropriation bills and bills for the codification and general revision of laws, no bills shall be passed containing more than one subject, which shall be clearly expressed in its title.

The amendment was agreed to.

Sections 28 and 30 were read.

Mr. VAN HORNE. I move that we pass section 31 until the end of the consideration of the other provisions of the article.

The motion was agreed to.

Sections 32 and 33 were read.

Mr. EICHNOR. Mr. President, I move to strike out section 33. It is a well known fact that the authorities of the United States have made war on lotteries, that it is the next thing to an impossibility to get a legislature to authorize the establishment of a lottery in the State of Utah. I know a number of states have that provision, but it is simply a dead letter. The United States would step in and punish every one connected with the affair. Not in the local matters, but as far as the mails are concerned. You could not use the mails for any purpose of that kind. I do not think that there is any danger that the State of Utah wants to establish lotteries, or authorize any one to establish a lottery.

Mr. BOWDLE. Mr. President, I am opposed to striking out that section. North Dakota adopted a constitution without any section pertaining to lotteries in it. I am informed by gentlemen who lived in the state at that time, that their first legislature was besieged during the whole of its time by the Louisiana lottery to try to get authority to operate in that state, notwithstanding the prohibition that is passed by the United States government, with reference to the use of the mails, and we do not want that trouble here. If we leave it in, it will be notice for them to keep hands off.

Mr. EICHNOR. Have you any idea that the Legislature of the State of Utah would in any way be bamboozled into establishing a lottery?

Mr. BOWDLE. They might not be, but we can so easily prevent them being importuned to do it, let us take the opportunity and do it.

Mr. EICHNOR. In other words you believe in putting up a sign board?

Mr. BOWDLE. Yes, sir.

Mr. VAN HORNE. Mr. President, I hope that article will not go out. It is against the principle. I have heard in all my efforts to do anything with regard to this Constitution, "It is legislating in detail; it is limiting the power of the Legislature, and for that reason it is objectionable." But we know by common report that there were a million and a half dollars in the hands of men besieging the legislature of North Dakota to grant the franchise for a lottery. A great deal has been said about the necessity of our putting guards around the Legislature for their future action in matters that have not the magnitude that that would have. It seems to me that it would be well to leave in the Constitution a prohibition against granting a franchise that common consent of the country holds to be an immoral franchise and detrimental to the public good. I hope the section will not be stricken out.

Mr. EVANS (Weber). Mr. President, I am entirely opposed to the striking out of this section. There is no doubt but what if this section is stricken out there will be a combination of people who will importune our incoming Legislature for the purpose of securing a franchise to carry on lotteries and games of chance. I believe that such institutions are wrong in principle. I believe that we ought to put an inhibition upon the Legislature to permit a thing of this kind. My friend from Salt Lake says the Legislature cannot be bamboozled into granting such a franchise. I say let us make a prohibition in the Constitution so that they will not even consider the question at all. I

am opposed to the striking of it out and will vote against it.

Mr. HAMMOND. Let me ask the gentleman from Weber a question? Will this prohibit horse racing? I am very fond of horse racing. I never bet much on it, but I am fond of it.

Mr. EVANS (Weber). No; it will not according to the construction of the courts.

Mr. HAMMOND. Then I am satisfied.

Mr. VARIAN. Mr. President, and gentlemen, I hope this will not go out. We need just such a prohibition and the history of the times illustrates it. Many legislatures have attempted, even in the very teeth of the constitutional provision, to enact lottery schemes for the supposed benefit of the state. It is a prostitution of public functions that I do not think is legislation, either—a prohibition against a tendency of modern times, which is rapidly increasing.

The motion to strike out was rejected.

Section 34 was read.

The SECRETARY. There was a portion of the minority report adopted, which bears the name of section 4.

Mr. RICHARDS. Mr. President, when that section was adopted it was expressly stated that it followed the section that has just been read. That part of the section that has just been read is 34 in the printed article, but it will not be 34 in the article as revised, because other sections have been stricken out.

Section 35 was then read as follows:

The Legislature shall have no power to grant or to authorize any county or municipality authority to grant any extra compensation, fee, or allowance to any public officer, agent, servant, or contractor, after service has been rendered, or a contract has been entered into and performed in whole or in part, nor pay nor authorize the payment of any claim hereafter created against the State, or any county or municipality of the State, under any agreement or contract made without authority of law.

Mr. KIMBALL (Weber). Mr. President, I move to amend the article by striking out that section.

Mr. EVANS (Weber). Mr. President, I was not in the committee of the whole the other day when that section was adopted and I want to make a remark or two upon it. I cannot conceive why it is that any gentleman would oppose that section. There is certainly nothing in it of a political nature to begin with. The principle formulated in the section is one which ought to prevail in every well regulated government. It does not mean to prohibit the State from making a proper contract with any individual. It simply means to prohibit a contractor, after he has entered into a contract with the State or with any municipality, from applying to the Legislature or the city council for extra compensation after he has entered into his contract. The history of the United States is replete with just such transactions as would occur in the new State were this provision not to prevail. We all know how ready men are to enter into contracts to perform public work. We all know how it is that they constantly importune the officers and the authority of the government for the purpose of securing the work, and then in the absence of any restriction in the law or in the Constitution, how ready they are to apply again the second time for extra compensation for that work which they had originally contracted to do for a designated price. Are we here just entering upon the threshold of a new State going to leave the door wide open for contractors, who in the first instance seek with alacrity contracts for the benefit of the State and of themselves and then turn around and say, "We desire extra compensation over and above that which we agreed in the first instance?" Gentlemen, you know how easy it is; take large improvements, take the building of a capitol, take the construction of a school building, of county court houses, or of any public building, men contract to put them up for a certain designated price. Men

give their bids for that purpose. Are we to to leave the door open and say now that when they have done that they can apply to the representatives of the people and receive compensation over and above that which they originally agreed to perform the work for?

And there is another mischief that is suggested by gentlemen here upon the right. If this thing be left open in the manner in which some gentlemen upon this floor intend to leave it, the contractor or bidder will bid a low figure in the first instance in the hope of getting the contract and thereby, after it is secured, in the further and additional hope and belief that he can apply to the representatives of the people and increase the compensation which he originally contracted to perform the work for. I am somewhat surprised at the gentleman from Weber. I do not know why he should want to strike this out. He has had some experience in the city council, as city attorney, and knows the mischief that results from a want of just such restrictions as this section proposes. We have had instances in Ogden where people have performed public work upon the sewers and where they have received warrants for their compensation, and who have applied to the city council after they had sold their warrants at a discount to make up the additional amount so that the warrants might be of their face value. The city council has performed work of this kind. Is it right that it should do it? Shall we leave the door entirely open so that when a man in the first instance secures his contract, that he can come in under some false pretense for the purpose of reaching his hand in the public treasury and replenishing his own pocket by saying to the people, "I was mistaken when I made the first contract, I did not get enough; I want another whack at the public treasury?" These things have been too frequent in the history of our country. And gentlemen, it is not a political question. Let us put a quietus upon that method, writing in the Constitution which we are here forming, so that that thing shall forever be prohibited, and when men enter into their contracts, let them be careful in the first instance.

Mr. CANNON. I would like to ask, in case some work was under construction—the building of a bridge, we will say, or something of that character, and they had designed to make it with certain kind of footings, for instance, and afterwards the nature of the soil was proved to be such that it would not be advisable so to do. Under this clause could the contractor receive extra compensation for work which was really a benefit or not, or would he not be prohibited from doing that?

Mr. EVANS (Weber). I would say that the shrewd contractor in contracting with the State would classify his work. He would make certain classifications, so that if the surface of the ground were softer than that which underlies it, if he came into hardpan, or cement, there would be a classification for which he would receive extra compensation, but this section that I object to goes beyond all that. It permits people entering into these contracts to apply again for extra compensation.

Mr. CANNON. The gentleman does not comprehend my meaning.

It would be simply this: Not for a difference of material which the contractor might have to get, but in case it was necessary to change for any reason the plan, would that be permitted even if it were for the public good, by this clause? If this clause goes in, would that permit a change where it was apparent and for the public good?

Mr. EVANS (Weber). If I understand you right, you mean that where something would be encountered which could not be discovered at the time of making the contract?

Mr. CANNON. Yes, sir.

Mr. EVANS (Weber). I do not understand that there is anything in this section that would preclude a contract being made under circumstances of that kind, but it is to preclude this extra compensation which people are habitually applying for.

Mr. SQUIRES. I would like to ask the gentleman one question. In the case that you referred to, where a contract was taken for the city of Ogden, and men had received their pay in warrants, which, in order to be converted into money, had to be sold at a discount, do you think that would be perfectly fair treatment to the contractor? He contracts for a cash price and is paid in a kind of paper which requires him to discount perhaps ten per cent, would not it be right that that amount should be made good?

Mr. EVANS (Weber). Certainly he should have his money. He should have his contract price, but he should not accept city warrants in lieu of money and then apply to the city council again and receive an additional number of warrants. If the additional amount be five thousand dollars over and above the contracts, it cost the city five thousand dollars more than the original contract and that is the thing I am objecting to. Of course, I believe a man should be paid his money, but I should say he should be paid no more.

Mr. KIMBALL (Weber). If the contract was for so much cash at the time payment was made, they paid in city warrants that were only worth eighty per cent in the market, the city council, on application of the contractor, issued warrants to the amount of twenty per cent more than the face of the contract price, still the contractor would only get his contract price, wouldn't he?

Mr. EVANS (Weber). The city had to pay five thousand dollars additional, did it not?

Mr. KIMBALL (Weber). No, sir; it did not.

Mr. EVANS (Weber). Whatever the amount was?

Mr. KIMBALL (Weber). When the warrants became payable it may cost the city five thousand dollars more, but at the time the payment was made they only paid the contractor ten per cent or twenty per cent less than his contract price.

Mr. EVANS (Weber). No, I say right now, and I have said it right along, that the action of the city council was unlawful, unjust, and ought not to have been taken.

Mr. GOODWIN. I want to ask Mr. Evans how would this affect any business of the city council? This has relation entirely to the Legislature.

Mr. EVANS (Weber). It expressly provides for it. It has an expressed limitation upon the cities and the counties and the Legislature shall not authorize it. These municipalities are creatures of the Legislature, and unless they receive their power from the Legislature they cannot act, and this is a limitation upon them. It seems to me that we have had lessons enough right in our own midst. I do not care to specify them. I only specify one instance—to teach us a lesson in this respect and to put in this prohibition.

Mr. SQUIRES. Mr. President, I have in mind a case in this very county where the the county collector needed a thousand dollars' worth of two cent stamped envelopes in order to transact properly the business of his department. He called upon the county court for an appropriation of these stamps. The envelopes were ordered at Washington. When they came here to the postmaster the postmaster declined to deliver them without the cash. The county had no cash to pay, and before they could secure those stamped envelopes, which were worth eleven hundred dollars, I think, they were obliged to give a warrant for eleven hundred and fifty dollars to get the cash to pay the postmaster, who would not accept any warrants, of

course. The year following the county assessor here went to the county court for an appropriation for stamps and they told him to go ahead and order the stamps and they would give him a warrant. He did so, and had to discount the warrant. He had to pay cash for the stamps and had to discount the warrant ten per cent. in order to get his money back. Now, I do not believe we should put any such burden as that upon an official who is performing the public duties of the county. That is the condition of this county to-day. The county officers need the facilities for transacting their business. The county court has no money. They have to pay cash for those articles and the only way they can remunerate themselves is by county warrants. County warrants are liable to run for three years, and of course they are subject to a discount, and I do not believe it is right to expect an official to expend his own money and then accept warrants at ten per cent discount in payment thereof.

Mr. EVANS (Weber). Should a county or municipality make contracts when they have not any money to pay for them?

Mr. SQUIRES. I am referring to the actual necessities of this county. It is necessary that these sums should be procured here in order to assess and collect the taxes of the county so that the county may go on with its business.

Mr. RICHARDS. What is there in this section that would prevent the county court in a transaction of that kind from appropriating the actual value of the envelopes?

Mr. SQUIRES. Nothing, except that they did not have the cash and had to pay in warrants.

Mr. RICHARDS. What was the objection then to issuing sufficient warrants to pay for the stamps?

Mr. SQUIRES. That question was answered by Mr. Evans himself. He can answer you.

Mr. RICHARDS. I see nothing in this section which would prevent it, Mr. President.

Mr. SQUIRES. I will answer the gentleman's question. When Mr. Lynch, this county assessor of ours, having accepted, as he had to, a warrant in payment of the eighty odd dollars cash that he expended for postage stamps, comes to the county court and asks for an appropriation sufficient to pay him the discount which he had to make on his warrants, he would be prohibited under this act from receiving it from the county court.

Mr. RICHARDS. My answer to that would be this: that Mr. Lynch ought not to have accepted the eighty dollars in payment.

Mr. SQUIRES. No, he ought to wait three years for it.

Mr. RICHARDS. He ought to have accepted what would be equivalent to it.

Mr. VAN HORNE. Mr. President, it is possible that this provision might be amended so as to have no objectionable features. I do not know about that. As it is, it seems to me, it has some very objectionable features. In the first place, it seems to me, that it is objectionable in the line of an objection that has frequently been made here, that it is unnecessarily limiting the power of the Legislature. It is legislation as to what they shall or shall not do. That is a minor objection, however. If that is legislation—where there is any doubt about it, it seems to me clearly that it should not go into the Constitution. It does seem to me that there is a doubt about this provision, and a very grave doubt. For instance, it does not allow the appropriation to be made for an extra contract service. If a man has a contract and performs a service outside of the contract, he has not even an implied right to ask that the value of his service be given to him. Another thing is, that if he is a contractor, and it becomes necessary to do anything that is

for the public good on a sudden emergency of any kind, if he performed that service and expended his own means and time in doing it, under this provision he could not even present a claim to the State or to the municipality for the service he had rendered.

Mr. EVANS (Weber). Do you say that a contractor should be the judge of the expediency of that question?

Mr. VAN HORNE. I say that in cases of emergency he should be the judge to the extent, not of compelling the State or city to pay, but to render the service if necessary, and say, "Here is my service rendered, you can look at it, if it is worth anything, give it to me."

Mr. EVANS (Weber). Do not these contractors usually find it expedient to say something of that kind in order to get extra compensation?

Mr. VAN HORNE. I do not know. The gentleman may have had more experience with contractors than I have, and for that reason he may insist upon it being put in. I do not know whether contractors usually do anything of the sort or not, but I was simply stating the proposition that a service may be justly and properly rendered and that this provision prevents the recompense for an extra contractual service. Again, with regard to the compensation, fee, or allowance to officers. I do not know that such a case would happen, it may never happen, but suppose an officer, who is an officer of the State, for the performance of certain duties by some emergency, for some reason or other is called upon to perform a duty for the State that is for the benefit in his judgment of the State and of the people of the State. He performs that duty in good faith. To be sure, gentlemen, he has no right to say what that is worth, but here you say you are sure that we should say that the Legislature should never say it was worth something to the State and give him a recompense for it. Again, we will take the additional case, suppose a case of invasion or rebellion in this State, suppose the militia was out and it became necessary for them in the support of their movements to take some cattle that were on the range and kill them for the support of the soldiers of the commonwealth. They did not find the owner of the cattle at the time; he found out afterwards that the State authorities had taken his property in that way and he presented a claim to the State for them; would it be just to say, not that he should fix the value of everything that was taken or damage that was done to them or the benefit to the State, but that he should receive no compensation whatever for the damage that was done to him by the State officials acting without authority of law and without contract? Again, take the case of a citizen——

Mr. EVANS (Weber). I would like to know what analogy you find between the illustration you make and the section which we are now considering—that is for service rendered or contract to be entered into, or performed, in whole or in part. That is the subject matter of the section. You are giving a case of necessity—a case of emergency where no contract is made.

Mr. VAN HORNE. Must your contract be an express contract?

Mr. EVANS (Weber). No, there would be no contract at all in the case which you have mentioned.

Mr. VAN HORNE. Take another case. Suppose a man performs a duty to the commonwealth as an officer of the State. We will presume a case here, that in the act of a fire department in this city—the occupants of this building having the public records and so on, one of them would find that it was necessary to expend money, and that by the expenditure of money by himself, he would perform a service to the State in saving the records, and he assumed that "this is a patriotic duty to save them if I can. I will go to work

and expend this money. I will be a guaranty to the men who work here under my direction that I will pay them for it," and he does the work and pays the men. Ought we to say he should not present any claim at all for the matter, because he is an officer of the State? It seems to me that when there are these doubts about the propriety of this thing, either the section should be amended, so as to cover the exceptional cases, or else it should not be passed.

Mr. THORESON. I would like to ask a question. If you construe this section so as to prohibit a city or a county or even a state from paying any just debt?

Mr. VAN HORNE. I think that it might be so construed; yes, sir; very readily.

Mr. THORESON. I think not; it provides here, "without authority of law." Would that prohibit the Legislature from paying that claim?

Mr. VAN HORNE. It seems to me that if there was what you would call an implied contract for the service and there was no express authority of law for his having performed the service, that the contract would be based upon the absence of the authority and that it would be under those circumstances a contract without authority of law—the very point I was getting at, I thought stating the matter clearly. If I am mistaken about that—if the gentlemen are sure that the courts would not construe it in such a fashion as that, there might not be the same objection to the section.

Mr. RICHARDS. Mr. President, it seems to me that there is a grave misapprehension on the part of some members in regard to the scope of this section and I desire to make some remarks in addition to what I said yesterday on this subject. The illustrations given by the chairman of the committee convince me that there is a misapprehension in relation to it. For instance, the last illustration that he made where a city officer guarantees to his subordinates that he will pay them for certain services, and he says that under this, as I understand him, that officer could make no claim upon the city. I do not so understand it. That officer has made, as I understand his illustration—and if I am mistaken the gentleman will correct me—that officer had made no contract with the city. Therefore, he is asking for no extra compensation in addition to any contract that he made with the city. He simply comes in and asks the city to pay for service that has been rendered for the city.

Mr. VAN HORNE. Will the gentleman allow me to correct him? I stated the point exactly that, that it says no extra compensation, fee, or allowance, to any public officer, agent, servant, or contractor, after service has been rendered. Now, the objection that I have to that is, that it does not define the service must be within the ordinary scope of his duties; that something outside of that, if it was done, he would make no claim for it, or no compensation could be granted.

Mr. RICHARDS. I do not understand the matter any differently now from what I did before. I still think that the chairman of the committee is under a misapprehension. I understand that this relates only to extra compensation that has grown out of a contract. Now, the very case that the gentleman suggests contemplates no contract. That is the point I desire to make, and that is the distinction all the way through. In the militia illustration, there was no contract there, not even an implied contract. If an officer of the State goes out and takes the property of an individual, is there any implied contract in that? It is in the nature of a tort. It is not a matter of contract whatever. Therefore, it has no application. If a man makes a contract and then in the course of this contract it is found necessary to change the work that is to be done and the parties

modify that contract, that could be done under the provisions of this section, beyond any question, but this is the thing that cannot be done, under this section, and the thing that ought not to be done, and the very thing that I am informed has been done more than once in this city and in this county and in other parts of this Territory. Men have entered into contracts, have made their bids in competition with other men, who are in the same business; by bidding below these other men they have obtained the contract and then they have asked for an additional compensation. For what? For filling that contract. This provision says they cannot do it, but if they render extra service to the city or the county or the State, nothing in this section prevents them from having pay for that extra service.

Mr. EVANS (Weber). It prevents them, after the service has been performed.

Mr. RICHARDS. It prevents them from making a contract and then, under the pretense of filling that contract, coming in afterwards and saying, "I have incurred certain additional expense and I want to be paid that." This is what devolves upon them under such circumstances. In the first place the duty devolves upon them to fulfill the contract that they may have made for the contract price. And if they propose to vary that contract, to change the work that is to be done, to increase the expense to the public, then the duty devolves upon them to change that contract or modify it to an extent that they will be able to recover compensation for it. Now, it seems to me, that that is absolutely just and right. I do not see how any man on this floor can object to a proposition of that kind. And not one of the illustrations presented here is in point, as I understand it. Take, for instance, the public officer. As the gentleman says, a public officer is performing certain duties and he has a certain salary, but an emergency arises and he is required to perform other duties.

Now, if the duty that he has to perform is occasioned by or is in the line of the office or duty of the office, that he is undertaking, then I say that man should perform that duty, because he has undertaken to do it and he should receive no extra compensation for it, because when he took that office, he took it with the duties and the burdens as well as with the honors and emoluments attaching to it, and if any thing should happen in the regular administration of the duties of his office that would lessen the burdens of that office could the State come back on him and say, "We will decrease your salary in proportion to the decrease of labor?" No. Then, if the legitimate services and duty that he had performed in the office are increased, he takes that burden as I have said before, as he takes the honors and emoluments; but suppose an emergency arises and he has performed duties outside of his office, is there anything that prevents him from going and asking compensation for it? No, because he has made no contract to perform that duty or do that work. He has contracted to perform the duties of his office for a certain sum, and this constitutional provision would compel him to abide by his contract, but when he went outside and did other duties, the State would be liable for it and that would be proper, just as in the case of the contractor, where the man had made the contract, he should be compelled to fill the contract according to his agreement and without additional compensation, but if a variance of the contract is made between the parties—if a change occurs by which it cost him more, then that would be a modification of the contract and on that he could recover.

So, gentlemen, I cannot see any possible injury that could happen by reason of the adoption of this section, but

I can see a great good that would result from it. I can see how legislatures, how city councils, county courts, executive officers, men who have public work to do, men who advertise for public work, can be protected and how the State and the municipalities can be protected and prevented from the perpetration of frauds by reason of men coming in and bidding below what they can do the work for in the hope that after it is done they can come forward and get a bonus. Whenever that is done, then the advantage of public competition is absolutely denied and done away with. Everybody knows that if bids are out here to-day for a certain public work to be performed for this city, and men could come in and make their bids honestly, the lowest responsible bidder presumably will have the work to do and he should do it for the price he agrees to do it for.

Mr. JAMES. May I ask Mr. Richards a question? I have been trying ever since you introduced the amendment yesterday to get the correct scope of that provision and understand it, and if I understand it correctly, as I said yesterday and as you stated, I should favor it. I want to ask this question: we have a building that we are in at the present time. There was a contract for its erection at the time I was a member of the city council. The contract with the builders of this building was three hundred and seventy or three hundred and seventy-five thousand dollars, I do not remember which. The building was finally completed at a cost to this city of about eight hundred thousand dollars. Now, I want to know if your provision is one that is intended to protect the people from such an additional cost as was put upon this building, over what was intended should be put upon it at the beginning?

Mr. RICHARDS. Yes, sir; if this building was built on the same plan that was originally proposed, it is to prevent that very thing. That is exactly what it is to prevent. It is to prevent a man from coming in and making a bid for any public work, I do not care what it is, for less than he can afford to do it for, in order that he may get the work, and then after he has done it, if he has friends enough in the power that makes the appropriation, no matter whether it be a city council, a county court, or a legislature—to prevent that man from taking the contract for less than he can do it for, and then afterwards come in and get a bonus, and get paid and remunerated for what he has done and for as much more as his friends may see fit to give him. It is to place these matters in such a shape that when we have competition for public work it will be honest competition; that is what it is for. That when a man bids on any public work, no matter what it may be, that he may know that if he makes an honest bid, he will stand on an equal footing with every other bidder, and if a man comes in and underbids him, and agrees to perform that work and enters into a contract to do it for less than it costs, that man will suffer the loss and not the public. Now, I am putting it only on the charitable side. I am not assuming that there is going to be any jobbery or any intention of jobbery, but if there is, this is intended to cut it off. I want to tell you that right now. It is to prevent any possibility of jobbery of any kind. That is the purpose of this amendment, but I do not understand that there is one word or one syllable in this section that would prevent any man from recovering an honest compensation for any work that he might do for the public. That is, assuming, of course, that he did it under proper authority. I do not know that this would authorize a man to go and volunteer to do certain things without any authority to do them, but any work that is done for the public by proper authority can be compensated under this article. And yet, when a man makes a contract,

he has got to stand by it, whether he is a public officer or a private contractor.

Mr. IVINS. Mr. President, there appears to me from the arguments, particularly those of the gentleman from Salt Lake, Mr. Van Horne, that there is a misapprehension as to the intent of this proposed amendment. It seems to me further from the reply that the gentleman who just spoke made to Mr. James' question. Now, I do not understand that if, under the contract by which this building was constructed, there should have been a change in its plans and specifications by which a greater outlay became necessary, that the city or county would be debarred from meeting that extra expense, but if the building was contracted for and built according to the plans and specifications under which the contract was made and then there was a deficit, the contractor himself would meet it. It is not intended to cover any one of the different points to which the gentleman from Salt Lake, Mr. Van Horne, referred in his argument. His hypothesis was not properly based at all. Extra compensation will always be done to the State and to the city, and there is nothing in this provision that would prevent the compensation for that extra labor that would be necessary. It simply means this, that when men contract to do a certain piece of work, if they do it according to the plans and specifications, they will be paid just what the contract provides for and nothing more nor less. But if in the course of construction of that labor, as was referred to by the gentleman from Piute—if in constructing a bridge under contract, it became evident before the bridge was completed that there must be a change in the plans and specifications, and a different kind of a bridge was to be constructed, there would be nothing in this provision that would prevent payment of an additional sum to the contractor, but he must first have that plan—that extra expense which would be necessary, laid before the same body that authorized the original contract, and have the change approved by them and not be permitted to go on and make those changes upon his own responsibility or his own account. Now, that is the way I understand this question. If I am wrong, I should like to be corrected, because, as I understand it, it seems to me to be a very necessary provision to go into this Constitution. I do not believe it is right to leave it open for anybody, whether it be municipal, county, or State, after having contracted a certain piece of work at a certain price, to pay any more than that contract price, unless there shall have been an additional expense incurred because of a change in the plans and specifications. I think that is all it means, and I think that the section should go into the Constitution.

Mr. MORRIS. Mr. President, I found in my experience there are two sides to a question at all times. I have no objection in regard to contracts—being a contractor all my life—whenever a contract is made to carry that contract through. If there is any change made, there is generally a proviso made for the change and a new understanding entered into. There may be instances where they cannot meet to make them. In that instance then the contractor will use his best judgment for the benefit of those who are employing him, but the objections that I have are in the kind of payments. I had a contract on this very building and I received forty-eight thousand dollars in scrip where it ought to be cash down, and we made a protest against that kind of pay, for the contract was cash, and they say, "We cannot help it; you cannot force it. You can throw the job up if you are a mind to, but we will build it at your expense." We could go to a lawsuit with them, but we had no protection as contractors, for the kind of pay that they were to pay us, hence, I want something on that side of the question.

We have come here to form a Constitution, and protection, not only for the cities and counties and State, but we come here to make a protection for the workingman—the contractors, the farmers, and all that are interested in their deals and transactions with the State, city or county. I had the same experience again on a contract on this sewer. Most of you living in this city know when the city failed they had not a cent in the treasury; they demanded us to go on with the contract, for we had made a contract for that, but the kind of pay—that was out of the question, and I believe that there should be some protection for the workingman and contractors and others, as well as protection for the State, city, and county.

Mr. RALEIGH. I would like to ask Mr. Morris a question. Was there any thing requiring you to go on and fill your contract after the city had violated it on their part? If they did not pay you according to the conditions of the contract, were you under any obligation to go on?

Mr. MORRIS. Yes, according to the advise of legal men, we thought we had better go on and complete our contract and then bring suit against the city.

Mr. RALEIGH. But they were also under obligations to fulfill their part of the contract too?

Mr. MORRIS. Yes, but they were the biggest and the strongest and we were the weakest.

Mr. VARIAN. Mr. President, since the motion is to strike out the entire section, the effect of that motion will be, if not carried, to preclude any amendments to the section. It will then, be the judgment of the house that it stand as it is. I desire to offer an amendment at the end of the section to meet a suggestion that occurs to me relative to public officers. Particularly I have in mind officers who are entrusted with the execution of the criminal law. Take a sheriff for instance, he might be called upon to pursue a felon out of the State where the trail was warm, as you might say. He might be put to the expenditure of a great deal of money, as well as time in following a criminal across one or more states. In order to make it clear that under such circumstances the Legislature shall have the power to reimburse him, I offer this amendment:

Provided this section shall not apply to claims incurred by public officers in the execution of the laws of the State.

If that should be amended in that way, I confess I do not see any exception to the section.

Mr. RICHARDS. I accept the amendment.

Mr. VARIAN. The illustration made in relation to the militia, it seems to me does not apply, nor does it fairly illustrate the purpose and design of this section as I read it. The executive would only have the authority to call out the militia in a case authorized by law. Of necessity the law would authorize, either expressly or by implication as a necessary incident to the action of the militia under the authority of the executive acting by law, to make all necessary contracts for the support of that body while in the field or while in the execution of its duties. I agree with the gentleman, my colleague from Salt Lake (Mr. Richards), that there ought to be something like this in this Constitution.

Mr. BUTTON. If your amendment came after "part", on the 7th line, would not it cover just what it does now?

Mr. VARIAN. I do not desire to strike out the clause prohibiting allowance of claims unauthorized by law as a general proposition. The Legislature may come in and make a provision for an unauthorized claim and I do not think that that is good public policy. I believe in that prohibition. I believe in it as far as at present advised

and I submit the amendment that I offered at the end of the section.

Mr. ALLEN. Mr. President, there is no doubt that this in some instances would prove a benefit. In others it would be a defect. In the question I brought up yesterday—the question was asked by Mr. Richards, and also the gentleman from Washington this morning referred to it, take these outside counties where there are no railroads, mail runs once or twice a week, and there is two or three hundred miles long—say 150 miles at any rate, and it is necessary to do some road work and there is a contract let. The county court know nothing about that. They will take likely the word of the supervisor or send some man to investigate. Then they draw up this contract to the best of their judgment. The man takes the contract to do the work. When he gets the work partly done, he finds that by putting fifty or a hundred dollars' worth more of work on that job it would be a good job, and without it it would not. Now, they say, "Well, you must go before the county court and get your contract modified;" these points cannot all be provided for in a contract, because you do not know what it is in the beginning. The man says to himself, "It will take me at least three weeks and a week's time of my own labor to see these men, get them together, and get a new contract," which is the case. Now, the county court would be obliged to get together to consider this matter and you can reckon up the cost of that court getting together, and it would cost from fifty to a hundred dollars to consider this question. Well, the man will say to himself, "I do not care, I will do as I have agreed to do and if the job is no good, why, it is nothing to me." Or, if he takes the other course, it will cost as much to get the county court together as it would to perform the labor and render a bill thereafter, and in that instance it would work a hardship, and it might be in the fall of the year; whereas, putting it off to get this contract modified, the job would have to lay over another season. Many cases of this kind have come up.

Mr. THORESON. I would like to ask the gentleman a question. You would infer at least that road supervisors in certain counites are allowed to make contracts for the county without the authority of county courts is that a fact?

Mr. ALLEN. No, sir; I said the county court will talk first with the supervisor as to what kind of a bridge will be necessary, therefore, they would be acting honestly on his word.

Mr. THORESON. Wouldn't they then authorize him to go ahead and do the work?

Mr. ALLEN. The contractor would have the job. In order to get the contract modified, he would have to see the court and get them together.

Mr. RICHARDS. Let me ask you a question. Now, it seems to me that the gentleman has a misapprehension of this matter or else I have. Now, in the very case the gentleman illustrates, as to the case of the bridge, I understand the proposition to be that the contractor, instead of building the bridge the way he contracted to build it, becomes satisfied that the benefit of the county requires that the bridge should be constructed in a different manner and he goes on and constructs it in that manner and then the question is if he did that, whether he could be paid under this constitutional provision, is that right?

Mr. ALLEN. The way I understood you, he was not to be paid for that, unless he got the contract modified.

Mr. RICHARDS. I will state it again. The man enters into a contract to build a bridge, in a certain way. Now, at a certain time in the progress of the work he comes to the conclusion that it would be for the benefit of the county to

change the manner of constructing that bridge and make a different kind of a bridge and he constructed it accordingly. Now, then, the question that you asked or as I understood the question to be, was whether, under this constitutional provision, the county court could accept that and pay him for it. Is that the point?

Mr. ALLEN. I understand from this that they could not pay him if he did the work before he changed the contract, and I understood you to so fix it.

Mr. RICHARDS. No, that is where you misapprehend my statement. I say this, that if the man made a contract to build the bridge in a certain way and then he afterwards built another kind of a bridge, it would be optional with the county court whether they accepted the bridge at all or not, because he has not filled his contract, but the county court would have it in their power probably to accept of the bridge that he did build, if they were satisfied that the good of the county required that kind of a bridge, or that change, that I believe they would have power to do.

Mr. ALLEN. They could accept the bridge, but they could not pay him?

Mr. RICHARDS, Yes, sir; if they did accept the bridge they could pay him for it, because he is not asking an extra compensation for building the kind of a bridge he contracted to build. He is building another kind of bridge and he is asking pay for it.

Mr. ALLEN. I will ask you a question. Provided he built the same kind of a bridge, but put a little additional labor to it—a little additional expense then, what would be the result?

Mr. RICHARDS. If he enters into a contract to build a certain bridge and he builds that bridge, he would have no claim for any additional compensation, but if he built another kind of a bridge, then it is optional with the county court whether they accept that as fulfillment of his contract or not.

Mr. ALLEN. That is a very small point, but suppose, as I said, that he found it necessary to put more labor on the bridge, in order to make it what they would desire, and what it ought to be, and what he knew it ought to be, could he get paid for that extra work, without having his contract remodelled?

Mr. RICHARDS. My opinion is that, if the county were satisfied that that change in the plan of the bridge was necessary and that the extra work that he performed was necessary to the county, that they could ratify that contract; that is, they could make it the same as if they had modified the contract before he did the work, so far as that is concerned.

Mr. ALLEN. All the gentlemen that spoke here this morning have talked right to the reverse of what you now say.

Mr. RICHARDS. I have not understood it so. As I said before, and I would like to reiterate what my position is on this matter, that if a person makes a contract to do a certain thing——

Mr. THURMAN. Mr. President, I arise for information. I would like to know where is that bridge?

Mr. ALLEN. I will say, Mr. Thurman, bridges of this kind and questions of this kind have come up that I know of and have had deals with and no doubt will come up in the future.

Mr. EVANS (Weber). I will answer Mr. Thurman by saying that the bridge is the section proposed which, if adopted, will carry us safely over.

Mr. EICHNOR. Mr. President, if the effect of this section will be as Mr. Richards, of Salt Lake, stated, a few minutes ago, it is absolutely worthless; that is just the position. If they can whip the devil around the stump by saying, "We will accept it and can pay the contractors," what is the use of legislating and filling up the Constitution with a provision of this kind?

Mr. CANNON. Mr. President, I see

nothing in this section of a partisan character. The only point I was opposed to is the fact that under some circumstances, I thought it would be for the public good to modify a contract and with a desire to correct that, I desire to propose an amendment after the word "part," in line 7, as follows:

Unless amended contract be entered into after similar competition to that under which the original contract was awarded, the condition of the work at the time such amended contract becomes necessary being duly considered.

I am informed, however, by the gentleman from Salt Lake that this right will be given without any such clause being introduced, and if that be true, I certainly favor the proposition as it stands as amended by Mr. Varian. I think that it is good to have a limitation upon contracts and to prevent, if possible, public money being expended by men and extra claims to come in afterwards.

The amendment offered by Mr. Varian was agreed to.

Mr. EVANS (Weber). I just want to ask Mr. Varian a question. Do you not think that your amendment would permit officers to come in and receive extra fees and compensation?

Mr. VARIAN. No.

Mr. EVANS (Weber). And do you think that such an instance as you give would be an extra fee or compensation under this provision, as it now stands?

Mr. VARIAN. I do not think, Mr. President, it applies at all to the case of fees for officers.

Mr. VAN HORNE. Mr. President, I think it is proper to get a section into the best condition possible before we take a vote on striking it out, and I have an amendment to propose for the lines reading down to line 7:

The Legislature shall have no power to grant or to authorize any county or municipal authority to grant any extra compensation, fee, or allowance, to any public officer, agent or servant, for the performance of the duties of his office, or employment, after such duty has been performed, nor to any contractor, after the contract has been entered into, or performed in whole or in part.

It is a substitute for that part of the section.

The substitute was rejected.

The roll being called on the motion to strike out the section, the result was as follows:

AYES—37.

Allen	Kimball, Weber
Brandley	Lambert
Button	Larsen, L.
Chidester	Larsen, C. P.
Clark	Lund
Cushing	Miller
Eichnor	Morris
Eldredge	Moritz
Emery	Page
Gibbs	Peterson, Grand
Goodwin	Peterson, Sanpete
Green	Shurtliff
Haynes	Squires
Heybourne	Stover
Hill	Strevell
Hyde	Symons
Jolley	Van Horne
Keith	Williams.
Kearns	

NOES—57.

Adams	Lewis
Anderson	Lowe, Wm.
Barnes	Lowe, Peter
Bowdle	Low, Cache
Boyer	Maeser
Buys	Maloney
Call	Maughan
Cannon	McFarland
Christianson	Murdock, Beaver
Coray	Murdock, Summit
Corfman	Partridge
Creer	Peters
Cunningham	Raleigh
Engberg	Richards
Evans, Weber	Roberts
Evans, Utah	Robertson
Farr	Robinson, Kane
Francis	Robison, Wayne
Hammond	Ryan
Halliday	Sharp

Hart	Spencer
Howard	Thompson
Hughes	Thoreson
Ivins	Thurman
James	Varian
Johnson	Warrum
Kiesel	Wells
Kimball, Salt Lake	Whitney.
Lemmon	

ABSENT—12.

Crane	Pierce
Driver	Preston
Kerr	Ricks
Mackintosh	Snow
Murdock, Wasatch	Thatcher
Nebeker	Thorne.

The president declared the motion lost.

On motion, the Convention then took a recess until 2 o'clock p. m.

AFTERNOON SESSION.

Mr. VARIAN. Mr. President, I desire to offer an additional section to this article, which would be section 36. The same was read as follows:

Section 36. The Legislature shall not authorize the State, nor any county, city, township, district, or other political subdivision of the State, to lend its credit or subscribe stock or bonds in aid of any railroad, telegraph, or other private, individual, or corporate enterprise, or undertaking.

Mr. RICHARDS. Mr. President, I offer as a substitute for that the following:

No appropriation shall be made by this State nor any political subdivision thereof to any person, corporation, association, or institution, not under the absolute control of the State, nor shall the State or any political subdivision thereof give, lend or pledge its credit for any such person, corporation, association, or institution.

I move the adoption of that section.

Mr. VARIAN. Mr. President, there is a wide difference between the two propositions, and as I apprehend the substitute offered by my friend from Salt Lake County is intended to revive the matter that was supposed to be disposed of yesterday, I do not care to enter upon that discussion, because the discussion on yesterday was profitless, and certainly whatever good purpose may have been subserved by it, none can be subserved by prolonging that discussion. I simply invite the attention of the Convention to the manifest design and purpose of this substitute, following which I shall point out wherein I think the section offered by myself is proper. The purpose of my section is to prohibit the lending of the credit in any way for the furtherance of such enterprises as are indicated. It is not intended to and does not directly or indirectly disturb the general power of the Legislature concerning general legislation of the State. It simply provides that the State shall not and no county or other political subdivision of the State shall subscribe to stock or bonds or lend its credit in aid of telegraph, railroad, or other enterprises of like character. The distinction between the two articles is manifest, and for one, I do not purpose to discuss that difference. I entertain very pronounced convictions upon the subject matter of the section offered by myself, but they are convictions that I presume others have on the same subject one way or the other, and it is not probable that the views of the members could be changed by a discussion and I am content to submit the section upon its merits.

Mr. RICHARDS. Mr. President, I would like to say in reference to offering this substitute——

Mr. CORAY. Mr. President, I object to the consideration of that substitute on the ground that it has been gone over—the principle part of it was gone over yesterday, and debated here for a whole day.

Mr. ROBERTS. Mr. President, I arise to a point of order. The gentleman is altogether out of order for the reason that the only consideration of the substitute was had in the committee of the whole and not in the Convention.

The PRESIDENT. The point of order of Mr. Roberts is well taken.

Mr. RICHARDS. Mr. President, I desire, in support of the substitute that I offer, to say that it is not presented for the purpose of opening up the discussion that was gone over yesterday. As far as I am concerned, I am willing to take a vote upon this section at once. I understand it is a proper section to offer as a substitue. It goes as Mr. Varian says, not only to the extent of his section that he proposed, but even further, and, therefore, it is properly a substitute. If acted upon by the Convention and it should not prevail, then the section that he offers might prevail.

Mr. VARIAN. Do you think that the matter in your substitute covers all the ground in my section? Could not they both stand together, provided the Convention adopted them? Would you exclude the matter in mine because of what is in yours?

Mr. RICHARDS. Yes, sir; that is my understanding of it. I believe that the substitute that I offer is sufficiently broad to include all that is contained in the section that you offer and to cover more ground, and I am willing to take a vote at any time upon the subject.

Mr. KIMBALL (Weber). Mr. President, I would like to call the attention of the house to this matter. We spent considerable time yesterday in committee of the whole discussing section 1, as contained in the report of the minority of the committee on legislative, and altogether upon the report made by them, we spent the whole day in the committee of the whole. After considerable discussion, section 1 was entirely rejected by that committee and the article reported back to this house with the recommendation that the article be adopted as reported. Now, the substitute offered by the gentleman from Salt Lake (Mr. Richards), is simply a reiteration of sections 1 and 2 of that report, except clothed in different language. The object of the substitute is to forbid the Legislature from granting bounties in favor of manufacturing or other industries in this Territory. That is the same thing that was discussed here yesterday and the same thing that was acted upon.

Mr. CANNON. Mr. President, I would like to have both of these read. I am opposed to them both.

Mr. EVANS (Weber). Mr. President, this matter was discussed on yesterday very thoroughly and I do not desire to take up much more time upon it. I was not here yesterday, and if permitted, I would like to make a few remarks. I want to say, gentlemen of the Convenvention, that so far as I am individually concerned, I would very much prefer to support the substitute offered by the gentleman from Salt Lake (Mr. Richards), but if that be not accepted by this Convention, I shall vote for the substitute offered by Mr. Varian. If there be a disposition in this Convention to keep out of the Constitution this provision in one form or another, I think I need not fear to predict that dire results will follow. It is the modern trend of constitution making to prohibit the state, county, and municipality from loaning its credit in aid of any private corporation. The history of the United States has fully demonstrated the wisdom of such provision.

It is useless to say that if our Constitution be left so open that private enterprises and corporations can organize and apply to the State through its officials and representatives for aid, that a great abuse of power will naturally follow. I think we ought to consider this matter in the light of nonpartisanship in its truest sense—we know as citizens of the new commonwealth, that if this matter be not guarded, if no restriction whatever be placed in the Constitution respecting this subject, there will be many abuses follow. Combinations of individuals

will organize. Trusts will be formed for the expressed purpose of securing from the public treasury the money which is drawn by way of enforced taxation from the great body of the people. We have every reason to believe—in fact, we ought to know it, in the light of past experience, that whenever an avenue be left open so that unscrupulous or shrewd business men can get together and organize and in the interests of their own business secure the aid of the State, it will be done. Just so sure as this question is not guarded, just so sure will the public treasury be depleted by organizations of the character I have mentioned. What is loaning the credit of a state or a county or a municipality? In short, it means that if any corporation or enterprise desiring to start a business and for the purpose of aiding it, the State endorses or rather guarantees the bond or the paper of such individual or corporation—in the first instance, it may be considered perfectly harmless. It may be reasoned that it would develop enterprises and the latent resources of our new State to permit the State to loan its credit or to guarantee bonds for the purpose of starting these enterprises, and it might also be reasoned that those enterprises would pay the bonds or other obligations and the burden would never rest upon the State. But has history demonstrated that to be true? Surely it has not, but even if it has, the principle itself is wrong. It will not do in governments such as we have to engage or join hands with the individual in the enterprises of the individual. There should be entire and complete segregation between the public interests and business and that of the individual interests and business. We will find—and I will predict it now, gentlemen, if one or the other of these substitutes does not go into this Constitution, we will find that as soon as we enter upon the threshold of statehood, as soon as we secure it, and as soon as it is organized and the Legislature meets, we will find combinations of wealth and we will find trusts, applying to the Legislature in order to aid and establish their industries, to loan them the credit of the State for this purpose, and we will find it to be true also in the future that the State will bear the burdens, because many people will organize for the purpose of carrying on what they believe to be industries for the welfare of the people, they will find failures in their business and the State will have to assume and pay the obligation, by reason of their endorsement or guaranty of these bonds. It is just as sure to come in this Territory as it has elsewhere. It is just as sure to bring financial ruin upon this people as that we fail to restrict it in this Constitution. Gentlemen upon the other side, think as you please with respect to the question of bounties, and differ as you may with us of the minority, yet upon this question now before this Convention can we not honestly and candidly join hands in seeing to it that the business of the State shall be separate from that of the individual?

Mr. KIMBALL (Weber). Why is it then, that you gentlemen on your side did not introduce a substitute, leaving out the question of bounties that was discussed all day yesterday?

Mr. EVANS (Weber). I was not here yesterday.

Mr. KIMBALL (Weber). The gentleman who prepared the substitute was.

Mr. EVANS (Weber). That is all right. I stand by my colleagues so far as I am concerned, and if I had been here, I should have urged it more.

Mr. CANNON. Will the gentleman yield for a question?

Mr. EVANS (Weber). Yes, sir.

Mr. CANNON. I understand that in 1892, you were a member of the Legislature, and if my memory serves me correctly, you voted or spoke in favor of a

bounty to the Utah sugar factory. If that be true——

Mr. EVANS (Weber). Before you go any farther, I will say right now, that I did not, and the records will not show it.

Mr. CANNON. Did you speak in favor of it?

Mr. EVANS (Weber). I did not, neither did I vote for it.

Mr. CANNON. I wanted to ask if that was true, I had been informed it was.

Mr. EVANS (Weber). There was about thirty thousand dollars which had been appropriated by the Legislature of 1890, and I think some nineteen thousand dollars of that amount of money had been actually paid to the sugar factory by way of bounties. There was yet about ten thousand dollars—I may be wrong about the figures, but these are substantially the facts. There was yet about ten thousand dollars remaining. The law would expire in 1893. I voted to divide the remaining amount of money which a previous Legislature had appropriated, between the years 1893 and 1894, or else it was 1892 and 1893. I think that was it. I did not advocate the bounty at that time. I was then opposed to it as much as I am now. But this, gentlemen, is not a question of bounties at all. Suppose some railroad corporation should organize in this Territory with the ostensible purpose of benefitting the people here by bringing in capital and furnishing better and more easy transportation, and suppose it should be organized by some individuals who were influential in the community and who would say, "We cannot carry on this enterprise with our individual credit. We apply to the Legislature of the State for the purpose of securing the aid of the State to guarantee our bonds." And suppose the Legislature would guarantee bonds of a million or a million and a half or two millions of dollars and suppose the enterprise should prove a failure, should the poor taxpayers who toil and labor day after day be required by means of enforced taxation to contribute to the failure of such a corporation? I put that question to you, gentlemen, and it is not an improper thing that such a thing will occur. Why is it that the great state of New York and other great states in this Union have made similar provisions to this mentioned in the substitutes? A constitutional convention of 1894, which was republican—a majority at least of the members were republican, passed a provision similar to this proposed, "Neither the state nor money of the state shall be given or loaned to or in aid of any association, corporation, or private undertaking," making some minor exceptions. I only cite this—and, gentlemen, you can cite republican constitution after constitution, along down the list, and you will find that it is the modern trend of constitution making. Why are these provisions inserted in these constitutions in republican states? Because they have felt the evil hand of legislation which has permitted the state to loan its credit to such institutions. Gentlemen of the majority, I predict to you here and now, and I do not expect that it will cause any fear to generate in the minds of you upon the majority—but I predict that if you leave this Constitution so open that such methods as have been practiced in the United States may be practiced here, that the people who elevated you here in power will hurl you back again to the rank of the people.

Mr. EICHNOR. That is where we are going to get anyhow.

Mr. EVANS (Weber). That is where you ought to go and where you will go if you place no restrictions in this Constitution.

Mr. HALLIDAY. And stay there.

Mr. EVANS (Weber). Go before the people of this Territory if you please, and tell them that you have formed a

Constitution in which the State will loan its credit to any private individual or corporation, to aid its enterprises, and let the people once understand that you have done it, and I say again that the party now who is in the majority in Utah will not retain that power but a very brief space of time. It was not in your platform of principles. You made no issue upon this at all. Why now do you desire to leave it so that such a thing could be made possible? I will venture to say, instead of bringing capital into this Territory as some people think it will, that capital and money will shun the Territory. Who would want to invest money in a new State where the business sagacity of men would know that the State was loaning its credit to individual enterprises? The tendency would be to retard capital rather than to invite it, and the tendency would also be to make a paternal government—the very thing which ought not to exist. Look at the case of the Congress of the United States, under the powers which it could exercise under the provisions of the Constitution, loaning its credit and advancing large sums of money for the building of railroads across the continent. To-day we find that those individuals are unable to meet the obligation. To-day we find that there are rumors upon all hands that the first mortgages upon the Pacific railroads are about to be foreclosed. The government has advanced its money, loaned its credit, guaranteed the payment of a certain number of bonds amounting to something over fifty million. Is there any possibility under the circumstances for the government to secure the money it has advanced? I do not believe that any person who has fairly investigated that question will say there is. The first mortgage bonds alone when foreclosed will probably leave the government without any recourse whatever. Even if it does not, look at the trouble which it has already precipitated. You will find too, gentlemen, that if this principle prevails, these very corporations who receive the aid of the State in this manner will in the future be the oppressors of the people. If they do not fail and get the benefit of the money of the State they will grow strong bodies and will exist in the community in defiance of the rights of the people. Every time a government undertakes to give state aid, the people to whom it is given begin to labor under the impression that they have a contract with the State which is irrevocable, a contract which can be enforced in the courts of law, just as it is in the case of the sugar trust and sugar manufacturers, believing that the McKinley bill granted bounties for a certain length of time.

After the law had been repealed by an act of Congress, they fly into the courts and say, "We demand, notwithstanding the repeal of the law, that certain moneys be given to us for these enterprises which we have established." There is no safe rule by which any government can carry on its business, except to make laws which will redound to the benefit of the people, and to make constitutions and laws for the public good, not to enact them for private individual gain or benefit. There should be an entire and complete separation between individual business and the affairs of the government of the people. Can you say, gentlemen, that it is safe in any sense of the word for the government to join hands with the individual in the private business of the individual? That is exactly what you are leaving open here, so that the Legislature of the future State can do it. It is the very thing which we here desire to prevent, and I thank God that one republican here stands up in his place and introduces a substitute which reaches partially the evil which would be inflicted upon this people were it not to be incorporated in the Constitution.

Mr. VARIAN. May I ask the gentle-

man a question? Was the gentleman referring to me?

Mr. EVANS (Weber). I was, Mr. Varian.

Mr. VARIAN. Well, I want to disclaim any connection with the substitute.

Mr. EVANS (Weber). You have offered one.

Mr. VARIAN. It has no connection with the matter of that substitute. Mine is an original section, and does not refer to this question that was discussed yesterday at all.

Mr. EVANS (Weber). I was not here at the time it was introduced, but I understood it was open for discussion and it was upon that question that I was complimenting you, Mr. Varian. Now, gentlemen, we have taken up I know a good deal of time, and I would like to discuss this matter further, but I want it distinctly understood upon the record here, that I am in favor of the substitute offered by Mr. Richards, and if that be not carried, then I am in favor of the one offered by Mr. Varian.

Mr. VARIAN. Mr. President, I very seldom make a motion similar to the one I am going to make now, but I do it because I believe it is in accord with the desire of the house. I move the previous question upon the substitute and the amendment—not the article.

The question being taken on the motion for the previous question, the Convention divided, and by a vote of 56 ayes to 24 noes, the previous question was ordered.

The roll being called on the substitute offered by Mr. Richards, the result was as follows:

AYES—41.

Barnes	Low, Cache
Boyer	Maeser
Buys	Mackintosh
Call	Maloney
Corfman	Murdock, Wasatch
Creer	Nebeker
Cunningham	Partridge
Evans, Weber	Peters
Evans, Utah	Raleigh
Francis	Richards
Hammond	Roberts
Hart	Robertson
Halliday	Robison, Wayne
Howard	Sharp
Hughes	Snow
Ivins	Spencer
Johnson	Thoreson
Kimball, Salt Lake	Thurman
Lemmon	Warrum
Lewis	Whitney.
Lowe, Wm.	

NOES—47.

Adams	Larsen, L.
Allen	Larsen, C. P.
Anderson	Lowe, Peter
Bowdle	Lund
Brandley	McFarland
Button	Morris
Cannon	Moritz
Chidester	Murdock, Beaver
Christiansen	Murdock, Summit
Clark	Page
Coray	Peterson, Grand
Cushing	Peterson, Sanpete
Eichnor	Ryan
Eldredge	Shurtliff
Emery	Squires
Gibbs	Stover
Goodwin	Strevell
Hyde	Symons
James	Thompson
Jolley	Van Horne
Keith	Varian
Kearns	Wells
Kimball, Weber	Williams.
Lambert	

ABSENT—15.

Crane	Maughan
Driver	Miller
Engberg	Preston
Green	Ricks
Haynes	Robinson, Kane
Heybourne	Thatcher
Hill	Thorne.
Kiesel	

EXCUSED—1.

Farr

PAIRED—2.

Kerr Pierce

The substitute was declared rejected.

The roll being called on the question of the adoption of the section offered by Mr. Varian, the result was as follows:

AYES—46.

Adams	Lowe, Wm.
Barnes	Low, Cache
Boyer	Maeser
Buys	Mackintosh
Call	Maloney
Coray	Murdock, Wasatch
Corfman	Nebeker
Creer	Partridge
Cunningham	Peters
Evans, Weber	Raleigh
Evans, Utah	Richards
Farr	Roberts
Francis	Robertson
Hammond	Robison, Wayne
Hart	Ryan
Halliday	Sharp
Howard	Snow
Hughes	Spencer
Ivins	Thoreson
Johnson	Thurman
Kimball, Salt Lake	Varian
Lemmon	Warrum
Lewis	Whitney.

NOES—44.

Allen	Larsen, L.
Anderson	Larsen, C. P.
Bowdle	Lowe, Peter
Brandley	Lund
Button	McFarland
Cannon	Morris
Chidester	Moritz
Christiansen	Murdock, Beaver
Clark	Murdock, Summit
Cushing	Page
Eichnor	Peterson, Grand
Eldredge	Peterson, Sanpete
Emery	Pierce
Gibbs	Shurtliff
Goodwin	Squires
Hyde	Stover
James	Strevell
Jolley	Symons
Keith	Thompson
Kearns	Van Horne
Kimball, Weber	Wells
Lambert	Williams.

ABSENT—16.

Crane	Kerr
Driver	Maughan
Engberg	Miller
Green	Preston
Haynes	Ricks
Heybourne	Robinson, Kane
Hill	Thatcher
Kiesel	Thorne.

The PRESIDENT. The section is adopted.

Mr. ELDREDGE. Mr. President, I ask for the roll call to be repeated. It don't agree with my count.

Mr. VARIAN. I arise to a point of order.

Mr. PIERCE. I arise to a point of order.

Mr. CANNON. I arise to a point of order.

The PRESIDENT. Mr. Varian has the floor on the point of order, what is it?

Mr. VARIAN. The roll call has been announced by the secretary and accepted by the chair and declared official and we cannot have another roll call under those circumstances. The time for challenging the announcement of the vote is after the secretary declares his result to the chair and before the chair announces it.

Mr. EICHNOR. We did not hear it.

Mr. CHIDESTER. When the secretary declared the result none of us knew what it was. The chair announced his decision immediately and we had no time to say anything.

Mr. PIERCE. Mr. President, my point of order is that it requires a majority of the delegates elected to pass anything of this kind. It requires fifty-four votes. My point of order is that the motion is lost under the rule.

Mr. VARIAN. Mr. President, I raised the first point of order. I suggest that the rule refers to the article as a whole.

Mr. EICHNOR. Mr. President, I challenge the vote as announced.

Mr. VARIAN. Somebody else has done that before you.

Mr. IVINS. Mr. President, I move a writ of prohibition to prevent another count.

Mr. VAN HORNE. Mr. President, I call attention to rule 23 which provides that the final vote agreeing to each proposition shall be taken by the yeas and nays and no such proposition shall be considered as agreed to nor the instrument as a whole, except a majority of the delegates elected vote therefor.

The PRESIDENT. I think the point of order is well taken.

Mr. VARIAN. I take an appeal from the decision of the chair. If we are to have any such absurd proposition as that, let us debate it all the afternoon.

Mr. EVANS (Weber). I do not think the president understands it. That is, respecting the article as a whole, or the Constitution as a whole.

The PRESIDENT. This is not a vote on the adoption of the article, as a whole, because there is a section yet untouched. This is simply upon the question of the adoption of this section.

Mr. VARIAN. That would apply to the inserting of a word or striking out of a letter.

Mr. KIMBALL (Weber). I would like to ask for a construction of that rule.

The PRESIDENT. I think it means the article itself.

Mr. KIMBALL (Weber). It cannot mean that, because that language immediately follows.

Mr. RICHARDS. If you will permit me—if you will observe the language, it is not the article as a whole, but to the instrument as a whole.

Mr. KIMBALL (Weber). I understand "article" and "instrument" are the same thing in this connection.

Mr. RICHARDS. I think not.

Mr. KIMBALL (Weber). This is not an article offered by Mr. Varian. It is a proposition to go into the Constitution. There the double language is used and I am asking the President for a construction of that rule.

Mr. HART. I call the chair's attention to the fact that this has been ruled upon several times before and it is against the position of the gentleman from Weber. In fact he is the very man, if I remember correctly, that insisted upon the rule that we are now contending for.

Mr. EVANS (Weber). I arise to a point of order. I understood the chair to announce that this rule did not apply to this question. If the gentlemen desire to discuss it, they ought to appeal from the decision of the chair.

Mr. BUTTON. I arise to a point of order——

Mr. CHIDESTER. I arise to a point of order. I understood that on this section as amended the chair rules that it took a majority of the delegates elected to carry it.

The PRESIDENT. Yes, sir.

Mr. CHIDESTER. And I maintain that that is the decision.

Mr. BUTTON. I arise to a point of order. My point of order is that the president passed upon this and that an appeal from the chair had been taken.

Mr. EVANS (Weber). The chair reversed its ruling.

The PRESIDENT. Don't get excited now, gentlemen.

Mr. EVANS (Weber). I understood the president withdrew the decision, which he at first announced.

The PRESIDENT. The decision of the chair is this, that under this rule a majority of this Convention has to pass upon those matters.

Mr. VARIAN. A majority of the Convention elected?

The PRESIDENT. A majority of the members elected.

Mr. VARIAN. On every proposition to go into the article?

The PRESIDENT. Yes, sir.

Mr. VARIAN. I take an appeal from the decision of the chair.

Mr. RICHARDS. Mr. President, I de-

sire to ask for information, whether the decision of the chair now is that the motion prevailed or was lost? I understood the chair to announce that the motion prevailed and the section was inserted. Am I correct about that?

The PRESIDENT. The chair made that announcement, but the members declared that they had not heard what the statement was as read by the secretary, and on the springing of this question of order upon this rule, the chair determines that a vote of a majority of the members elected was necessary to determine one of these propositions.

Mr. RICHARDS. Does the chair now hold that the motion was lost to insert this article?

The PRESIDENT. No, sir; not in that sense—but that the matter can be reconsidered.

Mr. RICHARDS. I desire to know, Mr. President, what we are voting upon and what the appeal is from?

The PRESIDENT. The appeal is from the decision of the chair as to requiring a majority of the members elected to pass one of these propositions.

Mr. RICHARDS. To pass this section that we voted upon?

The PRESIDENT. Yes, sir.

Mr. VARIAN. Then, I understand it, the motion was lost.

Mr. SQUIRES. The count was challenged. What are you going to do with the challenge?

Mr. RICHARDS. That is what I am trying to find out.

The PRESIDENT. 54 is a majority and but 46 voted for it.

Mr. VARIAN. Now, I understand the motion was lost. Now we appeal from that decision and want to discuss it. Now, gentlemen of the Convention, I trust this matter can be determined without relation to what your desires may be, as to the subject matter behind it. The single question before this Convention for its determination is this, whether the standing rule of the Convention requires that every proposition or amendment whether it be one word or a section to be added to an article upon its third reading, requires a majority vote of the delegates elected to this Convention. If it be so, of necessity, it must apply to every motion that is made upon the third reading of the proposition. It must affect the striking out of a numeral or a letter or a word, as well as the inserting of a section. It certainly has not been the practice in this Convention. No president or chairman has ever ruled it before, and I assume that whether the point was made or not, it would be the duty of any gentleman in the chair to enforce the standing rules and make the point himself, if it be a standing rule of the Convention, just as much as it would be his business to declare that a proposition on its third reading was lost if it only received 52 or 53 votes without anybody challenging it. Now, let us see how this rule reads. (Reads rule 23.) It is a tortured and forced construction by you, gentlemen, to interpolate into this rule that "proposition" there means an amendment of any kind presented for the consideration of the Convention, while the whole article is under consideration.

By reference to other rules you will find that this word proposition has a settled meaning, in relation to the context of these rules. It means a complete article upon a particular subject. "A proposition for insertion in the Constitution," is the language of another rule in relation to the method and procedure which shall govern the introduction and management of propositions introduced for that purpose. For instance, we have a rule providing for a first and second and third reading of a proposition, and a reference to a standing committee. That means the entire proposition governing that subject matter. Now, this rule cannot be interpreted as the gentlemen interpret it,

that the final vote agreeing to the first proposition and upon agreeing to the instument as a whole, means the agreeing to every proposition that may be offered by way of amendment. It means the vote agreeing to the proposition when you shall come to take the vote finally upon the entire proposition, just as it does in the case of a legislative bill. Whoever heard of such a proposition being enunciated in a parliamentary body before? Whoever heard of such a proposition being passed upon in that way? It is common parliamentary knowledge that until the final vote is taken upon a third reading of a bill amendments are carried by a majority vote of those present—by a majority of the quorum, if there is only a quorum present, and everybody knows it. Now, can you afford to torture this, to disturb and overturn a plain rule like this, simply because you are disappointed—that is what it means—disappointed in the result of this vote? Let me say to my party associates on this floor, if you are disturbed in your minds and therefore unable to act fairly and properly in the disposition of this appeal because of the thought that may be pressing you that there is something affecting bounties in this proposition, that I disclaim it. There is nothing there. The bounties are still as sacred to you as they were before and they are just as well preserved. It simply refers to the loaning of credit, to the subscribing of stock and bonds in aid of railroads and other similar enterprises, and I ask you to lay aside all prejudice in this matter and determine this appeal upon its merits.

Mr. ROBERTS. Mr. President, I ought to be exceedingly happy on this occasion, and I am. I hold with the gentleman who has just taken his seat, on this proposition. It is as clear as daylight that he is right upon it, and if this house shall vote against that view of the case, I feel satisfied that it will be because of their prejudice in the subject matter that is behind it, and is affected by this ruling. (Reads rule 23.) I believe, Mr. President and gentlemen of this Convention, that this has reference to the entire article as a proposition, and to the entire Constitution as a whole, and not for the separate motions in any article. Now, if you shall give the interpretation to this rule that the ruling of the president ascribes to it, then I want to tell you that your motion to put woman's suffrage in the Constitution fails, because the vote to put it in the Constitution was but 52 as against 42, and there was not a majority of members elected that voted to put it in the Constitution, and that is true as to many others of the propositions, and perhaps nearly every question that has been debated upon this floor, and it means unsettling all the work that this Convention has done. Now, if I was as much wedded to this question of suffrage as a good many people think I am, I have good reasons for supporting the chair in this matter, but gentlemen, the proposition involved in this question, as to whether the credit of this State shall be loaned to corporations, to build up private fortunes and to establish industries for private gain, overshadows all things else, and I gladly give away the advantage that would come to me, however, upon the suffrage question, in order to secure this State against the inroads that will be made upon it if you do not prohibit companies from coming here and begging for the credit of this State to aid them in launching their enterprises. I pray you to divorce yourselves from your prejudices and consider this proposition upon its merits as a parliamentary question alone. That is the way I shall consider it.

Mr. IVINS. Mr. President, it seems to me that the whole question hinges upon a proper interpretation of this word "proposition" as it appears in rule 23. Now, let me call your attention

to subdivision 4 of article 3, to begin with, "Introduction of ordinances and propositions for insertion in the Constitution." Now, rule 22, "so soon as any entire proposition for incorporation in the Constitution shall have been disposed of, etc." Again, in rule 23, "the final vote agreeing to each proposition;" I submit, gentlemen, that "proposition" in every case in which I have referred to it refers to the separate article that is to be incorporated into the Constitution and it has no reference at all to any amendment that may be offered to any section or subdivision there. It can be interpreted in no other way. It seems plain to me that when all of these rules are taken together and properly considered that no one with any desire to be just and fair could set up the claim that this simple amendment that has been offered here is a proposition and must necessarily receive a vote of all the members elected. It is very true that at one time the vote upon the question of woman's suffrage was not made by a majority of the members elected. It is also true that when this article was passed as a whole, it did receive a great many more than a majority of all the members elected, and consequently stands there firm and solid, just as it should, and so this proposition, when it is perfected and completed must receive a majority of all the votes of the members elected before it can be sent to the committee on compilation. I claim, gentlemen, that the decision of the chair is wrong, that it ought to be reversed and I shall vote in favor of the appeal.

Mr. KIMBALL (Weber). Mr. President, the gentlemen are entirely mistaken when they think our side of this question is so prejudiced that we will vote to change any rule of this Convention. The only matter that I objected to was the ruling of the chair immediately upon the statement of the secretary of what the vote was, and then refusing to entertain a challenge. It gave no opportunity. Now, sir, my objection to that was that it took so long to figure up that ballot that I was convinced from the tally kept here by ourselves that the vote was wrong, and that it was announced wrong by the secretary—not intentionally, but by mistake, in figuring it up, and that we had a right to have a recall of that roll. I agree with the gentlemen as to the construction of that rule—and shall vote, so far as this question is concerned, against the decision of the chair, that it requires a majority to pass any amendment. And so far as Mr. Roberts hugging the sweet delusion to his soul that the woman's suffrage vote did not carry under the ruling that the chair has now made, the amendment failed there because it did not have a majority of all elected, but when section 1 was put before the house for adoption, it had 75 to 16, so there was a majority and it is in the Constitution, much to my regret.

Mr. EVANS (Weber). You voted for it.

Mr. VAN HORNE. Mr. President, I do not agree with the gentleman on the construction of those rules. It may be impertinent to differ with the chairman and the other members of the committee on rules, but I do so, on what seemed to me to be very fair ground. The proposition for insertion in the Constitution was the article as reported from the committee of the whole to this Convention. The question about amendment of that article—whether that would be part of the article before this Convention or not, is another question, but I call your attention to rule 47, at the end of the rule, which takes out that whole question of propositions, and the argument that they make from the fact that it is an entire article all the way through, and the rule reads, "No proposition or other matter shall be inserted in the Constitution, unless by the assent of a majority of the members elected."

If this is not a proposition, for God's

sake, is not it other matter?

Mr. IVINS. Are we voting now to insert this in the Constitution?

Mr. VAN HORNE. I think so.

Mr. IVINS. No, we are not. We vote to put it in the Constitution when we vote on the article as a whole. We are not voting to put it in the Constitution.

Mr. JAMES. May I ask Mr. Ivins a question?

Mr. IVINS. Yes, sir.

Mr. JAMES. Could we reject this in the article and vote the balance through—would not we have to reject the whole or no part of it?

Mr. IVINS. Why, of course we would. If this goes into it——

Mr. JAMES. Is not this the last vote upon this as a separate article? Can there be any other vote upon this as a separate article?

Mr. VARIAN. You can amend it.

Mr. VAN HORNE. I thought I had the floor. I was saying, as I view this thing under our rules, this is the last chance this Convention has to consider a proposition and determine what the sections of that proposition shall be until it is reported from the committee on arrangement, and then only phraseology. I maintain that it would be an unheard of thing, if, after the adoption by unanimous vote, practically speaking, of the main part of an article or proposition, a bare majority of the Convention which is by no means fully represented, could force into that article things that are repugnant, as many of us think, to the rest of the article, and to the balance of it, and force men to the proposition that they must vote against the whole article or vote in favor of something that they do not believe in. I think that the reason of the proposition being considered as a whole—an article being considered as a whole, is that after it is passed it shall require a majority vote of all the members elected to add it to the article, because that majority vote being to add it to the article, will in no wise interfere with the passage of the article as a whole. Suppose a case, that the vote would stand with this amendment added, just as it has done on the question of the proposition of adding the amendment. All that we have done without any question in the past would be done away with by the act of men who voted then as they vote now. The work that we have gone through with and all agreed upon would be done away with, by the vote standing upon the article as a whole, just as it stood upon this question. And gentlemen maintain that it was the intention of these rules to trap the Convention into doing work for days and days and then allow, upon a sprung question with a representation of the Convention not fully here, an amendment to be put in that will force the question of doing away with all the work of the preceding days, in order to avoid having to take that amendment. If the Convention was all represented here there could be no harm in that perhaps because then there would be a majority vote, and a majority vote would carry it when it came to the submission of the whole article or the whole Constitution, but I think, taking those two rules together—the first rule that the final vote agreeing to each proposition must be a majority vote, and then that no proposition or other matter shall be inserted in the Constitution unless by the assent of the majority of the members elected to the Convention, it means that we are to proceed in each case by a majority when an article has been adopted, that an addition to it must be passed by a majority of this Convention.

Mr. CREER. Would it not take this proposition of Varian's as being in the nature of an amendment to the article?

Mr. VAN HORNE. I take it as being in the nature of an addition to the article and being a separate matter to be inserted in the Constitution.

Mr. CREER. It is an amendment, is it not—still further?

Mr. VAN HORNE. I think not, sir.

Mr. CREER. Can you find a precedent anywhere, either in a municipal, legislative, or a state legislative body, where it required a majority of those elected to insert an amendment?

Mr. EVANS (Weber). Nobody can.

Mr. CREER. You cannot find it, sir. Your position is entirely untenable.

Mr. HART. For fear, Mr. President, that there might be some chance for ambiguity in the wording of this proposition or difference of opinion as to its construction, and for the purpose of getting a construction upon it, that we might be guided by it, and know what the rule was upon the subject, I distinctly brought this matter to the attention of the Convention and of the president for the purpose of having a ruling upon it and did that at the first stages of the third reading upon propositions when we were considering the preamble and declaration of rights. The ruling of the chair at that time was that proposition did not mean a single section, but that it meant the whole article, and I was satisfied with the ruling as a general proposition for this reason, that if the ruling of the chair had been otherwise I realized that we would have to bring in an amendment to the rule for the reason that it was simply impracticable. It was a useless waste of time to call the ayes and noes on every section of this Constitution, and if it had been the ruling of the chair, I would then have favored an amendment to the rules, making it, sir, that the ayes and noes were to be called upon the whole proposition. The ruling of the chair was as before stated that the proposition here meant the whole article. Every one acquiesced in that ruling. I think the matter was passed upon perhaps once afterwards, and now, sir, we have proceeded upon that ruling until this time.

As was suggested by one of the previous speakers, if the ruling now is defeated, that proposition means section—then we shall have to go back and pass upon each one of these propositions over again and these sections, or else we will have to suspend the rules and pass upon the whole together in one lump. I take it that another rule that we have adopted here—a special rule requiring the secretary to enter upon his minutes the ruling of the chair upon every proposition has this end in view, that members may know what the ruling of the chair is and be governed accordingly, and for that reason, I am opposed to the chair reversing his former decision upon this matter and I shall, therefore, vote reversing the chair upon this proposition.

Mr. ELDREDGE. Mr. President, I most certainly take issue with my distinguished friend from Salt Lake and also the gentleman from Davis upon this question upon two grounds. (Reads rule 23.) Now, Mr. President, I hold that this proposition—I cannot call it anything else than a proposition, because it certainly embodies within itself a full and complete proposition looking to a certain and a specific purpose, and if this proposition had received a majority of the votes of this Convention and all the balance of the article had failed receiving a majority of the votes, this proposition would have gone into the Constitution. I hold that under our rule. And if such was not the case, it was simply a waste of time in calling the yeas and nays. It might as well be determined in some other way, and in addition to this it was introduced as a separate proposition. It did not appear in that article from the committee of the whole, but it came here in a separate and distinct form.

Mr. EVANS (Weber). May I ask you a question? Does any amendment which is an addition to any section appear upon the proposition itself?

Mr. EDREDGE. If the yeas and nays were called for on any amendment, as it was on this, it would assume exactly

the same position that this has assumed.. There is no amendment, I hold, that enters into any article that goes to form this Constitution, but what received by assent, if not by a direct vote, a majority of those voting upon it.

Mr. ROBERTS. Will the gentleman permit me a question? Would not this substitute that is here offered form part of the legislative article if adopted and become part of it?

Mr. ELDREDGE. That depends on what becomes of the legislative article.

Mr. ROBERTS. I ask another question and that is, is it not designed by the movers of it to make it a part of the legislative article?

Mr. ELDREDGE. A thing may be designed and yet it may not be perfected.

Mr. THORESON. I would like to ask the genteman if this is a final vote upon this proposition?

Mr. ELDREDGE. I hold, sir, that if it had received a majority of the yeas and nays, it would have become a part of the Constitution, if all the balance of this article had failed under our rules, and if not, what is the use, Mr. President, of spending time calling the roll and ascertaining whether or not there are a majority in favor of the proposition?

Mr. EVANS (Weber). For the purpose of putting the delegates on record. That is why the yeas and nays are called—to give the delegates an opportunity to put themselves on record.

Mr. ELDREDGE. Well, I am not so anxious to get upon record as to waste our time in any such form. I do not know what other people may be. (Reads rule 27.)

I hold, when the proposition is made to amend a certain section and when the vote is announced, that if the yeas and nays are not called upon it, they assent to that proposition and by reason of that it becames a portion of the section which it is proposed to amend. Now, I think, if we will go back and find the record that when the yeas and nays were taken upon the first section of the article of elections and rights of suffrage, it was determined as passed, though it may not have received a majority. The question was not raised, and if the other portion of that article had failed getting the proper support that would have passed to the committee on compilation.

Mr. THURMAN. May I ask the gentleman a question? Suppose an amendment was offered to an article and there were 53 votes for it and 25 against it, would you say the amendment prevailed or would the amendment be lost?

Mr. ELDREDGE. Let me ask you how you would propose that the vote should be taken—yeas and nays?

Mr. THURMAN. I do not care how, whether by rising vote, or yeas and nays, or what.

Mr. ELDREDGE. If you took it by the yeas and nays, I would say that it was lost.

Mr. THURMAN. The rule says by the assent, it does not say the yeas and nays.

Mr. ELDREDGE. If the yeas and nays were not called and fifty-three voted for and the balance voted against and the chair announced the result, and the yeas and nays were not called for, I hold, then, that the balance acquiesced in the proposition.

Mr. THURMAN. If that rule is true, can you point to one single proposition that you can call to mind now, where the ayes and noes have bee ncalled, that has been passed?

Mr. ELDREDGE. Why, every article that has——

Mr. THURMAN. I am speaking of single propositions.

Mr. ELDREDGE. Why, we do not call the yeas and nays on every proposition. If there was some gentleman anxious, so anxious to get upon the record——

Mr THURMAN. I would not care to be on record on that proposition on your side, I will admit.

Mr. ELDREDGE. On the first section of the woman's suffrage act—the yeas and nays were called upon it before we adjourned that evening and it was considered that it was passed.

Mr. THURMAN. There were seventy-five yeas on that.

Mr. ELDREDGE. I am not sure; but when the yeas and nays were called on the balance of the article, it was only called upon that portion which remained. I am not positive on that question.

Mr. EVANS (Utah). I am.

Mr. ELDREDGE. It may have been called on the whole.

Mr. VARIAN. Mr. President, I will ask gentlemen now to ask themselves if they do not really believe in their own minds that this is a little bit of a subterfuge. I know what it is, for the sake of accomplishing some ulterior purpose, to say, fix the lenses of mental vision and adjust them, as it were, so that you are enabled almost to read the proposition in any wise. Let me ask you, gentlemen, this question; when you are sitting in the committee of the whole, you are delegates, are you not, elected to the Constitutional Convention? Do you contend that an amendment there offered to a proposition that has come from one of your standing committees requires of necessity a majority of the delegates elected to the Convention?

Mr. ELDREDGE. It is a different proposition.

Mr. VARIAN. Is it a different proposition, my friend from Summit County?

Mr. ELDREDGE. May I ask the gentleman a question?

Mr. VARIAN. Yes.

Mr. ELDREDGE. Do you call the yeas and nays in the committee of the whole?

Mr. VARIAN. No. The gentleman makes his distinction between the different propositions to depend upon the calling of the yeas and nays. I beg to inform him the calling of the yeas and nays is simply determining with precision and accuracy for the record the actual conclusion of the body. There is nothing in the matter of calling the yeas and nays in the sense that my friend uses it. Why, in Congress hundreds of bills are passed every year—hundreds of them, without anything more than a simple aye and no vote, many of the most important bills. When some member challenges the fact as to the determination of the body, then the yeas and nays are called for. So here. But let us see. Take rule 21. (Reads.) That is after it comes from the standing committee. You will remember that other rule that when a proposition—an article, something referring to a specific subject, comes from a standing committee, it goes right on to the calendar of the committee of the whole. In the committee of the whole, propositions shall be, read by the chairman and considered item by item. What does that mean? (Reads rule.) Now, I ask again of these gentlemen, can they escape the logical result of that argument, if it shall prevail here, that at least fifty-four votes must be cast for every amendment in the committee of the whole, and do you mean that? Do you believe the rule contemplated that?

Mr. ELDREDGE. No.

Mr. VARIAN. The gentleman says he does not, but his reason for the distinction is utterly beyond parliamentary comprehension. He gives as a reason, because you have not got your aye and no vote there. You can take the vote of members by division and ascertain it just as accurately and precisely as you can by calling the ayes and noes. Still an amendment goes on. It may be an entire section, it may be a line, it may be a phrase, or a section may be stricken out, and when it comes back, gentlemen, from the committee of the whole, it is a proposition as a whole; it is a bill. It is then upon the calendar for third reading and final passage, and the final passage never comes until the third reading

is completed, and the third reading is not completed until the Convention or the legislative body has gotten through with the amending of it, from start to finish, section by section. Time is given for amendment, even after you go through to the last section, you may go back to the first, as was ruled here the other day, because this is the time when the proposition or the bill is to be put into shape, and when you are through with your amendments and your discussion, the question is on the final passage of the proposition, and there is never a roll call in this sense until that time shall arrive. "The final vote," what does that mean? Gentlemen give no significance or weight to the word "final." They would read it "every vote," agreeing to each proposition or to any proposition. (Reads rule 23.) That is in perfect harmony with the general principle governing these questions. That is in general harmony with the constitutional and other laws everywhere on the passage of bills; before they shall become laws, a majority of the members elected must agree thereto upon the final vote, upon the third reading, except that this Convention goes one step further and requires still another final vote, when all the propositions shall have passed—another final vote upon the Constitution as a whole. So that if, after all the propositions have been considered and agreed to, when they are put together and arranged, it shall appear that still a majority of the delegates are not satisfied with it, they can arrest it then. But that is not the question. (Reads rule 22.) Now, this section 36 that was adopted here—my amendment, is that to be referred to the committee on compilation and arrangement? Not, so. It still has to pass the challenge of this house. There may be amendments offered to that, perhaps. Men who voted in favor of it may give notice of reconsideration. There may still be another vote upon it. The final vote does not come until the whole article is passed upon, and as I said before, do not deceive yourselves, because you certainly do not deceive me, in the belief that this house, as a house, believes in this evasion of this rule. It has never been considered so here, and every gentleman on this floor knows it. There have been matters hotly contested time and again during the five weeks of the sitting of this Convention and it passes all comprehension that they all should have gone through with a unanimity in cases where there were less than a majority of the delegates elected declaring the majority vote in favor of it without challenge. We do not believe it. We do not believe that it was ever thought of until to-day and that the purpose is because of the failure of the majority on this floor to carry through a proposition or to defeat a proposition. However that may be, gentlemen, let me point out a way to you, if you desire to eliminate this section from this article. Do not do it by overturning and overriding all parliamentary rule and your own standing rule. Do it in the ordinary parliamentary, manly, American way—give notice of a reconsideration and get your men in here and if you can bamboozle them into the belief——

Mr. THURMAN. They have not got any men.

Mr. VARIAN.——that they have got a bounty in it here, they can set it aside. Do not establish this precedent. It may come back to vex you to-morrow.

Mr. JAMES. Mr. President, I am just as anxious to understand the rules that have been given to us for the government of this house, as anybody possibly can be in it. And I have especially looked over this matter since the gentlemen commenced to argue it, and I have before me rule 23, which each one of you have. Now, I want to know in all reason how any gentleman can take that rule and construe it differently from the way the chair has ruled upon

this question? I am not going to argue the merits of this rule. I do not know anything about the merits, and I care less. (Reads rule 23.) Now, in any reason, can a man maintain in this language before this Convention, that that is not the plainest English statement that I ever saw put upon a piece of paper?

Mr. ROBERTS. Would the gentleman yield for a question?

Mr. JAMES. Why, certainly.

Mr. ROBERTS. Does not the fact that in line 1, it is said that a final vote agreeing to each proposition, and upon agreeing to the proposition as a whole, shall be taken by yeas and nays, presuppose previous votes being taken on parts of the proposition?

Mr. JAMES. No, sir; I do not think it presupposes anything. It is too plain a proposition. It says the final vote agreeing to each proposition. Now, it may be very funny to some gentlemen in this Convention, that have seen fit to make fun of everything that has been brought before this Convention, from the time it convened up until the present moment, Mr. President, unless it agreed with their view, but I say that I have as much right to my opinion, irrespective of the funny part of the proposition, as any other gentleman upon this floor, and I stand here, thinking I came to a dignified body, where men do not attempt to break down or sneer at men when they get up to make a proposition upon this floor. Now, I will say again, Mr. President, if the gentlemen will make rules they should live by them, they should stand up to them. When you put upon a piece of paper a single proposition, let us admit it. Now, if there has been a wrongdoing up to this time, it does not change the fact. (Reads rule 23.) Now, Mr. President, these gentlemen would tell you that they have established a rule that will admit into an article a section upon a bare majority of all present, when that section would contain the whole gist of the article, and the article itself cannot be adopted without a majority vote of every delegate elected to this Convention. Now, is that a reasonable proposition?

Mr. EVANS (Weber). Mr. President, I would not say anything upon this occasion, did I not think it necessary, because of the courtesies that I have many times received at the hands of the chair, and I would not, if I did not think the question involves a vital parliamentary question, make any remarks that would be derogatory to that decision. But gentleman of this Convention, it has been put to you pretty pointedly by the gentleman from Salt Lake, that if the decision of the chair be sustained in this instance a fundamental, elementary, parliamentary principle will be violated. I do not think it necessary to discuss questions or rules, but only to call your attention to the fact that it is not only the written parliamentary rule, but the unwritten rule that in all parliamentary and legislative bodies, where a proposition is under consideration, amendments might be made to that proposition by a majority of the quorum present. That is so elementary that I am astonished that some men will dispute the proposition. Is a mere amendment, a proposition, which finally to be voted upon? Why, sir, you permit the decision of the chair to stand in this instance, and do you, gentlemen of the majority, think that you can make a Constitution this summer? Suppose the minority here were to undertake to obstruct legislation, obstruct the formation of this Constitution, do you think you have enough republicans to form it? Some of your members are likely to be sick, some of them are likely to be away from home on pressing business occasions, some of them on account of the sickness of their families, and for diverse reasons. I warn you that if you establish this precedent here, such obstructions might

be thrown in the way of forming a Constitution that it would be almost impossible for you to effect it.

Mr. ELDREDGE. May I ask you a question?

Mr. EVANS (Weber). Yes, sir.

Mr. ELDREDGE. Is it not more to my interests than to yours—to the republican interests than the democratic interests to have a Constitution?

Mr. EVANS (Weber). Why, not the least in the world, but I will reply to the gentleman from Salt Lake, that he has underlying his position on this floor the fact, the belief, that some republican principle is about to be violated, because of the fact that the majority of the Convention present sought merely to prevent the future State from endorsing and guaranteeing the commercial paper of private corporations. It is not a question of bounties here at all, gentlemen. The instrument is amply left open, so that you can put your hands into the public treasury and take out cash from the people and bestow it upon favored individuals.

Mr. BOWDLE. Mr. President, I call the gentleman to order. He is not speaking to the question. He is arguing the whole question.

Mr. EVANS (Weber). I am speaking of the motives underlying those gentlemen who desire to sustain the decision of the chair here. I say, and I say it without fear of contradiction, that if this were an ordinary question about which there was no politics, the chair himself would not have made the decision, much less the gentlemen——

Mr. BOWDLE. I call the gentleman to order. He has no right to castigate the chair here in that manner.

Mr. EVANS (Weber). I mean no disrespect to the chair. I am talking to the Convention. The appeal is from its decision.

Mr. CANNON. Mr. President, I arise to a point of order. I insist that the gentleman is doing that which is contrary to parliamentary practice, and he cannot thus criticise the chair and be in order.

Mr. EVANS (Weber). If I may, Mr. President, I will withdraw any remark that I made derogatory to it, because of my friendly relations to the chair. I would not say a word that would reflect upon it.

Mr. PRESIDENT. You need not spare the chair for relations' sake.

Mr. EVANS (Weber). Now, gentlemen, we have been here day after day for thirty-five days or more. If this principle be established, mark what I tell you, that you will have a difficult path to travel. It cannot not be otherwise. It could not be otherwise in any legislative body. It could not be otherwise in Congress—in the Legislature, or in the city council. The final vote upon the whole proposition is the only instance in which a majority of all the members elected are required, in order to pass it. A quorum under all circumstances and upon every occasion, or whether a majority of a quorum is sufficient to insert an amendment in any proposition. As Mr. Hart has stated, the chair has once ruled that this was true, and the gentleman from Cache desired a construction upon that rule and was ruled out of order. Gentlemen, be patriotic, do as your leader has informed you. If you think you have made a mistake and desire to have this matter stricken out, move to reconsider in the orderly manner, but do not, under the guise of desiring to leave the Constitution so open that corporations may receive the credit of the State, violate fundamental principles of parliamentary law.

Mr. SQUIRES. Mr. President, I move the previous question.

The motion for the previous question was rejected.

Mr. CANNON. Mr. President, I would like to ask Mr. Evans a question?

Mr. EVANS (Weber). I am perfectly willing.

Mr. CANNON. I desire to ask Mr.

Evans his interpretation of the latter part of rule 27. (Reads.)

Mr. EVANS (Weber.) That is a majority constitutes a quorum for the transaction of business. The proposition referred to in rule 27, as I understand it, is the main proposition, like a bill pending in the Legislature. It does not mean amendments.

Mr. CANNON. The words, "or other matter," how would you interpret that?

Mr. EVANS (Weber). Well, I do not know just what that would reach, I am sure; I have not thought about that. It certainly would not reach an amendment. It is something to be inserted in the Constitution.

Mr. ROBERTS. I would suggest that it would be on the submission of a separate article.

Mr. PARTRIDGE. Mr. President, I have noticed that when anything is under discussion there are a few men who occupy the floor, and a man that is a little backward about it, does not have an opportunity until they all get tired and worn out, and then they want the previous question. Now, with regard to this matter, it seems to me there is one thing that some of these gentlemen overlooked when they hold that this amendment proposed by Mr. Varian is in the nature of a proposition. If I understand the order of business here, when a proposition is presented to this house, it is referred to a committee and they have to act upon it and bring it in here and take its regular order. But this amendment of Mr. Varian's, or this section that is proposed to be added here, is simply in the nature of an amendment to the proposition. This section, it is true, has been discussed. I do not see how anyone can understand that this refers to an amendment to a proposition. The proposition itself, upon final agreement of it, must be by a majority of the members elected, and also the instrument. What does the instrument mean? It does not mean the proposition. It means the Constitution, as I understand it. The final agreement on the instrument, which is the Constitution, that we are making, and I do not see why men should occupy so much time in telling so little.

Mr. GOODWIN. Mr. President, I am sorry that we have not had a photographer here as well as a stenographer this last hour. It would have been something to keep in the future, because we have had some displays. What I want to say is more in explanation of how I feel, perhaps, than to be entirely strictly applying to the subject. The gentleman from Weber, Mr. Evans, said that beside our rules, there was an unwritten law here. I am going behind that. I am going back to the original law of nature, which gives every man and everybody the right to self preservation.

We have been told something about being engaged in what in chaste language would be called a trick. I want to say that the reason we are in this position is because of a trick. The secretary made an error in his count, or two gentlemen beside me made errors. We had the majority, but in the hasty work, the secretary made an error. It was reported to the president, and he ruled before anyone in the world could interpose any objection or make any motion. Taking advantage of that, knowing that the ruling was the other way perhaps, and perhaps not, I won't say — the parliamentary law was sprung that the question had been determined by the president. That was perfectly legitimate, but the thing now to do is to correct that error, if we can, and rather than to vote this whole measure down—this whole article, if we can get it back on the floor, it will save a great deal of trouble. Further than that, if we cannot, it will be necessary to vote down the whole measure, because, I know that the sentiment of my constituents, and all of this city, which contains at least a quarter of the voters of this Territory, is that they do not

want anything like that in the Constitution. It is simply some of the hair of the same dog that we thought we had killed yesterday. To come down to the point, it is simply forcing into the Constitution something which will prevent the people of this city or any other city doing what they want to do with their means.

Mr. CREER. May I ask the gentleman a question? Is not the gentleman who introduced this substitute a delegate from this city?

Mr. GOODWIN. He seemed to be a delegate at large.

Mr. CREER. Then, how can you challenge the sentiment of the city?

Mr. GOODWIN. I do not believe that is pertinent. I am simply giving my belief. It is simply a continuation of what we thought we had squelched yesterday, and it is easy enough to see where it comes from. The first real hearty cheer we had this week came from democratic headquarters, when it was announced that that vote had been carried. I deny that it ever was carried. There are just as good mathematicians here—I was not engaged in it myself, I take no credit, but a gentleman on either side of me took that count and it gave us two majority. So a vote to sustain the chair is a matter of self-preservation.

Mr. EVANS (Weber). What was your count?

Mr. GOODWIN. Forty-four and forty-five his was.

Mr. EVANS (Weber). There were 45 yeas were there not, according to your count?

Mr. GOODWIN. Yes, sir.

Mr. EVANS (Weber). That would not change the result. A count was made here by disinterested parties that agreed exactly with the secretary, and even your count does not seem to change the result.

Mr. GOODWIN. There is a majority of one on the one hand and a majority of two on the other. I merely wish to explain that I am going to vote to sustain the chair and I am doing it for the purpose of getting this back, if possible, on the floor because it seems to me that this comes now to be submitted with the rest of the article. We are apt to squelch it all and have to do it over again.

Mr. WELLS. Cannot you subserve the same purpose by reconsideration?

Mr. GOODWIN. If some gentleman who voted in the affirmative will make the motion, yes.

Mr. WELLS. I am prepared to state that there is a gentleman who voted in the affirmative who will move to reconsider it.

Mr. GOODWIN. I hail that as a good omen. I am glad to see men reform even in their old age.

Mr. IVINS. Does the gentleman still wish to sustain the chair after this statement that has been made?

Mr. GOODWIN. Miners always keep on the ore. I will sustain the chair until we get beaten.

Mr. THOMPSON. Mr. President, according to the reading of rule 23, I shall vote in favor of the decision of the chair. Now, if I understand the reading of this rule 23 right, the chair has decided correctly, but according to the plan that we have adopted and carried out during our session, it has been contrary to this rule, and I have considered all the way through in our labors here that when an article was voted upon by yeas and nays or otherwise, it was to add it to the article, and then as the article was presented that we voted on that as a whole. I have understood all the time that it was just as proper and right for it to be added to the article if there was a majority present who voted in favor of the article, and I think that is proper and right, but it seems to conflict with rule 27, while it carries the idea in rule 27 that a majority is a proper number to do business, and at the same time this rule 23 provides that there must be a majority vote; so I think, the

rule 23 is not a good rule and it ought to be erased or disposed of. If I vote, holding to the rule, I shall vote to sustain the chair. I cannot see any other way for me to do, because he is right according to that rule.

Mr. EVANS (Utah). Mr. President, I take it for granted that this committee desires to hear some more on this question, for the reason that they have just defeated the previous question. It appears very strange that we should disagree so materially upon a section of the rule. Section 23 provides distinctively for two things that are to be done that require a majority of all the members elected to this Convention. I submit to you, sir, that if we shall proceed upon the line that has been sought to be followed out by gentlemen that have spoken upon this floor, that of necessity it must constitute three distinct propositions upon which it must require a majority of all the votes elected to this Convention. If you will notice in rule 22, it provides. (Reads.) That is, taking the various propositions, when they are finally arranged and compiled. They have a right to arrange them and make them harmonize with themselves, so far as they do not interfere with the subject matter. Now, Mr. President, I take it that one of the conditions and one of the requirements is that it is .ecessary after that labor has been done that the majority of all the members elected to this Convention——

Mr. MILLER. Doesn't this require the committee on compilation and arrangement.

Mr. EVANS (Utah). Yes, sir.

Mr. MILLER. Rule 22 goes under the general rules, does it not?

Mr. EVANS (Utah). I will come to that directly. After the committee on engrossment and enrollment have returned it back here for its final passage, as a whole, when it is acted upon, if it shall receive the majority of all the members elected to this Convention, it will be the Constitution. That is what is referred to as one of the things that requires a majority vote of all the members in rule 23. The instrument that has been returned back by the committee on compilation and arrangement, is the instrument as a whole. Now, sir, I submit to you, that the final vote agreeing to each proposition means and can mean nothing else than that it shall be the proposition after it has been amended by the committee or by the Convention, and has finally come to the position when it shall be passed upon to make a part of that Constitution that shall be turned over to the committee of the whole. And I ask the gentlemen upon this floor to point out to me another provision that will bear out their theory—making the third that requires the Convention to pass upon by a majority of the whole members elected. Now, sir, let us turn to rule 27, and analyze that for a moment. (Reads.) Now, what does that mean? Why, it means that they may do all ordinary business, that whatever comes up before this Convention, if there shall be a majority of the members elected here, that whatever the majority of that number shall do, except as to passing of those final articles, after amended, for the purpose of placing them in the Constitution, and for the purpose of passing the Constitution itself, shall be binding upon the members that are absent. I want to ask you, if they haven't got the right to do the business of the Convention, with the exception of the propositions to which I have referred, how are they to enforce the rules and bring in those absentees? Now, the object of bringing in those absentees, as I come to the last and final proposition. (Reads rule.)

Mr. President, I submit to you, that that is a modification, showing that the majority of the members elected here are a quorum to do business for this Convention, except as to those two things. The gentleman from Salt Lake asked what these other matters were.

I submit to you, sir, that it may be one of two things, or perhaps more, but one of those things might be this: there may be a matter that will be necessary to submit to the vote of the people separately, as it has been sought to do in this Convention already. That would be one of the things not to be inserted in the Constitution and it requires that the same effect shall operate, in order to carry that measure into effect, as for the passage of the Constitution itself. I submit to you, sir, that it might be necessary, after we shall have completed our labors and passed an article and have inserted it into the Constitution and have completed our work upon that question—we may find some important question that we have passed by. I submit to you, sir, that "other matters" means that that might be taken by this Convention and under its final rule of the majority of all the members elected to this Convention, they could place that in also.

Mr. CANNON. Mr. President, at the time this matter first came up, the desire was to find exactly how the vote stood. The vote was called for and an appeal was taken, but the point was raised that we did not call for it at that time. I submit that all of this time that has been wasted, or has been used in talking upon this subject, will not change the matter and I believe that the end will be the same in either way, either by sustaining the decision of the chair, or by a reconsideration, as some gentleman signified his willingness to move a reconsideration. For this reason and because I believe it to be in the interest of saving time, I now move the previous question.

The previous question was ordered.

The roll being called on the appeal from the decision of the chair, the vote was as follows:

AYES—21.

Allen	James
Brandley	Jolley
Cannon	Lambert
Chidester	Larsen, L.
Crane	Miller
Eldredge	Morris
Emery	Murdock, Beaver
Farr	Shurtliff
Gibbs	Thompson
Goodwin	Van Horne.
Hill	

NOES—67.

Adams	Maeser
Anderson	Mackintosh
Barnes	Maloney
Boyer	McFarland
Button	Moritz
Buys	Murdock, Wasatch
Call	Murdock, Summit
Clark	Nebeker
Coray	Page
Corfman	Partridge
Creer	Peters
Cunningham	Peterson, Grand
Eichnor	Peterson, Sanpete
Evans, Weber	Pierce
Evans, Utah	Raleigh
Francis	Richards
Hammond	Roberts
Hart	Robison, Wayne
Halliday	Ryan
Howard	Sharp
Hughes	Snow
Hyde	Spencer
Ivins	Squires
Johnson	Stover
Keith	Strevell
Kearns	Symons
Kimball, Salt Lake	Thoreson
Kimball, Weber	Thurman
Larsen, C. P.	Varian
Lemmon	Warrum
Lowe, Wm.	Wells
Lowe, Peter	Whitney
Low, Cache	Williams.
Lund	

ABSENT—16.

Christiansen	Kerr
Cushing	Maughan
Driver	Preston
Engberg	Ricks
Green	Robertson
Haynes	Robinson, Kane

Heybourne Thatcher
Kiesel Thorne.

PAIRED—2.

Bowdle Lewis.

The decision of the chair was not sustained.

Mr. VARIAN. Mr. President, of course it will not do to have any proposition carried into this article under any circumstances of doubt or distrust. It ought only to be incorporated there after fair and full consideration and upon a vote as to which there is and can be no question in the minds of the opponents of the measure. I therefore ask this house on my motion to reconsider this vote by which this amendment of mine has been carried, which, if it shall be done, I will ask to have it continued over until to-morrow and proceed to other matters connected with this article. I move a reconsideration.

Mr. THURMAN. Mr. President, it may be that I misunderstood the motion, or the notice the gentleman gave. I understood his motion is that we reconsider the vote. I would like to move that this question be made the special order for to-morrow.

Mr. VARIAN. I accept that.

Mr. THURMAN. With that understanding, I have nothing further to say at the present time.

Mr. CANNON. Mr. President, I arise to a point of order, that we could not reconsider it at all to-morrow. It must be reconsidered the day it is passed. I do not know what the gentleman's motive is for making it.

Mr. CHIDESTER. Mr. President, I understand that in this case the rules are suspended if that is made a special order. That it could be reconsidered to-morrow. Is that the understanding?

Mr. THURMAN. I do not think there is any question about that.

Mr. VARIAN. Mr. President, it is not to violate any rule, but simply do as we did in the suffrage question.

The motion was agreed to.

The PRESIDENT. Section 31 is now under consideration.

Section 31 was read.

Mr. VARIAN. Mr. President, I now call attention to paragraph 9. It was in committee of the whole. The words "irrevocable, special, or exclusive," I move to strike out those four words in line 21. Of course, you must bear in mind that this is under the first clause of the section, prohibiting the Legislature from enacting private or special laws granting any privileges, immunity or franchise, whatever. In section 24 of the bill of rights the general prohibition against irrevocable franchises and privileges is found, and if this is not taken out here, there might be an implication that by special law the Legislature could grant a special privilege or immunity that was not irrevocable. Now, that is not the intention of the Convention, I am certain. Their intention is first to prohibit the Legislature generally from granting any privilege or franchise which shall be irrevocable in its nature. Second, the intention is to prohibit granting by special law any privilege, immunity, or franchise, whether it is irrevocable or not, so you have the two counts. One is the bill of rights, which is general, as to the irrevocability of the privilege, and one in this article, which is as to special legislation.

The motion to strike out was agreed to.

Mr. VARIAN. Mr. President, I now move to add the amendment which has been printed to section 31, at the end of the section.

Insert after line 32, the following:

But nothing in this section shall be construed to deny or restrict the power of the Legislature to establish and regulate the compensation and fees of county and township officers; to establish and regulate the rates of freight, passage, toll and charges of railroads, toll roads, ditch, flume, and tunnel companies, incorporated under the laws of this State or doing business therein.

Mr. EICHNOR. Would not the Legislature have the power anyhow, even if your amendment was not inserted?

Mr. VARIAN. Well, I do not know. I will say frankly, Mr. President, I am not prepared to say. That is a question of constitutional law and construction, that I would not like to answer just now. I find that this provision has been adopted so often that it occurred to me without further investigation that it would be just as well to put it in the Constitution.

Mr. JAMES. I want to suggest to Mr. Varian that this matter has been provided for in the article on incorporations.

Mr. VARIAN. Well, I don't desire to encumber it. I will ask the gentleman, is this principle provided for in the article to be reported? I do not understand that the article on incorporations has been reported.

Mr. JAMES. No, but it has been agreed upon by the sub-committee and will be submitted to the full committee just as soon as I can get them together.

Mr. VAN HORNE. Mr. President, it seems to me that it is unnecessary here. There is nothing in this article that deals with the subject of regulating that at all. I do not believe that there is any question about the fact that the Legislature has the power to control those things anyhow. If we had provided for rates of fare in the article, it might have been proper to have put this section in. This section does not confer upon the Legislature a right to do that, but this section says nothing shall prohibit them from restricting that right, and for that reason it seems to me a superfluous amendment.

Mr. EICHNOR. I would like to ask Mr. Varian another question. If this amendment is added to line 32, would the Legislature have power to make special regulations as to the rates of freight on a certain line?

Mr. VARIAN. I think not.

The question being taken on the adoption of the amendment, the Convention divided and by a vote of 41 ayes to 29 noes, the amendment was agreed to.

Mr. VARIAN. Mr. President, I offer for the consideration of the Convention one more amendment to this section, after line 3:

First. Regulating the jurisdiction and duties of justices of the peace;
Second. For the punishment of crimes and misdemeanors;
Third. Regulating the practice of courts of justice;
Fourth. Providing for a change of venue in civil or criminal actions;
Fifth. For the assessment and collection of taxes;
Sixth. Regulating the interest on money;
Seventh. Changing the law of descent or succession.

I think those matters were overlooked by the committee.

Mr. CANNON. Mr. President, I notice some of those matters are covered by other committees. I do not know what the object is of putting them in here. I do not know as it is necessary. It seems to me to be providing twice for the same point. For instance, the item on taxes, the revenue and taxation report that is before the Convention provides that that shall always be uniform, and that there shall not be special taxes, and why insert it here? I ask for information.

Mr. VARIAN. Mr. President, I do not know anything about the provision in the article on revenue. It has not been passed, and I find these provisions are usual and are affirmed in every case where the Constitution is made. I did not know, I will say to you, gentlemen, what this article on revenue and taxation provides. It simply provides against special legislation.

Mr. BUYS. I would like to ask Mr. Varian if it would not be well to put police magistrates in with justices of the peace—whether you would have any objection to that?

Mr. VARIAN. Not at all. I have no

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objection to it. If the gentleman makes the suggestion, I will accept it.

Mr. BUYS. Regulating the duties and jurisdiction of justices of the peace and police magistrates.

Mr. EICHNOR. Is there any such an office as police magistrate in this Territory?

Mr. BUYS. I do not know, but there can be and will be probably under our State law.

The amendment offered by Mr. Buys was rejected.

The amendment offered by Mr. Varian was agreed to.

Mr. BUYS. Mr. President, in subdivision five of this article, I think the word "town" should be in the plural, on the first line of the page, and the ninth line of this section. And there is no provision for highways in here, which I think should be, and I would move that the word highways be inserted after the words "town plats."

The amendments were agreed to.

Mr. L. LARSON. Mr. President, I wish to call your attention to section 6. I make a motion that the word "twenty-five" be stricken out, in line 8, and the word "thirty" be inserted instead thereof.

Mr. BARNES. We voted that down yesterday.

Mr. L. LARSON. I understand that. I wish to explain why I make this motion. I desire to be reported correctly on this question. When I made the motion, it has been reported in the papers that it was thirty-five years that I wanted a senator to be before he could be a senator. It was thirty. I do not want this to go home to my constituents, who are young people of this Territory, that I want them to be thirty-five years, and hence I take this method to be correctly reported.

Mr. THURMAN. I move a vote of censure on the newspapers.

The amendment was rejected.

Mr. THURMAN. I would like to ask now, if the gentleman feels vindicated by that vote?

Mr. HOWARD. Mr. President, I wish to offer an amendment to section 6. I move that the words "or representative," be inserted after the word "senator," on line 2 of section 6, and that section 7 be stricken out. My reason for that is that both sections read exactly the same, with that exception. By reading these sections you will find that yesterday there was an amendment made to section 7, making the age twenty-five, which in both is the same now, and the only difference there is now is that one provides for senator and the other for representative. The senator requires a residence in the State of three years and the representative a residence of two years. If my amendment prevails, it will require a residence for both senator and representative of three years, and I think that is proper. One section in that case will answer for both. We have in this State some forty or fifty thousand men that have been residents for a long time, and I think that we can get enough out of those men to go to the Legislature without taking what we may term newcomers.

The amendment was agreed to.

The Convention then, at 5:10 o'clock p. m., adjourned.

FORTY-FIRST DAY.

SATURDAY, April 13th, 1895.

The Convention was called to order at 10 o'clock a. m. by President Smith.

Roll call showed a quorum present.

Prayer was offered by Delegate Hughes, of Cache County, Utah.

Journal of the fortieth day's session was read and approved.

The following petitions were presented, asking that the question of woman's suffrage be submitted as a separate article to the vote of the people:

File No. 284, from citizens of Salt Lake City, in mass meeting assembled, to the number of 500, signed by J. H. Bacon, chairman.

File No. 285, signed by John L. Bartow and 41 others, from Provo, by Thurman, of Utah.

File No. 286, signed by J. W. Dunn and 70 others, from Frisco, by Anderson, of Beaver, by request.

File No. 287, signed by C. H. Valentine and 46 others, from Brigham City, by Gibbs, of Box Elder, by request.

File No. 288, signed by J. E. Pike and 66 others, from Salt Lake, by Button, of Salt Lake.

File No. 289, signed by S. G. Stookey and 54 others, from Salt Lake, by Eichnor, of Salt Lake.

File No. 290, signed by Jacob Johnson and 56 others, from Spring City, by Page, of Sanpete.

File No. 291, signed by A. Johnson and 148 others, from Mt. Pleasant, by Page, of Sanpete.

File No. 292, signed by Amos H. Neff and 44 others, from East Mill Creek, by Cannon, of Salt Lake.

Ordered filed.

File No. 293, signed by O. N. Stohl and 558 others, from Box Elder, asking that a clause be placed in the Constitution for woman's suffrage, by Peters, of Box Elder.

Ordered filed.

Mr. CANNON. Mr. President, I have a petition here from H. Smith and forty-four others, asking that the question of woman's suffrage be submitted to the people in a separate article. I also had handed to me this morning a letter from Murray, in which the writer states that at a meeting in South Cottonwood the other day the question was submitted, that between three and four hundred persons were present, and that they were unanimously in favor of inserting it in the Constitution and not as a separate article.

Mr. HAYNES. Where was the meeting held in Murray?

Mr. CANNON. This was held, as I stated, in South Cottonwood ward. I would also state that in this communication it is stated that two meetings were held, at one of which Mr. Haynes was present, and the question was not presented to the people there. That one of the parties present declared that he requested it to be presented, but it was not presented to a vote of the meeting. I do not know why, or anything about it.

Mr. HAYNES. For the purpose of putting myself right on this question I wish to say that I have been at no meeting of the citizens of South Cottonwood or Murray for or against it since the meeting of this Constitutional Convention. That part of it that refers to me is not true, whoever the author of that letter may be.

Mr. BOWDLE. Mr. President, I move that the communication be returned to the gentleman.

Mr. CANNON. Mr. President, I wish to state that the meeting was called for the purpose stated, but I stated that the meeting was held and that at that meeting the question came up. One party said he requested that a vote be taken upon it. That is the way the matter was sent to me. The meeting, as I understand it, was called to consider the irrigation article.

The PRESIDENT. This is all out of order.

The committee on judiciary reported as follows:

Committee Rooms, April 12, 1895.

To the President of the Convention:

Your committee on judiciary beg, respectfully, to present herewith an article for the consideration of the Convention. The effort has been to provide with the utmost economy, an efficient system. The various papers submitted have been carefully considered; from them much information has been obtained and many of their suggestions have been adopted. An expense of $10.40 was incurred in preparing papers. The article as presented bears the endorsement of the full committee.

With great respect,

C. C. GOODWIN.

#22,118

OFFICIAL REPORT

OF THE

PROCEEDINGS AND DEBATES

OF THE

CONVENTION

ASSEMBLED AT SALT LAKE CITY ON THE FOURTH DAY OF MARCH, 1895, TO ADOPT A

CONSTITUTION

FOR THE

STATE OF UTAH.

(Ter.) Constitutional convention

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Mr. GOODWIN. Mr. President, I wish to state that since the paper was completed, two members of the committee are not quite satisfied and they reserve the right to either offer amendments or file a minority report.

The PRESIDENT. What will you do with the question of expense here, gentlemen?

Mr VARIAN. I move it be allowed.

The motion was agreed to.

SPECIAL ORDERS.

Mr. VARIAN. Are we now properly under the head of special order?

The PRESIDENT. Yes, sir. The motion to reconsider is the motion properly before the house.

Mr. VARIAN. Mr. President, as I desire to close the discussion, if there be one, I shall only make a preliminary statement. It was quite proper I thought on yesterday that a motion to reconsider should be made in order that every member of the Convention should have an opportunity to express his views upon this very important matter. In my judgment, it is the most important or at least one of the most important matters that will be presented during this session or can come before this body. Particularly was this true because I had cut off debate by moving the previous question. I did that because my amendment, or my section was coupled with an amendment, which I supposed had been disposed of on the day before, and I did not think the Convention was in a temper or frame of mind to discuss that further. Now, the question is before this house practically just as it was when it was presented yesterday, that is to say, the house can determine the question upon this motion to reconsider. I do not think it necessary, if the majority of this house are in favor of that section as it stands, or the principle embodied in it, to go through the form of reconsidering and then take another vote to vote it in. The whole matter is open for debate and the vote can be registered and recorded here upon this motion. I am not in favor of keeping it out of the Constitution, and although I made the motion for reconsideration, I shall of course vote against it. If there shall be a majority of the members voting in favor of reconsideration, of course that will be an indication that the section is to be stricken out of the Constitution. Having said this much, and defined the position of the mover of this motion for the consideration of the Convention, I give notice that when the discussion shall cease, if there is to be a discussion, I will say what I have to say upon the merits in its closing.

Mr. THURMAN. Mr. President and gentlemen of the Convention, when this motion was made last evening, I moved that it be made the special order for today, for the reason that I hoped the Convention would be in a better frame of mind this morning for the consideration of this important question than they would have been last evening under the heat of the discussion upon the parliamentary question. I view it as a matter of grave importance, and I think that one matter is very important to be settled this morning. In order to do what is right, and reach a just conclusion, we should eliminate from this discussion everything that does not properly pertain to it. I am at a loss to know upon what theory and for what reason gentlemen consider this a partisan question. And it is because men have wrongfully considered it as a partisan question that we have not been able to view it from that standpoint that the importance of the question demands. If this question as to whether or not this is a partisan question was to be determined by the politics of the states that have adopted provisions similar to this, I think it would be determined to be a republican proposition, rather than a democratic one. Out of the thirty states that have provisions of this kind, similar in some

respects, at least seventeen of them were republican at the time they framed their constitutions and five or six of them, judging by the latest vote, have become republican since. And, gentlemen, I think we ought not to inject into the consideration of these constitutional questions a partisan feeling, unless it is demanded by the subject matter under consideration. I will admit that the question before the Convention day before yesterday was a partisan question, and the discussion before the Convention upon the substitute offered by the gentleman from Salt Lake, Mr. Richards, was also a partisan question, and for my part, I could not expect, and I did not expect, that any republican on the floor of this Convention would vote for the substitute offered by Mr. Richards. That could not be hoped for. It would have been to violate every pledge that you made to your constituents in the campaign in which you were elected as a delegate to this Convention. But when it came to vote upon the proposition presented by the gentleman from Salt Lake, Mr. Varian, a man who I suppose never imbibed a democratic sentiment in all his life, who has never been known to utter one, I will confess that I was surprised that gentlemen on this floor should conceive that the proposition that he advanced here was partisan and democratic. Gentlemen, let us look at this question as reasonable men.

Let us consider this question as we would if it were an individual affair, and I tell you this morning that you have no right, you have no power to deal with the credit of the State in any manner that you would not use your own credit, if it was an individual affair. It has been one of the maxims of the founders of the Territory of Utah "Keep out of debt; pay as you go." And up till very recent years, such a thing as a territorial indebtedness was unknown to our people. It was only when the boom idea struck the people of the Territory of Utah that we found representatives of the people that had the moral courage to stand up in their places on the floor of the Legislature and vote that the Territory might become indebted even for its own obligations, much less to guarantee the debts and obligations of private individuals and corporations. I do not say that the founders of the Territory pursued a policy that was absolutely wise in every respect. I sometimes think they drew the line a little too tight and too closely upon these questions, and that the Territory would have been justified in incurring some indebtedness, in order that we might have necessary public institutions. But, gentlemen, that is not this question. We are here now today laying the foundation of a commonwealth. We are just in the same position with reference to the State that we are trying to form as the father is when he is laying down maxims for the guidance of his boy in the business affairs of life, and if your boy was starting out in life, and you his parents, giving him counsel as to what he should do in business affairs, what would you advise him to do? I take it that you would tell him, "so far as possible, pay as you go; so far as possible, keep out of debt; and in every case avoid mortgaging the roof above your head to pay the debt of someone else."

Do you know, gentlemen, the effect of taxation upon a commonwealth and upon the people of the commonwealth? It is to lay a mortgage upon every vestige of property in the State. When I tell you that when you are taxed your home is mortgaged and that there is no power on earth that can defeat a foreclosure of that mortgage, except a payment of the debt, I tell you what is literally true, and I ask you this question to-day, if your neighbor should come to you and ask you for your endorsement upon his note for some speculation, mark you—for some enterprise that he was about to embark in, would

you endorse his note and in addition to endorsing his note, would you mortgage the roof above your family in order to guarantee the payment of his debt? I take it, gentlemen, that if every man in this Convention should ask himself the question this morning, "would I do that?" the answer would be no. There is not a man here that would mortgage his home and property, in order to endorse his neighbor's note for some sort of a speculation. If you would not do that in your individual case, if you would not do that in a matter that concerns you individually, I ask you what right have you, as a trustee of the State, to do it with money that does not belong to you? If you had money in your possession as a trustee, as a guardian for a ward, would you feel that you had a right to pledge that money for the debt of some one else—some private enterprise, some private corporation? I take it that every man would answer at once, "No, I would have no right to do anything of that kind with money that belongs to someone else." And yet when it comes to dealing with the public money—when it comes to dealing with the funds of the State, then it seems that men take a different view of the question. Now, I concede to the republicans on this floor that according to the principles which you believe to be correct, if you, representing the State, found that the State had money to spare and you wanted to aid some home industry—some enterprise that you believed would be for the public good, you would believe you had the right and that it would be your duty to make an appropriation to aid and assist that enterprise. I concede to you this morning, gentlemen, that in doing that, you would be acting in line with your principles as members of the republican party, and while I do not believe myself it would be right, I concede that I believe you think it right and just, and if you were elected here by the people to the Legislature, you would have the power and the right to do that thing. But that is not this question. This question is more far-reaching than that. It is not a question of the State being permitted to make donations and give bonuses from time to time of the money that the State has in hand and under its immediate control, and that too for purposes which the State believes to be a public benefit, but it is a question of mortgaging the State, not for the payment of its own debt, but for the payment of the debt of another. And I will tell you, gentlemen, this morning, that the party who stands upon this floor and asks that this power be given unto the Legislature in the Constitution will find in the years to come, to use the language of the president of this Convention, that it will return to plague you.

When the day comes that the people of this Territory find themselves burdened with debt, when they find themselves involved to the tune of millions of dollars, when they find that all that they have left to show for that are some wildcat propositions that they thought at the time they guaranteed the payment of them would turn out for the public good, then the people of this Territory will begin to dive into the records of this Convention to find out who it is that is responsible for that condition of things that has been saddled upon the people of the State. Then gentlemen, the people will begin to examine the ayes and the noes in detail upon these questions that we are voting on here, and I say to you that so far as I am concerned on this question of giving the Legislature power to mortgage the State, my vote shall be found recorded no, and wo be unto him whose vote is recorded aye. I care not whether he is a democrat, I care not whether he is a republican. I have taken the position that it is not a party question. My friend here who frequently quotes the Washington constitution, if he will do that upon this question this

morning, we may expect that he will be found on the Lord's side, voting aye to insert this in the Constitution. I do not think that Washington has ever been considered anything but a republican state and yet its constitution declares in unequivocal terms that the state shall not lend its aid to any individual, corporation, or association. To the same effect is the republican state of Colorado. To the same effect is the republican state of California. To the same effect is the state of Minnesota. To the same effect is the state of New York. And as I said before, of those states that have spoken upon this question, at least seventeen out of thirty have declared in favor of a proposition similar to this that we are contending for here this morning. And, gentlemen, I implore you to stop and reflect, and think of what you are about to do in the reconsideration of this question. Leave it in the article. Let it stand as a safeguard which cannot be beaten down, protecting the people of the new State all through the years to come against the abuse of power. And it will be abused. Temptations will come. We are living now in a crisis. We understand what it is to be in debt. We are groaning under the burdens of indebtedness, and we are paying interest for the fun we have had in the past. We may eventually pull through the conditions that we are now passing under, but the time will come that a boom idea will seize upon some Legislature in the future State, not realizing what it is to be plunged in debt, and they will imagine, just as we did here a few years ago, that every proposition any one advances in relation to the development of certain great resources here is a feasible proposition, and we will find the Legislature ready to go forth and guarantee the bonds of any corporation that will undertake it, upon certain conditions, and the first thing you know, that which looked feasible in the time of boom, when the crisis, which ever succeeds the boom, has come, will be found that it was an airy scheme that has vanished, and then, gentlemen, the State of Utah will find that the debt it guaranteed has fallen upon its own shoulders to pay. Let us guard against that. Here is the place and the only opportunity that we will ever have to do it. Let us place this limitation upon future legislatures and the people in generations to come will rise up and call us blessed.

Mr. CHIDESTER. Mr. President, as the gentleman who has just spoke suggested that it would be a bad thing for any one to have his vote recorded against this proposition, I believe that I should give a reason why I will vote against it. I do not like the proposition any way it can be put. I think it is the same proposition that was brought in the minority report in section 3, and that was voted down for the reason that the Convention thought that it was not expedient to curtail the Legislature to that extent. Now, I submit that this proposition is similar to it, if not fully as strong as the other. In my way of thinking, that comprehends a good deal and it is a question in my mind whether the condition that we are in to-day, as a Territory, that we could carry on the State government without lending its credit, and I do not consider that it is a dangerous thing altogether to trust the Legislature. I presume that my friend who just spoke understands that part better than I do, for he has served in the Legislature and I never have, but I believe that the people send as a rule men whom they are willing to trust, and I am willing to trust them in that regard, and I believe that they will look after the interests of the State just as well and with just as good motives as this Convention will, and I believe that if we should pass this we would tie them up in such a way that they would be hampered in passing the necessary measures that would be for the benefit of the

State. I believe that it is necessary at times. While I do not believe in running in debt any more than any other member of this house, I believe in keeping out of debt, but at the same time, I know that there are times when every man will have to have credit, and to tie up the Legislature in that kind of a way does not appear to me to be wise in any sense. I think it is the same proposition that was introduced in section 3, though not in the exact language, but in the spirit and in effect, it is the same thing, and for that reason I shall vote against this measure.

Mr. BOWDLE. Mr. President, I remember of reading somewhere about an old gentleman that sat down and cried and cried over the woes that had befallen Jerusalem. The only difference between that gentleman and the gentleman that has recently taken his seat on this floor is this, that the one is crying out of the diseased imagination of his mind over terrors and woes and sorrows that are in his imagination supposed to be hanging over our heads, while the other one had a bad case of liver complaint and was blue generally and woebegone in the extreme.

Mr. THURMAN. Let me ask you a question. Was that Chidester—you are talking of Mr. Chidester?

Mr. BOWDLE. No, sir. [Laughter.] I always did believe that the democrats were afflicted seriously with liver complaint, and that it affected their view upon many subjects. This morning, I am more than ever confirmed in that belief; "but," says the gentleman, "this comes from the other side of the house and therefore there is nothing partisan about it." Gentlemen, it is the hand of Jacob, but it is the neck of Esau all the same, and you cannot divorce one from the other. Lending the aid of the State to a proposition differs in what respect from the State giving a bounty? Where is the difference? Is it not a distinction without a difference? It seems to me so. Now, the gentleman tells us that there are thirty states in which this is the law. There are two states in which this law pertains to the extent sought to be engrafted as it is here. The state of California, in its recent constitution, is one to about the same extent. The state of Colorado is another. Outside of those two states, I do not know of a single state where it goes as far as it is sought to go here. Some places it goes far enough to say that the state shall not loan its credit; but take some of the recent states in that regard. Washington has been referred to. The Washington constitution says the state shall not loan its credit, but it does not tie up the municipal corporations and the counties. It is simply a state proposition.

Mr. VARIAN. Yes, it does.

Mr. BOWDLE. Well, I failed to find it, Brother Varian. If I do, I will take it all back.

Mr. VARIAN. Section 7.

Mr. BOWDLE. I looked over the constitution this morning and I failed to find it. The State of Wyoming precludes it so far as to affect railways and telegraph companies, but this is for all purposes. It is proposed by this bill that no subdivision of the State shall ever aid any enterprise that it is not the sole owner of. Now, I submit to you, gentlemen, that there is not a single constitution from which you have quoted or which you will quote from, that around the elective franchise are thrown such restrictions as are thrown around the elective franchise in this coming State. We say here that in all local taxation there may be a property qualification for the voters. In these other states, I think, without a single exception, there is no property qualification. Here comes up a proposition, some enterprise is wanted, a municipal corporation believes that that would be a good thing, it proposes that it will aid that by voting bonds or whatever it may be; to do that, they must have a special election; at that special elec-

tion, who will vote? Nobody but what has a property qualification, as we propose in this Constitution. You cut off from that vote all persons who have no property. You simply give to the persons who pay the tax the power to say whether or not they are willing to contribute to that. Now, isn't it perfectly fair, if the men wish to reach down in their pockets that way and aid an enterprise, that they should be doing it? Some say, "Oh, but the power of taxation is a great sovereign power." It is the sovereign power, I grant you that, but I think that when the sovereign wants to tax himself he has the right to tax himself. Therefore, gentlemen, I am opposed to this proposition. It is the same old thing dressed up in different clothes and put here before us with a proviso that the State shall not lend its aid. It means the same thing, and I am opposed to the proposition.

Mr. IVINS. May I ask the gentleman a question? I just want to ask the gentleman if those disasters that were predicted in regard to Jerusalem by this garrulous individual that has been referred to, were fulfilled or not?

Mr. BOWDLE. Well, I think that the democratic party fulfilled them on that occasion.

Mr. MURDOCK (Beaver). Mr. President, as has been said, this is a very momentous question before us this morning, and as has been said also, I can not see that it is a partisan principle that is set forth, for if it is good for one it is for another. I wish I was a good deal better speaker than I am, but you will have to put up with just such men as I am. I have got some ideas, but I lack sometimes language, and perhaps my voice is considerably impaired. Of course every man in his business erects a standard to walk by in regard to his business. Now, I am just as tenacious in regard to any agency that I might accept from individuals or from the State. If I should happen to be a member of a legislature, I should be just as tenacious in guarding the rights of the people, as I would in my own interest, and I think every man should be, and should act prudently and wisely when they come to act in the interests of the people. That is what legislatures are for. Men are sent there as agents of the people, and I do not wish to tie them up so close that they cannot move, no more than I believe in hobbling a horse so close that he cannot get any grass. I do not believe in that. We are in a Territory. We will be, if we should be so fortunate as to become a State, an undeveloped country and there are many enterprises that necessarilly will rise up from time to time.

While I believe in being very careful in regard to allowing the Legislature to use their power in regard to extending credit, I should be very careful. All men may not be so careful, and I think it is very necessary that wise provisions should be made to prevent any recklessness in regard to their course. At the same time, I do not believe in tying them up so that they cannot do anything that would be absolutely necessary to the interests of the people. There are many public interests that, although they may start out in a corporation, that prove to be a great benefit to the people indirectly, benefit the country—not only directly, but they may indirectly. I do not believe in taking money out of one man's pocket and putting it into another's unless that man should have a proper remuneration in an indirect manner. Now, while I believe to an extent—and do not wish that the Legislature shall be curtailed in regard to a bounty, or to start up some improvement—something that would be beneficial, I do not believe that it would be prudent to debar them that privilege. Now, my feelings are not partisan in regard to the labors that I am doing here, and I have yet to learn that I have even made a friend, or made an enemy of any man. I work in

the interest of the whole and for that reason I believe that we should work to the general good.

Mr. THURMAN. I will ask the gentleman, whom I know to be a prudent, careful business man, if he would mortgage his home to endorse for a friend in a speculative scheme in private business?

Mr. MURDOCK (Beaver). No, sir; I would not.

Mr. THURMAN. Would you then give the power to the State to do it as a representative?

Mr. MURDOCK (Beaver). No, sir; I would not. I believe that this principle that has been set forth, as has been said, is made more palatable by being to some extent disguised. Now, gentlemen, if we could have the construction of this principle, as has been construed by my friend from Utah County, it would be very acceptable, but here comes in the difficulty hereafter. That construction may not be put upon that provision. Consequently, there is a danger of a stringency placed upon it, that would debar that privilege, and for that reason, I should be opposed to that, but if that construction is put upon it, I would always be ready to accept it. I believe in guarding the interests of the people as sacredly as I would my own, and I have carried out this principle in my lifetime, but I cannot guide or mark out what other men shall do. Of course we all have to take chances when we call upon individuals to be agents, or to act in the interests of the people. We are the people called together as a legislative body, there to act for the people, and a man that does not act wisely in their interests, perhaps, would be greatly censured, but to put a barrier around them that would prevent them from doing many things that will bring that which would be beneficial to the people, I am opposed to it. I believe in giving them a reasonable scope in regard to using their power, and I think there will be enough men that will look at these matters wisely and would prevent any extravagance in the matter. Failures that have occurred around us at different times—why, they are only way marks that we may be able to shun and avoid such ideas as have been advanced and practiced. But I conceive it in this light, that this is the same principle that we have been contending over for a couple of days and it is made a little more palatable. Emphatically, I believe in guarding the rights of the people and preventing, if we have got a set of novices as legislators, why then they want to be strongly guarded against—their actions. But if we send wise men, men that know how to use their own means, and use that that they are entrusted with, why I am certain that they will be wise enough to do a proper thing in the interests of the people. We must recollect that we are not an old State, that we shall be a new State and a new Territory to-day compared to others, and our country is full of resources of various characters, and they want developing, and we have got to take hold as a people and develop this country and bring it out, but if men get wild and crazy—these booms never disturb me. While I was here at the time it commenced, yet it did not affect me. An expression that I use sometimes is this, "it takes a great deal of fuel to keep up a big flame." I predicted that years ago, that they could not hold the matter as it stood then. I knew it was false and there are many other things that men perform that I know are false and I object to it, but I, of course, can be no pattern for other men to walk by. I believe in paying as I go. That has always been my method, and if I was a member or acted in the interests of the people or an agent for an individual I should caution him to not go into any wild speculation, but to conduct his course in a way to be perfectly safe, and for that reason, I am opposed to in any wise trammelling the Legislature, but to give them sufficient grounds

that they may in their judgment develop the country.

Mr. CANNON. Mr. President, I am certainly in favor of reconsidering this question, and would like to have seen it brought to a vote without any extended speech making. I believe it would have been better to have reconsidered it and made speeches for or against the proposition after a vote had been taken to reconsider it. That which has been said against leaving this out of the Constitution and providing for its insertion is to my mind far fetched. In many cases we have been told by the speakers who have favored the insertion of this proposition in the Constitution of the evil of debts and what a disadvantage it is to any man to go into debt. My business has been such that I have seen probably as much as any man upon the floor of this Convention the evils that attend going in debt. I believe that it is a positive injury to any man or to any community to go into debt. I think that wherever it can be avoided it should be avoided; that no man is justified under ordinary circumstances in borrowing money and becoming financially involved, but there are times in the history of men as there are in the history of people when circumstances justify that which is done, and when it is justifiable in my opinion in incurring indebtedness. We have been told that it is not right to take the strong hand of the law and exact from the poor taxes, and with those taxes pay for something that has been pledged for the credit of the State or of the municipality for the benefit of private enterprises.

We find that it is not particularly the poor who object to a thing of this kind, but it is the wealthy. It is those who have the most property who are most anxious that nothing shall be done in the way of pledging the credit of the State or in the way of granting bounties or anything of this character. I claim that the poor are not so much afraid of this matter as those who have large capital, and the reason is that capital is affected more by it. I think that if the power is given to the State as it would be given by leaving out all restrictions upon it, that that power should be used very carefully. I do not think that it would be right to pledge the credit of the State for anything unless the enterprise for which that credit is pledged will be a benefit to the people, but at the same time I think that under some circumstances it would be right to pledge the credit, to pledge the credit of a town, of a city, of a municipality, for an enterprise that would be a direct benefit to the people and would bring to them more benefits than the amount that would be involved. Our friend from Utah County appeals continually to different men and asks this question, "would you mortgage your home for the benefit of a neighbor? Would you go into debt and mortgage the roof over your head to benefit some man in his private enterprise?" But he does not tell you that when you do that, when you pledge the credit of the State, that it binds equally upon your neighbor and upon yourself; that if it is to benefit both, it is not binding upon you any more than it would be upon that other man. I say there are times in the history of men when they should pledge their homes, when they should pledge all that they have of an earthly character, in order to carry out enterprises that may be necessary for them to live. There are men, who during the year past have scarcely had food enough to eat. There are men who are honest, willing to work, anxious to work, and who cannot find employment. I say under those circumstances, if my neighbors were to come to me, and I was in that position, and say, "let me join you in an enterprise; we will have to mortgage our homes, for we are in a starving condition; we have no work; we must procure capital with which to enter into some enterprises, and if we place a mortgage upon our property we can go on

and procure for our families the necessaries of life." I say under those circumstances, it is the part of wisdom, it would be the part of manhood to mortgage the home over your head and to go into the enterprises by which you would furnish employment for your family and your neighbor, that you would be justified in joining with him and the two together in risking that which they had in order that they may stop the stagnation that exists and start out with something that would bring benefit to the people. We are appealed to continually as if this were for the benefit of the rich, as if it were for the benefit of the classes, as if this provision would hamper men of that character.

I call your attention to the fact that a short time ago in California, when Los Angeles desired her representatives to have power to create certain indebtedness or to have the power to issue bonds—I do not know the exact form in which the question was presented—the vote was very even in that legislature for and against the proposition that was presented. I claim that it would have been a positive advantage to the people of Los Angeles, had the money been invested wisely, to have had that power granted to them, because they could have gone on with the enterprise and given to their people employment. It is not sufficient that men might be educated. It was stated by one of the gentlemen upon the opposite side, the other day, that it was proper to educate men with public funds, because, said he, by so doing you insure the stability and safety of the state. I say that it is proper also when you have the means, when you have the credit, to give men employment, because it is as much a necessity that men should have work as that they should have an education. What will you do with a man who has an education if he has not the the means by which he may earn that upon which he may live? An education will not keep him. As our friend from Uintah County said the other day, it would be very poor food—a very slim article of diet indeed, if you were to try to subsist upon this. I claim that the credit of the people belongs to the people and that if they choose to use that credit they have the right to use it, and there is no reason why we should limit and place here in the Constitution a provision which would prevent them at any time from using that which they have. In many cases poor people have nothing particularly except that which by combination and communions they can produce. This is more sweeping in its terms. I call your attention to the language. (Reads.)

I claim that under that, if a hundred men to-day were to say, "We will go out and found a city," all of those men having an equal interest in it, I claim that if they were to go out and attempt to pledge their corporate credit for the building of a railroad, the building of a canal, the building of any public enterprise, that they might unitedly feel that was for their good, they would not be permitted to do it. I claim that they should not be hampered in those circumstances. There is a growing spirit of freedom in the people that has been growing for hundreds and thousands of years, that after awhile it will be be found that the people have the right—those who produce the wealth of the country and the benefit of that which comes from their exertion, and from their existence, that they have the the right to use it to build themselves up, to build their communities up and to do that which will be for their benefit.

This is a provision, I claim, that if eliminated, would leave the Constitution in favor of the people, who would have the right, through their representatives, to direct whether or not they wished the credit used for any purpose. I claim that certain enterprises require the credit of nations, that they require

the credit of the state, that they require the credit of municipalities. We will take the instance of the Suez canal, which cost millions and millions of dollars. The credit for that was to a great extent pledged by the government of France. The people of France directly obtained a benefit greater than the amount that was pledged from the day that that was built to the present time. They have had the benefit that has come from it.

Mr. CORAY. Was not that the Panama canal?

Mr. CANNON. The Panama canal is being built, and the fact of dishonest men being engaged in the Panama canal does not make any difference as to the righteousness or unrighteousness of the proposition before us. If you wish to refer to that, go to New York City and you might just as well attribute to the democratic party there the corruption which existed there and the ring that existed there as to attribute the Panama swindle to the principle that I have been speaking upon. I claim that the state has the right to use the credit that belongs to the people for the benefit of the people. I claim that it has the right to build railroads and use the credit for that purpose where the people will be directly benefitted by it. I claim that to-day, if the United States could go ahead with the project that is on foot by which the canal could be constructed at Nicaragua, the people of the United States would be benefitted more in dollars and cents directly than the government will have to pledge itself for in order to secure the building of that canal. I agree with my friend from Beaver County that the condition which exists in this Territory and in some of the states and territories is entirely different. I desire to call attention to the fact, as stated and acknowledged by every speaker upon this floor, we are a community that needs wealth —needs capital to develop resources which we have, while in the older communities there is a superabundance of wealth. Their resources have been largely developed; they are overcrowded, and they did not have the same difficulties to contend with that we have. Take the case of New York, which has been cited here, and what is the condition there? Why, we find about a year ago now they had in New York, in the banks of the city of New York alone, over seventy million dollars in excess of the legal requirements of their reserve, and their reserve amounts to hundreds of millions of dollars more. That was the condition that existed there, and in that case I believe it is a wise provision to prohibit the state from lending its credit, yet under certain circumstances and conditions the people of this country in Utah Territory, it is wise to leave to them and to their representatives the right to pledge their corporate credit, if they see fit so to do, or to pledge the credit of the State, if they see fit so to do, in order that internal improvements may go on. I believe that it should be done wisely. I believe that it should done carefully and that nothing should be done that would be liable to place them in a perilous condition so far as their credit is concerned.

The gentleman from Utah County said that the record that is made here will be one which will come back to vex the delegates upon this floor. So far as I am concerned, I am willing that my record shall be made upon that point. I do not vote now for giving the credit of the State or of any municipality of the State to any enterprise, but I say I am willing to leave it to the people and to their representatives that they may do as they see fit, and if the people do not believe that that is correct, I am not a candidate for any office. I may never be a candidate, but if I am a candidate, it will be upon the ground that the people have the right to use the credit that belongs to them for their good and for building up any enterprise they may see fit to endorse.

Mr. JAMES. Mr. President, this matter is in a little different form from what many here are aware of. I had no idea when this discussion began that it would take so wide a scope, and I am afraid it will only just cause going over all the ground again.

Mr. ROBERTS. Mr. President, when my friend from Utah County was so quietly discussing the question this morning and the spirit of peace seemed to be moving over this assembly, I sincerely trusted that he was right and that this was not and would not be made a party question. I remember a few days ago asking the gentleman from Iron County—indeed I think it was only yesterday, if the question of loaning the credit of this State in aid of private enterprises was made a party issue in the campaign last fall, and I received a statement from him to the effect that it was not and I really hoped that it would not be now made a party question upon the floor of this Convention. But, sir, my hopes and wishes, I believe are to be disappointed. I notice that in the efforts that were made, I presume by party whips, to bring in absent members last evening, in the minds of gentlemen upon this floor there was a party question at issue and all the forces must needs be present in order to carry a party measure. Bad as I believe republican doctrine to be, I could not bring my mind to the conception that it is as bad as it is, if my republican friends are not only in favor of paying money out of the treasury in aid of private enterprises, but are also determined to have the credit of the State at their command for the same purpose. As I stated yesterday, I am of the opinion that if that issue had been thrown in sight in the last campaign, the results of the election, sir, would have been somewhat different. Not only the action of members upon this floor yesterday and this morning proclaimed that this is a party issue, in the eyes at least of the majority of the republicans upon this floor, but in the estimation of the organ of that party in this Territory, it must be a party question. An editorial in that paper of to-day's issue says:

We regard the re-opening of the bounty fight yesterday as exceedingly ill-advised and unfortunate. It came, too, from a source least to be expected—a republican delegate. It is impossible to see anything to be gained in a movement like this, except to play into the hands of the democracy. No possible protection is to be had in this move.

Mark you this:

It is a clear abandonment of the republican position on the question and an indefensible attitude to take before the party. The object sought to be obtained is chimerical anyway, and could not be reached by any sort of prohibition. It will be the part of wisdom to allow this question to remain settled on the basis of Tuesday's vote.

Now, sir, I think from the attitude of members on the floor of this Convention, the statement made by the organ of the republican party, that hereafter the people of this Territory will know that not only is the republican party in favor of paying out money from the public treasury in aid of private enterprises, but they want to have at hand the entire credit of the State to be used, if they think proper, for the same purposes. I am exceedingly glad that that fact is now clearly to be developed and that there will be no opportunity of dodging the issue from henceforth. And I take it, sir, that in the forum of the people there will accrue from this attitude a very great advantage to the party I represent. The day when some bold, war-like chieftain could call around him spirits of a like disposition, and invade some neighboring state, enslave the inhabitants, and parcel out their lands, the larger portion to himself, and the rest to his retainers, has gone by. But, sir, that disposition of making conquests over his fellowmen has not been eliminated from the hu-

man breast. In this particular as in many other particulars,

Our polished manners are a mask we wear, and at the bottom barbarous still and rude,
We are restrained indeed, but not subdued.

And this determination to feed upon the labors of the masses and to prosper at their expense is still in the human breast, only it makes its appearance in our age and in our civilization under new forms. Men possessed of great wealth and feeling the power that wealth gives them forget right and are determined to increase that power, even if it be at the expense of the masses, and hence, sir, with eagle eyes, these men associating together in companies look the whole land over where they may launch enterprises, and in addition to the advantages of entering a new country and monopolizing its resources—not satisfied with the advantages that can come from that alone, they seek the state governments as allies to their enterprises and make the people, through the agency of the government, contribute to the amassing of still more and more wealth. These, sir, are some of the principles and some of the facts that need to be taken into account when we are dealing with so important a question as that now before us, and I want to call attention to what has been called upon the floor of this house the trend in modern constitucion making. And I take it, sir, that the spirit as exhibited in the formation of our late constitutions is exceedingly instructive. It gives evidence of an evil from which the people are seeking to free themselves. My friend from Utah County noted the fact that thirty states in this Union had substantially this provision in their organic statement. The gentleman from Salt Lake (Mr. Bowdle), however, questioned his statement on that subject, as I remember his remarks, claiming that there were only two states that went so far as this proposition before the house proposes to go, citing as I remember it, California and the state of Wyoming. I will call the gentleman's attention at least to one other state that goes quite as far and indeed I think farther than this proposed section goes. In article seven of the New York constitution, lately revised, it is stated that the credit of the state shall not in any manner be given or loaned to or in aid of any individual, association or corporation, and then in article 8, section 10, it goes on to say that no county, city, town, or village shall give any money or property, or loan its money or credit to or in aid of any individual, association, or corporation, or become directly or indirectly the owner of stock in or bonds of any association, or corporation, nor shall any such county, city, town, or village, be allowed to incur any indebtedness, except for county, city, town, or village purposes.

I take it, if I can remember the scope of the amendment offered by the gentleman from Salt Lake, it falls very short of going so far as the provision in the state of New York goes. I have not been able of course in the short time that we have been assembled this morning to go through all the state constitutions, but since the gentleman is so very widely mistaken, at least so far as the state of New York is concerned, I confess that I have but little faith in the carefulness of his examination of all these matters, and if I am not mistaken he will find the provisions as stated by my friend from Utah County substantially the same in thirty of these states, seventeen of which are republican states and but thirteen democratic states. But, sir, what I want to call attention to is the formation of the last four constitutions, that of North Dakota, South Dakota (both of which are republican), Montana, (that I believe was a democratic convention that formed that constitution,) and Washington (also republican).

Now, sir, the reason why provisions

limiting the power of the Legislature in these particulars of which we are speaking, are not to be found in the old constitutions, is that the people were not then grappling with corporate power as they are to-day. Their liberties were not endangered by those powers, as the liberties of the people are endangered to-day by them. And hence, you do not find these provisions against using the credit of the state in the older constitutions, but you do find them in all the constitutions of recent formation. It is a grand spectacle that that we may observe in this Territory. A people just emerging from territorial vassalage to the prominent and proud position of a sovereign commonwealth in the American Union. The people, however, are scarcely enthusiastic at the prospect. You may almost see them shrinking from taking on the larger obligations, and that chiefly because of the increased burden of taxation that will come to them by reason of this change in their government. Their treasury will contain no revenue upon which you may place your hand to pay bounties in aid of private enterprises. It will require all the revenue that can be raised by reasonable taxation to meet the increased expenses of the new government. You bounty favoring gentlemen, tell me, do you see that? And seeing that you have no way of spending the public moneys in aid of private enterprises, which shall result in the building up of private fortunes, do you see that, and seeing that you are now determined to have the credit of the State in aid of such purposes? If so, you shall at least find a strong minority at the threshold of the new commonwealth beating back the invading host that would fatten upon the labors of the people. [Applause.]

The air is full of schemes for the use of the public money, and for the very reason that we are a new country, and our resources unappropriated as yet, should be the very reason why we ought to be careful that we do not make it possible for foreign corporations—people living outside of our boundaries, to organise associations and companies that will come here and place their hands upon the resources of this Territory and leave the bona fide citizens thereof no opportunity in which to develop the splendid sources of wealth in our country hereafter. Slower growth, more permanent and the blessings thereof more equally distributed among the people, is the thing for which I would contend. My friend from Utah County this morning called attention to the fact that it has been the policy of the leaders in the Territory in the past to be conservative in regard to indebtedness. I can easily demonstrate the truth of it if it needed demonstration. In 1880 the public debt, state, county, and municipal, amounted to but eighty-one cents per capita, in 1890 it amounted to $3.69 per capita. But, sir, we have been lunging and plunging during the last four or five years in the combined debt, of State or Territory, county, and municipal, according to statements made a few days ago upon this floor, until it amounts to nearly four millions of dollars in this Territory. I am informed by my friend from Weber that if you add to this indebtedness our annual interest, which is a burden upon the people of this Territory, already amounts per annum to about five hundred thousand dollars.

Mr. MORRIS. Has any of that indebtedness ever come from assisting any private enterprise or any corporation?

Mr. ROBERTS. No, sir; and I do not speak of it as resulting from that, but I speak of it, sir, as I think that the people will look at it, and they will be loth to leave it possible to increase that indebtedness. They will shrink from it, being a conservative people, and that is the point I wish to call your attention to. That is a burden that we already have. And now our burden is to be increased by the new government. No

one disputes that. And then in addition to that, you want to leave the Constitution in such a shape that every company that chooses to launch an enterprise in our land can go to the Legislature of the State and ask, and perhaps obtain, the endorsement of the State upon its bonds, and it is an iniquity—an evil against which I wish to raise my voice and if possible pursuade enough of our republican friends to join with us in warding off the blow that threatens the prosperity of the State. Why, gentlemen, let me appeal to you from another direction. If you insist on keeping out this provision from the Constitution, you are only serving notice upon the people of the proposed new State that the only safety for them will be to entrust the government of the State to the democratic party, who will not use the credit of the State in aid of building up private enterprises. Our friend here yesterday wanted us to defer this discussion until we should get upon the stump next fall, and in dramatic tone informed us that he would say then, "Lay on, Macduff, and damned be he who first cries hold, enough." Now, sir, the business life I lead has precluded me from refreshing my memory in the English classics, but as I remember the story of Macbeth from my schoolboy reading, I think the gentleman was exceedingly unfortunate in assuming the character of Macbeth in that connection, for the reason, sir, I believe Macduff did lay on. That desperate language, sir, did not come from re-enforcement born of sweet hope, it was rather resolution that the blood-stained king had gathered up from despair. He had listened to that voice which deceives us in honest trifles to betray us in deepest consequences. He had allowed himself to think, sir, that the devil could speak truth. He had been deceived in every promise made to him by the false spirits whose counsel he had followed. And now, at last, confronted by the man whom he had most wronged, he defied fate and said, "Lay on Macduff." Macduff did, with sturdy blows, till the blood-stained tyrant, usurping king of Scotland, lay helpless a corpse at his feet. Is the language of the illustration prophetic of the next campaign? [Applause.]

Why, sir, you refuse to engraft into the Constitution this provision, I tell you in answer to some gentleman who whispered Waterloo a few days ago that we have been fighting no Waterloo. It was the first battle, or the first part of the battle at Marengo. You remember, gentlemen, how the French columns, hour after hour, were hurled upon the Austrian forces and how they were broken and driven back until the first consul of France, seeing his broken columns all around him turned to the dauntless Desolles. "General," said he, "what do you think of the battle?" "Why," replied Desolles, "it is lost completely. But," said he, "it is only 2 o'clock, we can win another before the day closes." And with that he led his corps in the attack. Another general, Kellermann, charged at the right moment upon the flank of the enemy. The Austrian line was broken and victory was once more faithful to the flag of Arcola. So, sir, it shall prove in this issue. You shall find a Marengo and not a Waterloo that we have been fighting, and before the campaign closes, in another issue you shall find that by 5 o'clock, the democrats have gained a victory and a democratic State will appear in prospective. [Applause.]

Mr. EICHNOR. I would like to ask Mr. Roberts two questions. First, is this not a partisan question?

Mr. ROBERTS. I think, sir, that it ought to be. I have tried to think it was not, until the organ of the party announced that, "it is a clear abandonment of the republican position on the question, an indefensible attitude to take before the party." And especially the partisan movements that were

made last night to get in enough republicans to change the result of the vote.

Mr. EICHNOR. The second question is, did you discuss it from a non-partisan standpoint?

Mr. ROBERTS. I could not discuss it from a non-partisan standpoint for the reason that our friends have made it partisan question.

Mr. EICHNOR. Then do you expect the republicans to vote for it?

Mr. ROBERTS. I hope, sir, that there will be enough republicans who will have patriotism at heart to guard the State against future evils that they will vote for this measure.

Mr. GOODWIN. Mr. President, day before yesterday we had a roaring lion here. We downed that lion. caged him, and thought we were done with him. Yesterday a tiger was presented, but he was assailed and we were called upon to see that he had no claws. He had them concealed in the cushions of his feet, that he had the most delightful stripes in the world, and that his purr was precisely like that of the house cat. There could be no harm in him. Mr. President, this is simply a partisan question. I do not mean it in any small or offensive sense. There is no democrat can present anything here that seems fair, even if it is democratic, that shall not have my hearty support, but you can see by the whole tenor of the argument, that this is considered a party question. The only thing that astonishes me is that a gentleman like the last speaker is so fearful if this goes on, as it ought to, it will result in making this a democratic State. I did not expect so much candor from him, as to intimate to us in advance the calamity that that would be. [Laughter.] We are told that thirty states have this in their constitutions, and that seventeen of them are republican. Why? For just exactly the same reason that if 5 or 6 or 8 republicans join the democratic votes here, and put it into the Utah Constitution, and next week or next year New Mexico has the making of a constitution, gentlemen of the same school will rise up and point to eighteen republican states that have put it in their constitution. When constitutions are made, the majority of one or the other of the great parties is always small, just as we have it here, and if four or five men break away from the organization and join with the other side, they carry a majority, and the party that is in the majority has the credit for it. Mr. Thurman, my particular friend from Utah, drew a picture of the sufferings of those who under this would certainly mortgage their homes, that almost made me weep. He told of what had already been done in this Territory and saying we were paying for the fun we had had. How are we paying? Let us get down to actual facts. In this city the entire city tax for all purposes, conducting the government, paying interest, etc., except the schools, is six and one-half mills, that is six dollars and a half on a thousand dollars. The death rate has been reduced because of that more than fifty per cent. The death rate from diphtheria and scarlet fever have been reduced seventy per cent.

If the gentleman was living here, would not he mortgage his home to be insured exemption or two-thirds exemption from those two diseases, where his little children were playing about him? If he had a homestead worth a thousand dollars, would not he pay $6.50 insurance on that? See what all this buncombe amounts to when you come down to actual facts. But there is another point—a very grave point. I am not opposing this new proposed section because I am in favor of this State, when it shall become a State, mortgaging itself to increase the riches of private corporations, but I take higher grounds. I say that this Convention has no right or business to impeach in advance the integrity of the

Legislatures or the intelligence of the people. I say it has no right to say that the State Legislature shall have the power to say to Salt Lake City, "you shall not use your money for any public or private purpose. You shall not join in any enterprise that you want to, because in the old states, where all improvements are made, where all resources are developed, they have got so that they are afraid of corporations." That is why I am opposing this measure. If it was confined to the State itself loaning its credit, there is but one thing that would prevent my supporting it.

I see a possible time in the future when it will be necessary for this State in order to give its poor employment possibly to lend its aid, under proper safe guards, to establish reservoirs, or canals, to give land that is now a barren waste the vitality which comes of water, and give the poor employment and at the same time to add to the taxable property of the State. My friend from Weber yesterday drew a pathetic picture of the awful loss which the United States has sustained because of the Pacific railroad debt. I did not look for that. The property is still good for the debt. The government can get even on their settlement, but suppose that it were a loss, what then? The government has already received back five times that investment. It has received it back in the decreased expenses in carrying the mails and army and munitions of war of the nation. It saved it in a hundred Indian wars that would have been. It saved it in twenty shapes. But that road was built for a double purpose. The first was to hold this Union together. Some of us have been in the west for years and years. We could not receive a word from home oftener than once in two weeks. There was a universal demand from Oregon, from California, and from Nevada, for that road. The government gave away lands which were worthless to it. They also guaranteed a loan and what is the result? This building that we are in today is one of the results. The fact that all across this continent the frontier has been pushed away to the seashore is another of its results. Of all the comparisons, except when men want to appeal to the prejudices of unthinking and unreasoning partisan men, they never should bring up the Pacific railroad subsidy as a proof of the soundness of their position.

We were told that yesterday the party whip was cracked. There was no sound in that crack, but there was a democratic crack over in the other corner when this vote was declared carried on this section. I did not see one democratic face that was not smiling. I saw very few democratic hands that were not clapping. That shows whether they thought it was partisan or not. My friend from Salt Lake City, (Mr. Richards) the other day asked me how I knew that a road west to Deep Creek would have held up the real estate in this city and would have benefitted this part of the Territory particularly, and the whole Territory generally. I was sorry that he did that, because it confirmed the suspicion, which is more or less prevalent, that sometimes very eminent lawyers forget to inform themselves on outside matters. When he asked that question he gave away the fact that he had not carefully read the papers this last four or five years, and I hold that no public gentleman, no gentleman of any class, can afford to get along without reading the daily papers, some of them for the instruction they contain, some of them for the horrible example they set. But I will ask him a question which will come right within his comprehension. I will ask him if this city ten years ago had had the power and had built a railroad from here to Coalville, and had delivered coal to the people, rich and poor alike, in this city for two dollars a ton, if they would not have had back their money four or

five times and have owned a property that would have paid them better interest than anything they have got in this city?

Mr. RICHARDS. I will say this, that is certainly true. But I will ask the gentleman how he knows that if a railroad had been built under the circumstances he suggests, that it would not have formed a combination with some other railroad and eventually the people have been buncoed out of their money, as they have been times innumerable in this country?

Mr. GOODWIN. Mr. President, I heard a story once. I will get to the answer to you in a moment. I heard of a proposition that was made to one of the most distinguished Presidents of the United States that a certain thing should be done, for the protection of men under certain circumstances. His reply was, "I think it would be a good idea because it would be a complete protection in a certain event." He says, "I never heard of a man having a baby, but he was not assured."

Now, if the citizens of this State had been going to give a subsidy or subscribe to a railroad, with the experience before them, I presume that they would have fixed it so that it would forever have been under their control, or the provision against fooling with it would have been made so strong that it could not have have been done. Mr. Richards is a lawyer. He could have drawn a contract that would have protected the city and the citizens and all that sort of suggestions are simply giving up the idea that the people have not sense enough to handle their own business unless a provision is put into the Constitution preventing them from doing what they wanted to.

Mr. FARR. If Mr. Goodwin will allow me to make a suggestion, it is this. If the gentlemen here expect to go to Logan this afternoon, it is time they were making a move, and I submit, Mr. Goodwin have the first chance Monday morning to finish his speech.

Mr. GOODWIN. I have got through nearly all I wanted to say, and I suggest that while I believe several of these gentlemen ought to go to Provo instead of Logan [laughter], that this be continued and that it be made a special order for Monday morning.

Mr. CREER. Mr. President, I move that we now adjourn until Monday morning at 10 o'clock.

Mr. JAMES. Mr. President, this very ground is embodied in the report of the committee on incorporations, which will come into this Convention, and if you inject that——

Mr. VARIAN. I object to any such business as that being interjected now.

The motion to adjourn was agreed to.

FORTY-THIRD DAY.

MONDAY, April 15, 1895.

Convention was called to order at 10 a. m. President Smith in the chair.

Roll call showed a quorum present.

Prayer was offered by delegate Farr, of Weber.

Journal of the forty-first day's session was read and approved.

The following petitions were presented asking that the question of woman suffrage be submitted as a separate article to a vote of the people:

File No. 294, signed by S. A. Kenner and 121 others, from Salt Lake.

File No. 295, signed by Thos. Durham and 52 others from Parowan, by Heybourne, of Iron.

File No. 296, signed by W. H. Hatch and 5 others, by Allen, of Piute.

File No. 297, signed by Reuben Parkes and 65 others, from Logan, by Roberts, of Davis.

Ordered filed.

The following petitions were presented asking that an equal suffrage clause be placed in the Constitution:

File No. 298, signed by Martin Woolf and 168 others, from Millville, by Hart, of Cache.

File No. 299, signed by W. C. Christensen and 61 others from Salem, by Engberg, of Utah, by request.

File No. 300, signed by W. H. Gardner and 202 others, from Salem, by Engberg, of Utah, by request.

File No. 301, signed by Laura J. Taylor and 66 others, from Fremont, by Robison, of Wayne.

File No. 302, signed by Francis H. Smyth and 543 others, from Fountain Green, by Jolley of Sanpete.

File No. 303, signed by Elizabeth Yates and 148 others, from Scipio, by Thompson, of Millard.

File No. 304, signed by Jacob S. Boreman and 260 others from Ogden, by Chidester, of Garfield.

File No. 305, containing 727 names from Salt Lake County; 196 names from Emery County; 655 names from Salt Lake City; 535 names from Utah County; 82 names from Washington County; 33 names from Pleasant View, by Chidester, of Garfield.

Ordered filed.

Mr. Squires, of Salt Lake, presented file No. 306, signed by B. B. Quinn and 12 others, from Bingham, opposed to woman's suffrage in any form.

Ordered filed.

Mr. Miller, of Sevier, presented file No. 307, signed by A. C. Todd and 56 others, from Utah County, and file No. 308, signed by Clarissa A. Hoyt and 103 others, from Kane County, favoring the submission of the question of prohibition as a separate article to a vote of the people.

Referred to committee on schedule, future amendments and miscellaneous.

Special orders.

The PRESIDENT. This brings us to the question of the reconsideration of the vote on the proposed thirty-sixth section.

Mr. SNOW. Mr. President, I move you that it be the sense of this Convention that Mr. Varian now close the debate.

The motion was agreed to.

Mr. VARIAN. Mr. President, were it not that this question has been much misrepresented and is, I apprehend, much misunderstood or apparently so, I would not undertake to consume the time of this Convention further in this discussion. It will be remembered, however, that while through the medium of the public press as well as by speakers upon this floor the proposition which I affirm here has been attacked, we have heard comparatively little in support of the proposition. It was hurried through two or three days ago, because it was sought to complicate it with other matters, which could but serve to cloud and prejudice the consideration of this question. In accordance with fairness and justice, however, an opportunity for full and fair discussion has been given, attended by the right to recall the action of the Convention in adopting the section under discussion, if the majority of the members shall be so advised, and in the beginning, before I shall forget it, I desire to call the attention of every member on this floor, who is favorable to this section and to its incorporation in the organic law, to the fact that there is no necessity for such a one to vote for a reconsideration, which, if the majority of the Convention shall determine, would only result in the prolonging of the debate the possible, opening up of the question to other amendments and the taking of another vote. Fairness and justice have been complied with when the opportunity is afforded the members of the Convention to express their views and to vote aye or no upon the reconsideration. If there shall be a majority of this Convention voting to reconsider this vote we may take it, I apprehend, that it means that this section is to be stricken out of the instrument and that there will be no necessity to further prolong the matter. In other words we may settle it now by this

vote which shall be taken, when I shall have concluded.

There has been, I regret to say, injected into the consideration of the subject a question assumed to be of a partisan character. I deprecate the fact that my friends on the other side seem to find it necessary to take up a supposed challenge by my party associates and to treat the question from that standpoint, as a partisan one. On Saturday my distinguished and eloquent friend from Davis County directed the attention of the Convention to the announcement made in one of the papers of the city, which he declared to be a republican organ and assumed that its announcements and declarations were all sufficient to declare and affirm articles of republican party creed. I deny both propositions. I deny that this section in any degree, directly or indirectly, is antagonistic to any line or principle of republican party faith. I deny the right of any paper or any party caucus on this floor to determine what is and what is not a tenet of my party faith. I would remind my friend that he was too hasty in assuming, because of that declaration which he read here on Saturday, that the republican party was behind that declaration. He was mistaken when he assumed that the paper was a party organ, because it has and does disclaim that whenever occasion shall serve.

My party principles are the result of some thirty years' reflection and study. They are not taken from the declarations of caucuses nor of interested newspapers; they go further and deeper. They begin with the great principles which were announced decades and decades ago. I undertake to say that there is no principle in this section involving this question of bounties at all, but if there were, I would say to my friends who are insistent about republican doctrine and are so fearful that perchance in this Constitutional Convention the republican party shall make a mistake concerning its principles, that the bounty principle never was a fundamental cardinal doctrine of republican faith. It is but an incident to the great underlying doctrine of protection. The system of bounties did not begin with the republican party. That was commenced and engrafted upon the statute books of the United States, in the very second law passed by the first Congress in 1789, and it was continued through the years for forty or fifty years by special act and by general law. In those days it was deemed not a question of party creed, but a question of American protection and development. But, sir, if my friends may deem that at this date it has become so engrafted in the republican faith that it is no longer an incident, but of the very substance, I want to call their attention to the fact that they are overturning the declaration of the party in its national council which may be and should be higher than the declaration of any newspaper writer. In 1880 the republican party in national convention assembled made this declaration: "No further grants of the public domain should be made to any railway or other corporation. Further subsidies to private persons or corporations must cease." And on that platform Mr. Garfield was elected to the presidential office. To my knowledge it has never been changed or modified. Do not misunderstand me. I do not mean to say that that prohibits the exercise of a wise legislative discretion in the distribution of public moneys for the encouragement and protection of the people's productions. I mean to say that it serves to mark the distinction between all that which has clouded the discussion of this question and the sound argument which is in support of a very different and distinct proposition. They are dealing now with subsidies, pure and simple. We are dealing with a question of loaning the credit of the State or any of its subdivisions for the advantage and the building up of enter-

prises, not public in their character. Now, the question underlying this matter, sir, has agitated and disturbed the people of the American commonwealths for the last thirty years. Amidst suffering, disaster, and peril, they have come up out of the heresy of former times, independent of party affiliations, and with a unanimity that is marked to a degree, they are incorporating the prohibition in their organic law. Every state that has been admitted into this Union since 1876, commencing with Colorado, has engrafted upon its organic law just this provision. Colorado, Montana, Idaho, Wyoming, North and South Dakota, Washington and California, all of them in almost the very language, have placed irrevocably on their organic statutes this prohibition that we seek to engraft here.

It was suggested, sir, during this discussion, possibly in the best of taste, possibly not, that I stand here emphasizing and affirming my honest convictions on a great public question, was not representing my people, that I was possibly a delegate at large, and the inference no doubt that I was not representing the people of this community. I want to say to you, gentlemen, that I know that I am a little closer down to the rank and file of this community than some others that I wot of. I am not mistaking the clamor and call of interest boomers and speculators for the voice of the people. It is not the voice of the business men as a whole, of the property owners and taxpayers as a whole, of the great rank and file of the community, who live and maintain their little homes and pursue their small avocations and businesses, that you hear here. If I might be permitted to advise, I would suggest we get our ears a little lower down, a little closer to the ground, if we shall desire to understand and appreciate what the people really want. It is said here, "Why are you afraid to trust the people? This is a country of majority rule, and when the majority, after consideration, shall have announced its decision, it is the duty of all good citizens to bow in submission." Quite true. It is a general rule, and like all such, it has its exceptions. One exception is—a very pronounced and marked exception—that no majority, however powerful and strong in wealth or numbers, may deprive or despoil a fellow citizen in the minority of his property. The application of this principle has not been made in many instances during the session of this Convention. There have been many, or at least a number of propositions, which some of us thought might well have been left to the decision of the people, expressly to consider the questions which, in the opinion of the majority on this floor, have not been permitted to prevail, but the truth is that the people distrust themselves. What is the object of a constitution? It is not alone to declare what everybody knows to be self-evident facts concerning the rights to liberty, life, and property. It is also to include prohibition against future mistakes and wrongs that may be made and committed by the people. They distrust the temptations of the future. They distrust the power of the majority, because that power sometimes is but typical of tyranny. Professor Brice, in speaking of this tyranny of the majority, in his work on American commonwealths, says: "A majority is tyrannical when it decides without hearing, and when it enforces men to contribute money to objects which they disapprove, and which the common interest does not require."

It has been said here, "people have a right to do what they will with their own." I deny it, in its application to the government of the people. It is an utter misapplication of a principle which may properly be applied to the relations of the citizen in private life and in matters which concern only himself in his business, and in that sense in the re-

lations he occupies towards his fellows. But in its application to a governmental question, I deny it. It is no doctrine of republican faith. It is no doctrine of democratic faith. It is no doctrine of any creed or party, except that of the tyrant. Why is it, my friends, that with a unanimity that has as yet been unbroken, during the past thirty years, the people of every state have put with emphasis in their organic law this prohibition, against this exercise by the majority in the future, of this alleged right to dispose of the public credit and the public funds? It is because of the wisdom born of the bitter, the blighting experience of the past. I need not go back to the history of the Pacific railroads. I quite agree that that illustration is not particularly applicable nor illustrative of the matter in hand. The Pacific railroads were builded because of a great public necessity, probably they would have been builded by the moneys of the government altogether, if the treasury of the United States had not at the time been bankrupt. It was in great part for the time wholly a war measure and I do not cite or illustrate my position by any such argument as that. But there are states to which we may turn our attention. There are commonwealths, the history of which is calculated to make us hesitate long, ponder well and deeply over the gravity of the situation. Kansas lost herself, her people lost themselves in the wild vortex of speculation. They were precipitated into a frenzied financial debauch, and her people were pursuaded to vote the revenues and resources of the state for future years in countless thousands of dollars in the aid of great public enterprises and undertakings. And to-day the history of that state has been that they are disappointed in their hopes, failing in their aspirations day by day, and week by week and year by year the people of that tax burdened state have been going down into poverty, if not into want, and by hundreds the farmers of that rich state have been abandoning their farms, taking their wagons and their teams, their families and their little ones, with such household effects as they might have been enabled to save from the tax gatherer and the sheriff, and they have departed from the soil of Kansas forever, leaving behind them this miserable record of misappropriation and misrule. There is one county in Kansas to-day where for years the county commissioners have been, as soon as they were elected, taken to the county jail under the mandate of the Federal court, because they could not—they did not dare, in defiance of the sentiment of their neighbors and of their county to make a tax levy for the payment of a bonded indebtedness or the interest thereon, which the people were convinced had been incurred in wickedness and fraud, and so they go and their places are taken up by others, honest, brave citizens of the county, content to serve the people by refusing to do what technically the law requires they should do, but which the public sentiment of their people forbids them to do, and so they serve them within the walls of the county jail, until their terms have expired, when new men, just as patriotic, just as self-sacrificing, step forward and by election, take their places.

I am informed by my friend from Juab County that the county of Douglas, which includes the city of Lawrence, has a bonded indebtedness of a million and eight hundred thousand dollars. Over in Missouri, in some localities a similar state of affairs exists. In 1889, the county commissioners of Sedalia, I think it is, were sentenced for contempt to imprisonment by the judgment of the circuit court of the United States for similar reasons. I was reading that decision in the Federal Reporter on yesterday. My attention had been refreshed and redirected to the subject by a dispatch that appeared in one of the

papers during the week, indicating that this has been still going on and but the other day their successors were again committed because of their refusal in the premises. Does not this indicate that it is necessary to protect the people against this? How is it that these bonds are floated? How is it that the people are pursuaded to lend their funds to accomplish such a purpose as that? Let me tell you. In the first place, if it is a railroad enterprise—and permit me to say that a substantial, thorough, great railroad enterprise, with substance and skill and power behind it, never depends upon the granting of aid by counties and municipalities in the way of bonds. Second, if it is projecting a line through an unexplored and new territory, first, before anybody knows anything about it, it puts its experts, its engineers, in the field, puts its accountants and actuaries at work, undertakes to gather the wisdom of all the surrounding country. They want to know the sources of supply. They want to know the population and the possibility of population, they want to know the productive abilities of the country. They want to know what exists between the proposed terminal points, and it has become practically an exact science, if anything of that kind can become exact, and it is determined not by the question as to whether they can secure a few million of bonds from this county, or two hundred thousand from the other county, but whether, as a business proposition, it will pay—pay its fixed charges, pay its operating expenses, pay interest on its bonded or other indebtedness, and pay a dividend on its common and preferred stock. If any of the elements are wanting, capital stays its hand.

But with the railway promoter and speculator, with the boomer, and the highflyer, the man who has no capital but his energy and skill, and his wit and his brain, the projection is a very different proposition. He goes into the market and he ascertains that between two localities—as for instance, between Los Angeles and Salt Lake City, the people at either terminal point are of the opinion that a railroad would be a great public benefit, would be an enterprise that would redound to the private and public advantage of the citizens and the cities in which they reside. He does not stop to realize that in this era of competition that has all been carefully considered for years, that the great substantial railroad corporations with money behind them have looked into that carefully from a business standpoint, figured it down exactly. They have not lost sight of any outlying territory that might be made advantageous to their roads or their system. He does not look at that. He does not care. He goes before a legislature of Utah or California, and he gets an interested and zealous lobby behind him—men perhaps who are loaded down with real estate or are hanging on by their eyelids from year to year, hoping almost against hope that the good old boom days will come again and they will be enabled to sell to somebody else something for three or four times its worth, and thus get out; men who also are interested in the hurry and skurry, the temporary advantage that always occurs while the building of any great undertaking is going on; all perfectly honest it may be, yet all interested people, not the people who expect or who may, I should say, be expected to live here and their children after them, not the solid substantial people who are rooted to the soil, and who help to make up the state. These gather about the lobby of the legislature. The matter is boomed and presented in glowing colors to the people and the people are excited. There is a pleasant and plausible side. Everybody is of the opinion what a great and glorious thing it will be if we can only induce this railroad enterprise to launch. Why, it will increase the value of my

property, sir, to such an extent that I can make all improvements or I can sell it and do this, that and the other with the money. I can get out of debt. They figure it down, just how much it is going to pay. Any man can sit down in a private office, particularly if he does not know anything about railroading, and the less he knows about it the more glowing his figures will be. He can just figure out how much a mile it is going to pay and within what period of time, how much population is going to come in the intervening country, how many mines are to be developed, and how much each of those mines is going to produce a week, how much freight the road is going to get from it, how much that ore is going to carry per ton, how it can all be figured out and portrayed up to the people, and it goes with a hurrah. So the legislature authorizes the city or the county to lend its aid on a vote of the people to issue bonds to this undertaking. And it may be before a single rail is laid, before a tie is carved from the virgin wood and laid upon the ground, hundreds of thousands of dollars may have been voted by the people.

In times of excitement, many people are not always right. They are right in the long run, but they are not always right every minute and every day at every election. My friend will agree with me there. He doubtless thinks they were not right last fall in the United States, as I think they were not right four years ago upon a similar occasion. What then? The bonds are on the market, they are put in the money markets of the world, they have passed into innocent hands, they have got to be paid, whether the railroad goes or not. And if the railroad shall go, what then? Railroad enterprises, like other business enterprises—perhaps more so—are subject to disaster, more sensitive, perhaps, than any enterprise that now occurs to me; sensitive to the changes of the business world, changes in the money market; they go down sooner than other enterprises, and if in the cases I suggest, the railroad is not able to pay its fixed charges, by and by it is not able to pay its operating expenses, pretty soon it goes into the hands of a receiver, and the receiver's certificates take precedence of all other claims against it, and the people and those who come after them, and their property, are called upon as an honest people to pay in accordance with the very letter of the contract that they have entered into. Why, sir, over one hundred and sixty railroads in these United States to-day have gone into the hands of receivers, within the last year and a half; over one-fourth of the mileage representing more than thirty thousand miles, over one-fourth of the capitalization, representing more than two billions five hundred millions, are insolvent, and are being operated to-day at a loss, through the medium of the courts; and behind many of them in many states are the bonds and the contracts of the impoverished people whose farms and whose properties are burdened for all time with this tax-eating, debt devouring lien. As a make-weight, it was suggested by some one here in the argument that in this Territory or State there will be needed reservoirs or canals. What of it? This prohibition that we seek to engraft here in this Constitution is not designed to prevent the State, if the irrigation of the country, if the procuring and conservation of the waters of the mountains, in reservoirs and receptacles for future use, and canals for distribution, shall be determined to be a public purpose, there is nothing here to prevent the State with its finances and its power from taking charge of such enterprises, but it is to the private corporations, it is to the private individual that I would direct this prohibition. As against him, I would prohibit the State from loaning its aid and its

credit. Now, as was suggested to me by an esteemed friend privately, would this prohibition interfere with a city like Salt Lake, for instance, disposing of its property? It was suggested, supposing a railroad were coming in here from the California coast and it sought terminal facilities, and the city of Salt Lake had a piece of ground, appropriate and fitting for the purpose, and the will of the people, through the city council, was to get a bonus and give it to the corporation, "why," he says, "would not this interfere with it?" I said, "No, it would not." There are other rules of law that would determine that question about which I am not now concerned.

I simply say, however, to my friends, that this prohibition would not reach a case like that. That bridge can be crossed by the good people of Salt Lake City and by its common council under the direction of its courts, when it shall be necessary to pass it. Now, what is the object of a state government? Is it simply an accumulation of property? Is it simply that men may get rich—some men? Or is it the building up, the improving, the widening, the enlarging of the race of men who stand beneath it and support it? Are you willing to reach down into the future and pilfer from the pockets of prosperity, the thrift and industry of that generation? Are you willing to lay a lien upon the property of those who are to come after you? I say you have no right to do it. If you may give the moneys that shall be wrested from the people through taxation, which are in hand and not needed for the present necessities of the government, I say you cannot go down into the future and lay the property of the succeeding generations subject to such a burden as this section seeks to prohibit. It is better, Mr. President, that the people make haste slowly. It is better that they grow not with a too rapid growth. There are evils attendant upon this sort of financial mislegislation that cannot be calculated. You may have a city of lofty palaces and piles, grand and great public buildings, but it may be so burdened with taxes and debt that all but the taxeater flies from its precincts, and I want to warn my friends from Salt Lake County on this floor to-day that they must not overlook the situation of this county and this city particularly. Look down through the valley there and see the numberless little homes that week by week, month by month, have been located outside of the city limits. They represent a small army of mechanics and working men and clerks. Men who have small incomes and who are unable to own their homes within this city to-day. It has now reached a point that a man must be wealthy indeed who can afford to own a home in Salt Lake City of any sort of value. The tax levy is to the very topmost notch. I do not mean the rate of tax, because that is not the test by which this matter should be tested. It is the valuation of the property. The assessed valuations of this city are now so high that men cannot afford to pay them, and if you want to see the signs of the times and if you have wisdom to profit by them, look at your daily papers. Look how the columns are filled with sales under mortgages and trust deeds. Look at the list of tax delinquents, each year, hear the complaint from all cities and from every quarter, all showing the utter impossibility of carrying these burdens much longer. Why, but the other day on Main Street, in a locality that you all will recognize, right next to that Wasatch building, right in the business center, property was sold under a mortgage for sixty-nine thousand dollars and another money loaner that had a mortgage of twenty thousand dollars on it let it go and lost his money because he could not afford to take the risk, and the man who bought it, well known in financial circles here, told me that he would sell it any day for less

than the assessed valuation put upon the property year by year by the assessor.

Mr. JAMES. Mr. Varian, where do you attribute the original cause of this trouble—in national legislation or local legislation?

Mr. VARIAN. I attribute it principally to local legislation. I attribute it to the recklessness of expenditures, and the utter recklessness of going into debt and the disregard of debt. Why, sir, people seem to have an idea, to hear them talk, that this going into debt by a community amounts to nothing. They seem to treat the subject as if it was one to be disposed of by the simple going into debt, without any regard for the final culmination of the transaction which involves the payment of the debt. I believe (although I do not remember figures very well) that the indebtedness of this city is something like that, three and a half million dollars. Fifty thousand people with an assessed valuation of about forty-four millions or forty-six perhaps, with a State with all its consequent and attendant burdens of taxation, coming now in the near future, what is this people to do? Are we going to leave it open to the lobbyist and the speculator to disturb and misdirect the honest intent and will of the people, upon what occasion shall serve and in moments of mental collapse, as it were—darkness—let the people be led into this devious and uncertain way? Let us deal with this question, Mr. President and gentlemen of the Convention, from the standpoint of the State. We are not on the ground looking up from the standpoint of the person or the individual. We are on the higher plane looking down. It is from the standpoint of the sovereign that I would dispose of this question. I would not be diverted by the wants or desires of this locality or that, of this citizen or you, in my endeavor to so construct this organic law that it shall perpetuate forever the liberties and the freedom of this people. It is a solemn duty, sir, that we have, to guard the public revenue and the public property from spoliation. We may not farm it out through future generations to be disposed of for other than the necessary purposes of the government. You have it in your power to put into this organic law a statement which shall be in accord with the prevailing public and financial interests everywhere, that no public body, neither State nor county, city nor township, nor district, shall ever burden the people's property, shall ever encumber the people's revenues, with an indebtedness designed to aid other than public institutions. In that golden age of liberty and law when Pericles had made Greece immortal he appealed to the genius of Phidias to crown the acropolis with a symbol of the power and glory of the Greeks. A colossal statue of Minerva, the protecting goddess of armies, arts, and industry, was erected as typical of the power and greatness of Athens, as a symbol of law and liberty which challenged the admiration and awe of the people and inspired the Athenian youth with patriotism. Let us here, oh delegates, erect in this citadel of our liberties a symbolic statue of protection and power, protection against wrong, power to do right, much more enduring than hewn granite and chiseled marble, which shall serve to inspire our people with a regard for the true principles of government for all coming time. [Applause.]

Mr. GOODWIN. May I ask the gentleman a question?

Mr. VARIAN. If I can answer it, I will.

Mr. GOODWIN. I wanted to ask if the gentleman ever heard of any man in Kansas abandoning his home because of high taxes, or if the truth is not that the homes abandoned are those on the arid belt in the western part of the state where by actual trial it has been found there is not moisture enough in

the soil for a farmer to raise food enough for his family and his stock?

Mr. VARIAN. Mr. President, I think that that has been one of a combination of circumstances, but as I understand it, the other principle or proposition was also involved that Kansas was a debt-ridden state.

Mr. GOODWIN. I would like to ask another question. If the assessed valuation of Kansas to-day is not as much more for instance, than Arkansas, as all the improvements ever paid for by the state of Kansas amount to?

Mr. VARIAN. I think so, Mr. President.

Mr. GOODWIN. Let me ask one more question.

Mr. VARIAN. I want to state the answer. It is because of this debt that burdens on Kansas and the counties like here in Salt Lake City, the assessed valuations are raised and kept up and they are not at all indicative of the prosperity of its people.

Mr. GOODWIN. One more question, if I can have the privilege. Is it not true that the Union Pacific and Rio Grande have made surveys of all the routes between here and Los Angeles, that they have sought by every means possible to obtain money to build those roads, and that they have been forestalled by the Southern Pacific Railroad in just such arguments as we have heard here to-day?

Mr. VARIAN. No, I do not think that that is true, in its full sense.

Mr. GOODWIN. That is true.

Mr. VARIAN. I am informed by the railroad——

Mr. JAMES. Mr. President, I wanted to ask Mr. Varian a question. You made the statement a little while ago that we were in debt about three and a half millions in this city. I think it is approximately correct—three millions three hundred thousand I think is about the indebtedness. Now, I want to ask you, Mr. Varian, had this amendment that you have proposed here been on the statute books as a law at the time that indebtedness was created, would it have saved any part of that indebtedness having been created?

Mr. VARIAN. Oh, no; this indebtedness is for supposed public purposes, as I understand it.

Mr. JAMES. That is what I supposed.

Mr. VARIAN. Except the copper plant.

The roll was then called on the motion to reconsider with the following result:

AYES—42.

Adams	Kimball, Weber
Allen	Lambert
Anderson	Larsen, L.
Bowdle	Larsen, C. P.
Brandley	Lowe, Peter
Button	Lund
Cannon	McFarland
Chidester	Miller
Christiansen	Morris
Clark	Moritz
Crane	Page
Driver	Peterson, Grand
Eichnor	Peterson, Sanpete
Emery	Pierce
Goodwin	Ricks
Green	Shurtliff
Haynes	Squires
Hill	Strevell
Hyde	Symons
James	Van Horne
Jolley	Williams.

NOES—33.

Barnes	Mackintosh
Boyer	Maloney
Buys	Murdock, Beaver
Call	Murdock, Wasatch
Coray	Murdock, Summit
Corfman	Partridge
Creer	Peters
Cunningham	Preston
Engberg	Raleigh
Evans, Weber	Richards
Evans, Utah	Roberts
Farr	Robertson
Francis	Robinson, Kane
Hammond	Robison, Wayne

Hart	Ryan
Halliday	Sharp
Heybourne	Snow
Howard	Stover
Hughes	Thompson
Ivins	Thoreson
Johnson	Thorne
Kiesel	Thurman
Keith	Varian
Kearns	Warrum
Kimball, Salt Lake	Wells
Lemmon	Whitney.
Lowe, Wm.	

ABSENT—11.

Cushing	Maeser
Eldredge	Maughan
Gibbs	Nebeker
Kerr	Spencer
Lewis	Thatcher.
Low, Cache	

Mr. DRIVER. Mr. President, I have been absent during the whole of the time of this discussion and I could not vote on the thing intelligently and for that reason I would like to be excused from voting either way.

Mr. JAMES. I object.

Mr. THOMPSON. Mr. President, I wish to state that I voted no before and I am converted and I vote no now.

Mr. EVANS (Weber). Mr. President, I was informed over the telephone that Mr. Lewis was paired with Mr. Bowdle, and he voted aye. I would like to ask the gentleman if that is true?

Mr. BOWDLE. Mr. President, I am not paired with Mr. Lewis. Mr. Strevell heard the agreement, that if it came to a vote that day I was paired with Mr. Lewis, but I emphatically made the stipulation that if it did not come to a vote that day I would not be bound by it.

Mr. EVANS (Weber). Mr. Lewis is sick.

The PRESIDENT. Gentlemen, the motion is lost. There are 58 noes to 42 ayes. [Applause.]

Mr. L. LARSEN. Mr. President, I wish to offer an amendment:

Provided, that it shall not be construed so as to prohibit the Legislature from granting bounties or giving aid to private or corporate enterprises.

Mr. CREER. That is clumsy.

Mr. L. LARSEN. Now, Mr. President, if it is true, as has been claimed, that it does not allude to bounties, why I would like to have it so stipulated in that article so that there will be no misunderstanding that our Legislature shall not have the power to put interpretations of the word; it says——

Mr. VARIAN. Mr. President, I desire to suggest a point of order. This section has now twice, by vote of this Convention, been adopted as it stands. The time to have amended it was while it was pending for consideration. If the gentleman desires to incorporate the principle embodied in that amendment in this Constitution, I presume he can frame a separate section and offer that, but he cannot, I submit, now amend this section which stands by the judgment of the Convention in the language in which it was passed.

The PRESIDENT. I think the point of order of the gentleman is well taken.

Mr. KIMBALL (Weber). Mr. President, before you decide that motion, I would like to ask the president of this Convention if that whole bill is not before this house at the present time. It is subject to amendment in any section of it from section 1 to section 36. It is subject to amendment until the final vote is taken.

Mr. VARIAN. I call the gentleman to order, but if he desires to be heard I want to be heard. I am not making the point that this article cannot be amended, but I say that it is a common rule of parliamentary law, and it is so laid down in the books, that when a matter is under consideration to go into an article you must amend it as you desire and the time to amend it was when it was before the house. Now, I admit that he may submit a separate section, not to amend this section. I

do not desire to go into that entire discussion again about this section.

Mr. HOWARD. Mr. President, I wish to offer an amendment to section 8, to strike out the first four lines of section 8, down to the word "Legislature" and including the word "Legislature," and insert the following:

No person shall, while holding any office under the United States government, hold any office under the State government of Utah, and no person holding any public office of trust under authority of the State of Utah shall be a member of the Legislature.

I find that in looking over these articles that in the last section of the executive article that we have had under consideration in committee of the whole.

Mr. BUTTON. Mr. President, I arise to a point of order. This very same amendment was offered the other day in the Convention and voted down.

The PRESIDENT. I think the point of order is well taken.

The secretary will call the roll on the passage of the legislative article.

Mr. L. LARSEN. Is the roll call on the whole article?

The PRESIDENT. Yes, sir.

Mr. L. LARSEN. Then, I would propose this as a separate section, to add it to the article.

Mr. KIMBALL (Weber). Mr. President, I suggest that the secretary having started to call the roll no motions are proper now.

The PRESIDENT. That is correct. The point of order is well taken.

The roll was then called with the following result:

AYES—72.

Adams	Lemmon
Anderson	Lowe, Wm.
Barnes	Lowe, Peter
Boyer	Maeser
Buys	Mackintosh
Call	Maloney
Cannon	McFarland
Christiansen	Moritz
Coray	Murdock, Beaver
Corfman	Murdock, Wasatch
Creer	Murdock, Summit
Cunningham	Page
Driver	Partridge
Eichnor	Peters
Emery	Preston
Engberg	Raleigh
Evans, Weber	Richards
Evans, Utah	Roberts
Farr	Robertson
Francis	Robinson, Kane
Hammond	Robison, Wayne
Hart	Ryan
Halliday	Sharp
Heybourne	Snow
Howard	Squires
Hughes	Stover
Hyde	Strevell
Ivins	Thompson
Johnson	Thoreson
Kiesel	Thorne
Keith	Thurman
Kearns	Varian
Kimball, Salt Lake	Warrum
Kimball, Weber	Wells
Lambert	Whitney
Larsen, C. P.	Williams.

NOES—22.

Allen	James
Bowdle	Jolley
Brandley	Larsen, L.
Button	Lund
Chidester	Morris
Clark	Peterson, Grand
Crane	Peterson, Sanpete
Goodwin	Pierce
Green	Ricks
Haynes	Symons
Hill	Van Horne.

ABSENT—12.

Cushing	Maughan
Eldredge	Miller
Gibbs	Nebeker
Kerr	Shurtliff
Lewis	Spencer
Low, Cache	Thatcher.

Mr. BOWDLE. Mr. President, I vote aye on all of the sections but this last one.

Mr. BRANDLEY. Mr. President, I will

vote aye on all of the sections except the last one.

Mr. EVANS (Weber). I arise to a point of order. Gentlemen cannot divide their votes in that way. The gentlemen must either vote aye or no.

The PRESIDENT. They cannot divide their vote in the matter as I understand it. They can make their explanation.

Mr. CANNON. Mr. President, I believe the Convention has allowed heretofore an explanation of each man's vote.

The PRESIDENT. That is correct.

Mr. CANNON. At the same time, Mr. President, I believe it is a waste of time. The fact that those men who did not like the section voted against it placed them on record. So far as I am concerned, when I come to the article, I can vote for the article, because my vote is against this section on record anyway.

Mr. BUTTON. Mr. President, I am against the next to the last section more than I am to the last one. I will vote on all but those two sections.

Mr. VARIAN. Mr. President, I submit that the gentlemen ought to be able to understand this. They have either got to vote aye or no or not vote at all, with the privilege of making an explanation of their vote when the roll is called. We could not keep a record in any other way.

Mr. BUTTON. If I have got to vote aye or no, or not vote at all, I vote no.

Mr. ADAMS. Mr. President, I vote aye on this, because I am in favor of that section of Mr. Varian's, although I voted for the reconsideration.

Mr. EICHNOR. Mr. President, I vote aye and I favor the general principle of Mr. Varian's amendment, but I do discountenance the manner in which it was accomplished.

Mr. JAMES. Mr. President, this legislative act as it stands at the present time has interfered with the committee on incorporations and usurped their rights, taken away from them that that was farmed out to them, and that that they had performed, and I vote no.

Mr. LAMBERT. Mr. President, I vote aye, but want my protest against the last two sections.

Mr. L. LARSEN. Mr. President, I am not in favor of the last section, and I must be compelled to vote no.

Mr. SQUIRES. Mr. President, I am like my friend Mr. Eichnor. I always bow to the will of the majority. I vote aye.

Mr. STREVELL. Mr. President, I would like to say that I voted in favor of the reconsideration and against this section of Mr. Varian's because I believed it went too far, but I will vote aye on the article.

Mr. WILLIAMS. Mr. President, I vote aye, but I am opposed to the last section.

Mr. MAESER. Please vote me aye.

Mr. SQUIRES. Mr. President, I object, the absentees have been once called.

The PRESIDENT. The objection is well taken.

Mr. VARIAN. Mr. President, I think he may vote any time before it is announced.

Mr. EVANS (Utah). I ask for unanimous consent that Mr. Maeser be recorded on this vote.

Mr. EICHNOR. I object, with all due respect to Mr. Maeser. When they use the whip lash here I am going to use it myself.

Mr. VARIAN. I would like to ask what whip lash?

Mr. IVINS. Mr. President, I insist that any member has the right to have his vote recorded before the result is announced.

Mr. PIERCE. I support that; that is the rule.

Mr. IVINS. It does not need unanimous consent. The result has not been announced.

The PRESIDENT. The gentleman's vote can be recorded.

Mr. SQUIRES. Mr. President, there is a rule here that provides that the roll of absentees shall only be called once.

Mr. IVINS. Mr. President, I arise to a point of order. The gentleman is discussing a question that has been decided upon.

The PRESIDENT. The article is passed by 70 to 23 without recording Mr. Maeser, and with recording him 71 to 23.

The Convention then took a recess until 2 o'clock p. m.

AFTERNOON SESSION.

Mr. Anderson moved to amend standing rule 11 by adding the following words after the word "Convention," in the fourth line:

"And no member shall speak longer than fifteen minutes on any question."

Mr. Anderson moved to amend standing rule 20, by striking out, after the word "time," in the seventh line, the following, "but any member may yield his time or any part thereof to another."

Mr. BOWDLE. Mr. President, I arise to a point of order. We are not on that order of business, as I understand it.

The PRESIDENT. Motions and resolutions are in order.

Mr. IVINS. Mr. President, under the rule this goes to the committee on rules without any debate.

The PRESIDENT. The point is well taken.

Mr. KIMBALL (Weber). Mr. President, I move we now resolve ourselves into committee of the whole.

The motion was agreed to and the Convention then resolved itself into committee of the whole with Mr. Evans, of Weber, in the chair.

COMMITTEE OF THE WHOLE.

The CHAIRMAN. Gentlemen, the committee of the whole is now considering section 12 of the article on executive. There are two amendments pending to section 12.

Mr. EICHNOR. Mr. Chairman, the substitute offered by Mr. Low, of Cache, was not introduced. My substitute is the only substitute at present before the committee.

The substitute offered by Mr. Eichnor was read.

Mr. VARIAN. Mr. Chairman, I trust that substitute will not prevail. I do not know whether all of the members now present were present when it was discussed the other day, but I simply call attention to the fact that the section as presented by the committee is quite complete and covers the whole ground of the new jurisdiction granted to this new tribunal in the government. It is hardly worth while to go over the ground again, as we went over it the other day.

Mr. ANDERSON. Mr. Chairman, I hope that this amendment will prevail. I think that it is a good one. I do not think that the supreme judges should be allowed to act as a board of pardons, as I think the very fact of their passing upon a case would tend to bias their minds, and I do not think that they should act as a board of pardons. Therefore I support the amendment of Mr. Eichnor.

Mr. EICHNOR. Mr. Chairman, I do not desire to speak very long on this substitute that I proposed. My friend Mr. Varian says he hopes it won't prevail. I hope it will. And for the reason as stated the other day—quite a number may not have been present. It was also stated by Mr. Anderson of Beaver that the judges of the supreme court should not sit on the pardoning board. A number of cases are appealed from the lower courts to the supreme court and they either affirm the decision or reverse it. If they reverse it, there is generally very little occasion for a pardon. Sometimes there may be a conviction in the lower court, and when they affirm that decision when the matter is brought before them, they would say, "Well, we have passed on this."

You may say that they will only pass on questions of law. At the same time

it is human nature for a man not to reverse himself. This gives the governor full power to pardon in cases of misdemeanor. They need not go to a pardoning board. I think it is a very unwise provision in a constitution or in any statute that requires a man that is convicted of a misdemeanor to go before a pardoning board. The maximum punishment for a misdemeanor in this Territory is imprisonment 180 days, or a fine of $180. That is the maximum penalty that can be inflicted for committing a misdemeanor. In that case the governor ought not to be hampered with a pardoning board. When a man is convicted of a felony, it is just and proper that a pardoning board should pass upon it. I have for the pardoning board the secretary of state, the attorney general, and the state auditor. That idea is not original with me. It is adopted in a number of states. Montana has it. In that case the governor pardons the offender on the recommendation of the board of pardons, and why the supreme court or the justices of the supreme court should constitute the pardoning power I fail to see. Only two states, Nevada and Florida, or possibly one of the Dakotas, have that board. Quite a number of the states place the power absolutely in the governor. The great state of New York has that pardoning board. Some states have pardoning boards, but as a general rule they are made up of the state officers or private citizens, and this idea that every man on the pardoning board must be a lawyer is an incorrect one. I believe that a pardoning board should not weigh every little technicality but should view the case as a whole and see whether the man is entitled to a pardon or not, and if they think in their judgment that he is entitled to a pardon, after the case has been passed upon by the courts, why pardon him.

Mr. HAMMOND. Have you provided for the salaries of this pardoning board?

Mr. EICHNOR. They get no salaries. They get their salaries as State officers. They can meet once a month or less.

Mr. IVINS. Mr. Chairman, if there is to be a board of pardons at all, it seems to me that section 12, as reported from the committee on executive, is better adapted to the necessities of the case than will be the amendment offered by the gentleman from Salt Lake. It is a well known fact that under existing conditions the pardoning power is vested in the governor. It is also a recognized fact that a pardon is rarely granted by the governor until after he shall have consulted with the district judge, or the supreme court judge, if the case had been tried in a supreme court, before which the case was tried, and has the approval of those officers, and the very reason which is urged by the gentleman from Salt Lake why the justices of the supreme court should not be members of this board of pardons, is the very reason which in my mind makes it necessary that they should be. They are men well versed in law. They are men expected to be familiar to a great extent with these cases that have passed through the courts, and who will be better able to judge in regard to the propriety of granting a pardon to a criminal than those men who would be thoroughly acquainted with all the facts. I hope the section will remain just as it is, and that the amendment will not be adopted.

Mr. EICHNOR. Mr. Chairman, I would like to ask Mr. Ivins a question. If section 12 is adopted as it stands, would it not be a virtual abolishment of the pardoning power in this State?

Mr. IVINS. It would be a virtual abolishment of the right of the governor to pardon without the sanction of a board, and that is just what we are figuring for. We do not propose to vest the entire power in the governor of the State. He must have the approval of a board of pardons, which would

scrutinize what he has done. That is what we want.

Mr. KIMBALL (Weber). Mr. Chairman, I am in favor of the proposition to vest the pardoning power in a board rather than in the governor. I have had some little experience in that thing myself, and I know that it is easier to get around one man than it is to get around a dozen men. I have been through that mill myself, and I think for that reason we ought to support this proposition to vest it in the pardoning board.

Mr. THURMAN. Mr. Chairman, I would like to offer a substitute for both of these. (Reads.)

Until otherwise provided by law the governor shall have power to remit fines and forfeitures, commute punishments, and grant pardons for all offenses against the State.

I do not see why this matter cannot be left with the Legislature. Of course this leaves the matter where it is now, but it gives to the Legislature the right to create a board such as is here named, or any other kind of a board of pardons, or any other means by which the question of pardons may be disposed of. It seems to me that this is entirely too experimental for this body to undertake to legislate upon. For that reason, I favor leaving it to the Legislature.

Mr. VARIAN. Mr. Chairman, taking the propositions in their order, I will suggest, in speaking to the substitute offered by my friend from Utah County, that there is no reason why we should not leave it to the Legislature if we do not desire to change the system. If we desire to change the system, if the experience of other states and if the experience of this Territory within the last ten years has not been sufficient to convince the people of this Convention that the system should be changed, why I grant the gentleman his premises and conclusions. But it is for the very reason that the committee conceived that the system ought to be changed, that they present a scheme here for incorporation in the Constitution, a scheme that has worked well, worked since 1864 in one state without complaint, worked since 1884 in another state without complaint. If you are going to leave it to the Legislature, remember that you leave it also to the governor, who has a potential voice in determining what the Legislature shall do. If, in accordance with the ordinary instincts of men, the enjoyment of power leads to the desire to not only hold what he has got, but to acquire more, practically you are leaving it also to the governor. And if he should disagree with the Legislature about a so-called invasion of his prerogatives and vetoes it, it will take two-thirds of the members of either house to carry it over his head and enact it into a law. If you put it into the Constitution, as I think it very properly belongs, it is creating a new jurisdiction—a new tribunal. In that sense it stands on a par—on the same plane, rather, with the judicial tribunal. You are creating a tribunal and defining its jurisdiction, so that all may understand it. You remove it entirely from the domain of legislation so far as that is concerned. For that reason, we of the committee, believing in a change of the system, object to the substitute offered by my friend from Utah.

In answer to the suggestions made concerning the substitute offered by the gentleman from Salt Lake, I have this to say, that the section as it stands does provide for the consideration of offenders found guilty of misdemeanors. In the first place, he is mistaken as to the maximum penalties imposed by statute for misdemeanors. As the statutes now exist, penalties of imprisonment of twelve months and ten months are found upon the statute books. The imposition of fines to the amount of a thousand dollars are found there. But laying that aside, in the body of this

section is included a proposition authorizing the governor to grant reprieves until the next session of the board. It is carefully guarded. No man need suffer because of the failure of the law to provide for the bringing of his case before this tribunal. As to the other point of objection, that the judges to whom we are to intrust all that is valuable and sacred in life, on whose integrity and learning and capacity to see and discern the right on the wrong, we shall rely for our liberties and our fortunes—to say that they are to be presumed guilty of such bias and contemptible prejudice, having once passed upon the cold record of the case of the offender as it comes before them, on appeal, that they shall be unable to decide justly and intelligently, is to say something that I do not admit for a moment.

It has not worked so in practice, and indeed the same argument would apply in a case where the justices of the supreme court grant a new trial. It is sent back and tried over again. It comes up upon the second appeal, possibly the third appeal, when they are to treat it and take it as a new and independent proceeding. You might just as well say that they are disqualified, because on a former hearing they had passed upon the case as presented to them. Again the case is not presented in the same way, nor upon the same facts. After the offender is convicted by a jury, after the trial judge passes upon his motion for a new trial, judges of the supreme court are called upon only to review the errors of law, if there be any. Your system as contemplated by your judiciary article, according to the system prevailing generally, prohibits them from passing upon the questions of fact. It is simply that they look into the record to ascertain the errors of law, if there be any, and they affirm or reverse the judgment as the case may warrant. Now, if there is, as I said on a former occasion, a time when this matter ought to be settled, it is this time. It ought to be and is in the nature of things for the good and protection of society conclusively presumed that the crime was committed. That the man charged committed it. That the punishment under the law meted out to him by the trial judge is sufficient and ought to be carried out. Now, the board of pardons is not designed as a court of appeal to review all this.

It is not designed to examine into other matters either arising after the trial or so intimately connected with the act of the offender and of such a nature that they could not be and were not brought out and made to bear before the jury upon the question of his guilt or innocence. Taking them all into consideration, weighing them all on one side, with the offense, its magnitude, its relation to society, and the interests of the people on the other, to determine whether or not it is a case for the exercise of executive clemency, and it is right and meet that it should be done before a tribunal openly and in the daylight, before a tribunal with a responsibility of law resting upon it, by the application made upon evidence taken upon a hearing had on either side, where the State itself may be represented by its law officers. That is the idea underlying this and it ought to be so. It ought not to be that a criminal is convicted, if he can gather around him friends, if he has the influence that position or money may bring, that he can go to work and insidiously and quietly build up the application to the governor, which may be entertained privately, where only one side is heard, so that the exercise of executive clemency is sprung upon an unsuspecting people as one of the surprises of history and nobody knows about it. It is the design of this provision, in accordance with the provision in the states of Nevada and Florida, in accordance with the provisions of sixteen or seventeen

other states, not exactly in detail like this, but as to a pardoning board, that there should be a tribunal which shall be held responsible to the people and that the public may have the opportunity of reviewing its action by seeing what moved it, what evidence was before it, what arguments deduced, not leaving it to the secrecy and privacy of the street or the secluded executive chamber. After all is said, we come back to the proposition, if you want to change the system; if you do not want to change the system, I agree with my friend, Mr. Thurman, just leave it with the governor and let it alone.

Mr. EICHNOR. Mr. Chairman, I just wish to make an explanation. When I stated that the maximum penalty for misdemeanors in this Territory was 180 days imprisonment, I had reference to justices' courts. In district courts it is as Mr. Varian states it.

Mr. SMITH. Mr. Chairman, I favor the amendment of Mr. Thurman to this section. It seems to me we are taking altogether too much ground in this question of pardoning, and while the governor may exercise some jurisdiction in connection with this matter, the Legislature can wisely and prudently consider it, and it seems to me that we are covering so much ground—taking up this matter in this section that it would be the wisest thing we could do to strike it out and bring the substitute of Mr. Thurman in, because the Legislature, after a proper review of all this matter in all its bearings, can fix it up, and if there is any future change necessary, it can be readily brought about.

Mr. CREER. Mr. Chairman, I also agree with the last speaker. I am in favor of leaving this matter with the Legislature. I believe, however, there ought probably to be some change made and if we were going to deviate I think that all that would be necessary would be down to line 10 of this section. It seems to me that the remainder of the section is altogether such matter as would properly belong to the Legislature, because they are simply regulations carrying out the principle that is introduced in the fore part of the section. I am not in favor, however, of continuing this pardoning power in the line of the judiciary. It seems to me there ought to be some point by which there should be an angle following the line of those who have had a trial of the cause—when it comes upon the question of pardoning power, it seems to me there ought to be others than those that have sat as courts and prosecuting attorneys. Hence, I am in favor now, and shall vote for the gentleman's substitute from Utah County, Mr. Thurman.

Mr. JAMES. Mr. Chairman, I have got very decided convictions upon this matter. They come to me from an experience of a long period in Utah Territory, where we have seen a good deal of pardoning and the granting of pardons, and I am in favor of the amendment. I have seen pardons granted in this Territory that I regretted and all good citizens did regret. I remember some ten or twelve years ago, a pardon was granted in this Territory to a man that was in for ten or twenty years and it was not ninety days until he had committed the same crime over again in the southern part of the Territory by murdering the second man. Now, I tell you that the life of that man was a serious thing and when taken through a lack of over zealousness and generosity towards an unfortunate creature to let this man out of jail. It generally comes from sympathetic motives and those sympathetic motives do not return the life of a murdered citizen, and I am strongly in favor of some pardoning board and I hope that this Convention will insert it in the Constitution. I am not lawyer enough to say how it should go in there or what is the best form for it, but I say it ought to go in there in some shape.

Mr. ANDERSON. Mr. Chairman, I

will support the substitute of Mr. Thurman. I am strongly in favor of a board of pardons, but I have serious objections to the supreme judges acting as a board. I think that they are very likely to get so deep in the groove of technicalities that they would be prejudiced and I do not think they would make a fair and impartial board.

Mr. PRESTON. Mr. Chairman, I think if the gentlemen will study the question carefully, they would rather leave it just the way it is than to make any substitute of any kind.

Mr. SQUIRES. Mr. Chairman, I do not wish to take up the time of the committee to argue this question, except simply to state that my own experience as warden of the penitentiary is such that I am not in favor of the amendment of the gentleman from Utah County, which would still leave the matter in the hands of the governor with a Legislature that might possibly continue that system. During my short experience as warden there were a large number of pardons, and that of the very worst criminal class that we had in the penitentiary, men that never should have been turned loose, men who were, within thirty days after their pardon, again arrested for worse crimes than those committed while they were there. And I am well satisfied that if these several cases that I refer to had come before a board of pardons where the responsibility could have been divided among a number of gentlemen, that the pardons never would have been granted. I also look upon the question in another light. I want to relieve if possible the executive of the State from the annoyance which these pardoning matters must of necessity be to the governor. He is pursued and harassed on all sides by the friends of those who are desiring to receive pardons, and every sort of influence is brought to bear upon him, and I do not wonder sometimes that he does get a little off of his base and pardon men in order to get rid of the annoyance of their friends. I believe that some provision should go into this Constitution, making it in the line of this section 12. I am not persistent to have section 12 as it stands go into the Constitution, but I am opposed to leaving this matter to a future Legislature, which may in its turn leave it in the hands of the governor. I do not believe that a board of pardons could ever be corrupted by the use of money. I do not insinuate that any of our executives have been so influenced, but I think that it is safer—safer for society, and better for the people at large that this matter should be left in the hands of a board of pardons. Therefore, I am opposed to the substitute offered by the gentleman from Utah.

Mr. THURMAN. Mr. Chairman, I desire to add a few words to what I stated in the beginning. I am in favor too I believe in principle in a board of pardons, and if we were a Legislature here assembled to make laws and had the power to create a board, I would be in favor of deliberately going to work and framing the best board that we could. I would have this consolation, however, in that case, that if we made a mistake some future Legislature could rectify it. Now, my friend from Salt Lake, who just occupied the floor before me, says that the governor is harassed and annoyed by men applying for pardons. I say if there has got to be such proceedings as that, let us let the governor alone be harassed and not have the supreme court and the attorney general the same as the governor. One man is enough to be harassed on this kind of a business.

Mr. SQUIRES. May I interrupt the gentleman just a moment? Under section 12, it is provided that a hearing should be had in each case, that would not necessitate the harassing of anybody. The case would be heard in an open session of the board and settled.

Mr. THURMAN. I do not know

whether it would be very harassing or not. It would depend on how long winded those fellows would be that wanted to make speeches before the board. If they were as long winded as some of us in this Convention, there would be a good deal of harassing about it, I take it, before it was finally disposed of, but I wish to impress this, Mr. Chairman, upon the members of this Convention, I am not opposed to a board of pardons. It may be a good thing, but I would like to know of the gentleman from Salt Lake, who is the chairman of the committee making this report, how many state constitutions provide for boards of this kind, if you have examined it?

Mr. VARIAN. I was looking for the list. My recollection is that about seventeen, not of this particular kind, but if I remember, in some states it is the council—that is, the senate, in others, it is a certain number of persons selected from the senate. There are only two or possibly three states where the provision is like this, taking in the justices of the supreme court.

Mr. THURMAN. Now, that is one difficulty that I see about this question. It is yet a matter that is purely experimental. This may be the right thing to do and it may not. There may have been some mistakes made by the governor in the past. I will say, however, that there has been no serious complaint about that. I believe the governor, as a matter of duty, ought not to pardon a man without consulting the attorney general or the prosecuting attorney who tried the case and the judge who sat on that case at the trial, and I believe that ninety-nine cases out of every hundred men who have been pardoned in this Territory, the governor has exercised the prudence and discretion to do that very thing, and if any governor has ever assumed to pardon a man against the approval and counsel of the attorney general, at least without giving him a chance to be heard, I think the governor acted very unwisely; but what I fear is that we will make a mistake in this Constitution in respect to this matter, because it is only experimental up to the present time. The very fact here, that men divide in this Convention, and some say that they favor Mr. Eichnor's substitute as being the better, and some say they favor section 12 as it stands, and some say they want to leave it to the Legislature—the very fact, I say, that that is the case, upon a question of this kind, convinces me that it ought to go to the Legislature, so that if a mistake is made it can be rectified without expense. I am not wedded to this idea of mine. I am not opposed to a board, but I am afraid that we have not time here to consider it, and when we have done it, it will be a matter after all to a great extent of legislation.

Mr. VARIAN. I would like to ask the gentleman, before he sits down, does he understand that this is a new proposition?

Mr. THURMAN. No; I have not examined the question.

Mr. VARIAN. Does he not understand that in the last twenty-five years this general subject has been discussed more than any other concerning the administration of penal laws, and in one way or other has received the approbation of modern penalogical thought on the subject, and that it is embodied for that reason in most of the new constitutions?

Mr. THURMAN. I understand that that has been investigated and discussed to a great extent, but I will ask the question if it is not also a matter that has been dealt with largely by the legislature?

Mr. VARIAN. I will answer the gentleman by stating that in one form or other it is in all new constitutions—that is practically all.

Mr. THURMAN. I am not objecting to the board, as I say, but as to what shall constitute the board, I am not

now satisfied that that is the best, and for that reason I shall favor the substitute.

Mr. MALONEY. Mr. Chairman, I agree with my friend from Utah County. I am in favor of a board of pardons, but let us leave it to the Legislature and to the governor. I think we can safely do that.

Mr. CREER. In what constitutions that you have consulted—have they as much detail as you have proposed in this section, with reference to the board of pardons?

Mr. VARIAN. In quite a number they have. I will say that if that is a serious objection, we can obviate that by striking out all after the word pardons, in line 11.

Mr. CREER. I will vote for that.

Mr. SQUIRES. Would it be in order now to move to strike out any portion of this section?

The CHAIRMAN. No.

The question being taken on the substitute offered by Mr. Thurman, the committee divided and by a vote of 20 ayes (noes not counted) the substitute was rejected.

Mr. SQUIRES. I call the attention of the chair to the fact that if we properly modify this other section by a motion to strike out we may better understand whether we want to vote for Mr. Eichnor's amendment or not.

Mr. VARIAN. With your permission I will now offer a substitute to get the sense of the house.

Mr. IVINS. I arise to a point of order. My point of order is that no substitute or other amendment is in order until after Mr. Eichnor's substitute has been voted on, and then the section will still be open to any amendment that may be desired.

The CHAIRMAN. The chair would so hold.

The question being taken on the substitute offered by Mr. Eichnor, the substitute was rejected.

Mr. VARIAN. I now offer my amendment to test the sense of the house upon the boiling down of this article:

Strike out section 12 and insert:

The governor, justices of the supreme court, and attorney general, or a major part of them, of whom the governor shall be one, may, upon such conditions and with such limitations and restrictions as they may think proper, remit fines and forfeitures, commute punishments, and grant pardons after convictions, in all cases except treason and impeachment, subject to such regulations as may be provided by law, relative to the manner of applying for pardons.

Mr. ROBERTS. I would like to ask the chairman of the committee on executive if it is his intention that impeachments and treasons should not be pardonable offenses?

Mr. VARIAN. No; I understand that that is a matter to be left to the Legislature. Impeachments, of course, cannot be pardoned. No pardon can reach impeachment. A treason is to be tried, as I understand it, by——

Mr. ROBERTS. Yes, tried, but how about the pardon?

Mr. VARIAN. My recollection is that there is some provision in another article in relation to treason.

Mr. ROBERTS. There is no provision in this substitute, as I remember the reading of it, to deal with pardons touching those two things, and I was wondering if it was intended to make those crimes unpardonable.

Mr. VARIAN. I will say that the usual rule is that the Legislature deals with treason, and I say in the section as reported from the committee that that is accounted for; I am in favor, really, of the section as it comes from the committee, but I introduced this substitute, which is a literal copy from one of the state constitutions, in order to test the sense of the Convention as to whether they want to boil down this section.

Mr. THURMAN. Will the gentleman permit a suggestion in relation to his amendment?

Mr. VARIAN. Why, of course.

Mr. THURMAN. Retain down to the word "pardons," in line 11, strike out all after that down to the word proviso, in line 30, and retain the balance of the section; that provides for impeachment and treason, all in one section.

Mr. VARIAN. With the permission of the Convention, if the gentleman desires to make that motion, I will temporarily withdraw this substitute, and we can test the sense of the Convention upon the motion of the gentleman from Utah.

The amendment proposed by Mr. Thurman was then read.

Mr. ANDERSON. Mr. Chairman, I move that the substitute be amended by striking out justices of the supreme court and inserting secretary of state.

Mr. VARIAN. I call attention to the fact that in the event of death or disability of the governor, we have already adopted a system which provides that the secretary of state should act. In such an event, that would simply have on that board of pardons two men and they might get to be a tie.

Mr. EICHNOR. I suggest that when the secretary of state is acting as governor, some one is acting as secretary of state.

The amendment of Mr. Anderson was rejected.

The CHAIRMAN. The question now recurs upon the amendment offered by Mr. Varian of Salt Lake.

Mr. VARIAN. Mine was withdrawn.

The CHAIRMAN. The question then recurs upon the amendment offered by the gentleman from Utah, Mr. Thurman.

Mr. CORAY. Mr. Chairman, I would like to suggest that if the section passes as proposed to be amended by the gentleman from Utah, it provides for cases of treason, but not impeachment.

Mr. VAN HORNE. Mr. Chairman, it seems to me, the gentleman has forgotten that in cases of impeachment, the punishment can only go to the extent of a man being deprived of his office.

Mr. IVINS. Mr. Chairman, I arise to a point of order. The amendment to the amendment offered by Mr. Anderson has already been voted on.

The CHAIRMAN. The point of order is well taken. The question is now on the amendment of Mr. Thurman.

The question being taken on the amendment offered by Mr. Thurman, the committee divided, and by a vote of 36 ayes (noes not counted) the amendment was rejected.

Mr. VARIAN. Mr. Chairman, I do not offer any amendment. I stand by the original section.

The CHAIRMAN. The question now recurs upon the section as it stands.

Mr. VARIAN. Next section.

Mr. EICHNOR. Mr. Chairman, I move to strike out section 12.

The motion was rejected.

Sections 13 and 14 were read.

Mr. CREER. Mr. Chairman, I move to strike out section 14. I would like to make a few remarks. While I appreciate, Mr. Chairman, the object of the committee in introducing the principle of making those State officers ex-officio boards of certain institutions, I am convinced in my own mind that this would subserve the best interests of the public institution for which it is intended, for the reason that it is peculiar perhaps, I may say to any other public institution, and that in the fact that it is the guardian of the insane people of the Territory and the responsibility that rests upon the shoulders of those who have the immediate charge of that institution is certainly very grave, because they have not the patients—those for whom they are designed to care for have no judgment of their own and circumstances are such that accidents and casualties and disturbances arise from time to time that it would not be just, let alone to be wise, to leave that responsibility upon the officer who is the only officer that has the oversight of this institution in the absence of the managing board. It has been considered wise by the Legislature for a number of

years past to make a provision in the managing board of that institution, an executive committee, who should reside in the county in which the institution is situated. For my own observation, I know it would be very advantageous too. That good results have followed that plan of having an executive committee reside in the county, for this reason, that in case of anything occurring unusual and which is liable to do at any time, the superintendent has the opportunity of consulting immediately then with some person and getting the benefit of their advice and judgment in this matter. Besides that, as a matter of economy, to have some one that they might consult with with regard to the running of the institution is believed to be for its best interests.

As the law is now, the law requires three of the managing board to reside in the county. They receive no mileage, they receive a compensation of four dollars a day, and usually they do not put in more than probably two or three extra days, and sometimes not that. The other members of the board—the board is constituted of seven members, they also receive four dollars a day and their mileage. Now, it seems to me, as a matter of economy, it would not avail anything, because the mileage of those three State officers would have to be considered, and in fact, the idea of placing the management of that institution under a board of control that reside in another county—or I take it for granted that Salt Lake County will be the residence of those gentlemen—which is the governor and the state treasurer and the state auditor, I think would be unjust, and would not be the proper thing to do, and it seems to me that this would be a dangerous step to take, and I believe that it ought to be left to the Legislature. Let them use their judgment, and if necessary cut down the number of the board. That may be done or any change they may see fit, even the change as proposed now, but to place this in the fundamental law and say that it shall be under the immediate control of those State officers, I am opposed to it, and I am satisfied from my little experience with that institution and from observation, it would not be the best thing to do. Of course, it may be said that they would appoint their agents. Now, there could be no other agents, perhaps, excepting the assistant medical superintendent, and he probably would have to receive a salary maybe of fifteen hundred or two thousand dollars a year. The entire expense, as I understand it, of the control of that institution, excepting the superintendent, does not amount to more than about six hundred dollars a year—each director does not get more than about one dollar or probably a dollar and a quarter a week. That would be about the average compensation now, and it is merely a bagatelle as to the idea of abolishing that idea. It seems to me, further, that an institution of that kind ought to be in touch with the people themselves, and not have to depend upon those State officers as an ex officio function to perform. I am satisfied thoroughly in my own mind that it would be a dangerous step to take, to abolish the present system, and to adopt the idea of making those ex officio officers, and there could be no other object than simply the fact of them being State officers, and probably not having sufficient to occupy their entire time. There is nothing to indicate that they would be peculiarly adapted by being state officers. Any intelligent man certainly would be capable of performing the duties, just as well; therefore, I hope the committee will strike this section out as being entirely unnecessary.

Mr. MALONEY. Mr. Chairman, I hope the motion will prevail to strike out sections 13, 14, 15. They are legislation pure and simple. If they work well, all right. If they do not work

right we cannot get rid of them until the Constitution is amended or until we have a new Constitution. I say it is making it too cumbersome and it is a radical departure from the system already adopted, and therefore, I am opposed to it, and on the third reading I do not intend to vote for the article at all, or any part of it, if it stays in.

Mr. VARIAN. Mr. Chairman, by comparison of this with succeeding sections, the Convention will see that of course there is a radical departure from the present system. The present system as I understand it, is to constitute boards of these several territorial institutions, composed of private citizens—six, seven, and eight, I believe most of the boards are.

Mr. CREER. It is seven now.

Mr. VARIAN. Now, it is usual, as my friend, Mr. Creer, suggests, to have at least one man on the board who is a resident of the place of location of the institution.

Mr. CREER. Three under present law.

Mr. ROBERTS. Of the county?

Mr. VARIAN. A number, however, came from other places, they are private citizens. They leave their business on Friday night, perhaps, if they are going to Logan, go to Logan, make a cursory examination of matters and things, and come back and resume their private business on Monday morning, or it may be to Provo, or it may be to Ogden, wherever the institution is located. Now, I do not believe, and I think that was the sentiment inspiring the committee, that the State can get service it ought to have under those circumstances. In the first place, the division of responsibility is too great. We had better have three men than seven. In the second place, you cannot be expected to get the service and the time needed from men who are simply officials for a day or two days at most in two months or three months, as the case may be, whose time is fully occupied with private business. Impose those duties on State officials who are responsible to the people—not necessarily elected from the capital. They are elected from other portions of the State. They reside here because the purpose and functions of government necessitate their continued presence here. They have their duties to perform, it is true, but I undertake now to say that I believe you will find when the State government goes into operation that fully one-half the time of the State officers will be unemployed. You will not give them employment in the purely functionary duties of the State government alone.

The treasurer and the auditor and the secretary of state will be for months between the sessions of the Legislature practically without continued employment and will have to be at their office every day. They will come down at 10 o'clock in the morning and they will look about, perhaps make some entries in the books, pay some warrants, if there is any money to pay, and draw some perhaps, after the sessions of the State board of examiners, and go away at three or four o'clock, during a large portion of the year. Now, this is not a new system. It prevails in many of the surrounding states. It is adopted in Idaho, Montana and other states. I do not just now recall which, and it was with that view that the committee decided to present for the consideration of the Convention this new system of arranging these several duties to be performed by the State officers who are not to get any increased salary therefor. The arrangement is that what they receive yearly for their service shall be in compensation for all the services imposed upon them by law. This is all there is to it, and if it is objectionable in the case of the state asylum, it is objectionable in the case of the reform school and the state prison, and it should be modified and changed in accordance with the views expressed if the Convention does not desire it.

Mr. CREER. Mr. Chairman, it would not be objectionable to the state prison, upon the same ground that I have indicated, because the state prison would be here at the capital.

Mr. VARIAN. Well, I cannot see. Mr. Chairman, how that can make any difference. The underlying idea is that these officials have this public duty to perform, keep themselves in line and in touch with the institution all the time, which these—I was going to say itinerant boards do not and cannot. They are not only in touch with the financial conditions of the State, with all the functions of the State government from day to day, but they are right in line and in touch with the several institutions to supervise and look after which is made part of their duty. It is an official duty put upon them by law, and the fact that it is put in the Constitution should not make it objectionable on that ground or perhaps, to state it the other way, the Convention should not refuse to put it into the Constitution, because, as claimed, it is a matter of legislation. Of course, it is legislation—fundamental legislation. If they desire to leave the matter open for change, it is easy enough to amend all these sections by saying, "until otherwise provided by law." That would obviate that objection, if it is an objection to the members of the Convention. It is not a reason for striking out the entire section.

Mr. CREER. Mr. Chairman, I have one more reason before it is voted upon and that is this, that it certainly must appeal to the judgment of every member upon this committee that it would be well to leave it somewhat distributive—this board—they ought to at least come from more populous counties or cities of the Territory, Salt Lake County has quite a number of patients and Weber County; by having some one residing in the county, then they could communicate more readily; to have them absolutely at one place, it certainly must appeal to the judgment, that it would not be for the best interests of the institution.

The question being taken on the motion of Mr. Creer, the committee divided and by a vote of 29 ayes to 39 noes, the motion was rejected.

Sections 15, 16, 17, 18, 19, and 20 were read.

Mr. KIESEL. Mr. Chairman, I move that the salary of the governor be one thousand dollars per annum.

Mr. THURMAN. I do not see the gentleman from Millard. I am going to ask him what his opinion was as to whether that would be sufficient or not. [Laughter.]

Mr. KEARNS. I move to pass it until the gentleman from Millard be present.

Mr. JAMES. Mr. Chairman, I move that the motion be amended and that we pass this section until the report comes from the committee on salaries.

The CHAIRMAN. It seems to the chair that that would not be germane.

Mr. BUTTON. Mr. Chairman, I move that it be made three thousand dollars.

Mr. BOWDLE. Mr. Chairman, I move that we lay the motion on the table.

Mr. BUTTON. It is out of order.

The CHAIRMAN. The point of order is well taken.

Mr. KIESEL. Mr. Chairman, with the consent of my second, I will withdraw my motion.

Mr. VARIAN. Mr. Chairman, I ask the committee of the whole on behalf of our committee to pass this matter until we can get some idea through the report of the committee on salaries or otherwise, as to what the necessities of the case are and what our financial resources are going to be.

Mr. THURMAN. Mr. Chairman, I suggest that we either fill out these blanks or move to strike out the place for the blanks. The committee on executive have introduced here a certain part of a section, which is incomplete, and just why we should now pass something in a crude condition, without try-

ing to perfect it, I cannot understand. This morning, the gentleman from Salt Lake, Mr. James, wanted to make a suggestion, because the committee on corporations were doing something, or were going to offer something, and he voted against a measure this morning, because the committee on corporations was going to do something. At that time we thought that Mr. James was entirely unreasonable, and we voted him down. Now, we meet the very same proposition here. I think we ought to settle this question, and if, when the committee on salaries bring in their report, they have something better to offer than we have, we will adopt that.

Mr. EVANS (Utah). Mr. Chairman, I move you to insert twenty-five hundred after the word governor, in line 17 of section 20.

Mr. CREER. Mr. Chairman, I want to draw the attention of the Convention to this fact, that on the question of salaries, I find that the state treasurer—there is a blank there in the section under consideration——

Mr. JAMES. Mr. Chairman, I arise to a point of order. Mr. Varian made a motion that we pass these salaries and it was seconded.

The CHAIRMAN. The chair holds that a motion to pass is equivalent to a motion to postpone, and the motion to postpone would not be in order in committee of the whole. The only question now before the house is upon the amendment of Mr. Evans, of Utah, that twenty-five hundred dollars be inserted in line 17, after the mark "$."

Mr. JOLLEY. Mr. Chairman, I want to second that motion.

Mr. KEARNS. Mr. Chairman, I hope at this time that that will not prevail, for this reason: the committee on salaries have not had any chance to get together until the judiciary and other committees reported, and until they find out about how many officers are going to come under the salary list, they could not do it. The committee will have a chance to fix the whole of the salaries at one time.

Mr. THURMAN. Does your committee intend to fix the salaries of all these officers?

Mr. KEARNS. That was the intention.

Mr. THURMAN. Then, I say if that committee does that, it has no place here. If the executive committee has the right to do it, then your committee has not.

Mr. RICKS. Mr. Chairman, I move to strike out all the section after line 13, and leave it to the committee on salaries.

Mr. VARIAN. Does the gentleman want to strike out all after line 24, in relation to the collection of official fees, etc.?

Mr. RICKS. I think that properly belongs to the salary committee.

Mr. HART. Mr. Chairman, I move an amendment to that, to include the whole section, that we recommend that the Convention refer the section to the committee on salaries.

Mr. VAN HORNE. Mr. Chairman, it seems to me that there is something in this section that this committee should consider at this time, and that is the question of whether we are going to have a fee system for officers in this Territory. It comes, it seems to me, legitimately in this section. That part of it, it seems to me has nothing to do with the committee on salaries, and for that reason should not be referred to them. The objections I have to the striking out of this section are for the latter part of it, beginning on line 29; lines 24, 25, 26, 27, 28, and 29, are covered by section 4 of the minority report on legislative, providing that there should be no extra allowance or fees paid to officers, and that of course, is clearly surplusage.

Mr. ROBERTS. Mr. Chairman, I am opposed to the several amendments. I do not know how many of them there

are now before the house looking to the taking of this matter out of the hands of the committee. It seems to me that we are just as well prepared this afternoon to fix the salaries of these officers, as we will be at any time during the session of this Convention, and there is no reason why we should not immediately fill these blanks with the amount of salary that we think this Territory can afford to pay for the services these officers will be required to give the State. For the life of me, I cannot see that any information we may receive from a committee will materially affect our judgments or aid them in coming to a right conclusion upon these subjects. This committee, at this time, could within possibly ten or fifteen minutes settle this whole matter right now, and for that reason I shall vote against all these amendments and in favor of immediately considering the salaries of these officers.

Mr. CREER. Mr. Chairman, I think the gentleman will observe that we are not prepared to vote upon the salaries of all these officers. Now, I find by reference to section 16, that this article provides the duties of the secretary; 17, the duties of the auditor; 18, the duties of the attorney general; and 19, the duties of the superintendent of public schools, but nowhere does that provide for anything for the treasurer to do, only to be a member of the board of asylum.

Mr. VARIAN. Section 17.

Mr. CREER. Excuse me, I did not notice that.

Mr. HART. I understand the gentleman who made a motion to refer a part of this section is willing to withdraw his motion by consent of the house. If so, I am willing to withdraw my amendment to that, that the whole thing be referred. I, for one, am ready to pass upon the question now, but if any part of the section is going to be referred, I am in favor of referring the whole thing.

Mr. RICKS. With the consent of my second, I will withdraw my motion.

Mr. HART. By consent of the house, I will withdraw mine. Mr. Chairman, I propose to amend to two thousand dollars, instead of twenty-five hundred, in line 17.

Mr. FARR. Mr. Chairman, when it comes to the subject of salaries it necessarily brings me upon my feet. I cannot stand it to sit down any longer. When the motion was to pay the governor one thousand dollars, I felt to second that. I do not know what the object of the gentlemen is to put the salary at two thousand and twenty-five hundred and three thousand, unless they want to swamp this Territory. And it is pretty near swamped now—this State. I am satisfied that we have got to practice economy, or we will go where the rest of the states are gone. I do not want to go there. I want this State of Utah to be an example to all other states. I take pride in hearing the people of other states refer to Utah as being an exemplary State, because the way it has always looked to me, as though they were all going to be swamped in my opinion, the way they are going on to-day—and I think that Utah should set an example for we are here right in the mountains. We hold the key of the whole continent and we ought to set an example and rules of the states and make the salaries of these officers so that we can meet them. We all understand now the condition of the Territory. We are in debt over a million dollars—something near that, in some counties, and many to-day cannot pay their debts. From five hundred to a thousand men have been sold out for taxes and they cannot pay, and if we start out on this basis, the taxes will be doubled right away after this thing should be adopted, and I cannot afford to pay it. I have lived here too long and I have come here to stay, and if we put the salaries so that we cannot afford to pay them, and get

honorable men in to fill for these salaries, these are my feelings about it, and I hope that this body of men won't be careless in fixing salaries. We can find plenty of men that are perfectly competent to fill those offices without high salaries. That is about the way I feel about it, and I want them to take the matter into consideration. We do not want to be swamped with a debt we cannot get out of. I renew the motion to make the salary of the governor one thousand dollars.

The CHAIRMAN. The chair hears no second.

Mr. CREER. Mr. Chairman, I would like to refer to our constitution lexicon, Mr. Eichnor, and find out what the salaries are in the adjoining states—the adjoining states.

Mr. HILL. Mr. Chairman, as our lexicon, I will answer the question. Thirteen states in the confines of the United States, their salaries do not exceed three thousand dollars. The salary in Maine is fifteen hundred dollars, Michigan, two thousand dollars, Delaware, two thousand dollars. Heretofore our governor of Utah has received thirty-five hundred dollars and it appears to me under the existing conditions of this Territory that we should divide the proposition between Mr. Hart and Mr. Farr and make the salary for the governor of this Territory fifteen hundred dollars.

Mr. CORAY. I would like to ask what the salary of the governor of Washington and Idaho is?

Mr. HILL. The salary of Idaho is three thousand dollars.

Mr. BUTTON. What is Wyoming?

Mr. HILL. Wyoming is twenty-five hundred dollars.

Mr. MALONEY. What is Oregon?

Mr. EVANS (Utah). Washington is our example.

Mr. HILL. Washington is four thousand dollars, Oregon is fifteen hundred, Montana is five thousand dollars.

Mr. BOYER. Anything in the treasury?

Mr. HART. Mr. Chairman, I think the amount that I have named here, two thousand dollars, is about the right amount to allow our executive. I am not in favor of exorbitant salaries. I am in favor strictly of economy. I am not in favor of putting the salary so low that only a rich man can afford to occupy the place. I am not in favor of putting the salary so low that a poor man, if elected to the place, that the emoluments and the fees would not be sufficient to enable him to respectably discharge the duties of the office. There are a great many expenses attendant upon the office of State executive. The governor is visited by a great many people passing to and fro through the country. I think that would be peculiarly the case here in Utah. He would be at a large expense every year in entertaining alone people passing from the west to the east and across the continent. I think that two thousand dollars is about the amount that we should fix for the governor.

Mr. CREER. Mr. Chairman, I have computed and it comes as near being twenty-five hundred dollars as any other figure—that is, computing it from ten thousand dollars down to one. There are two states at one thousand dollars each.

Mr. HILL. Mr. Chairman, in reply to what Mr. Hart has said, it appears to me that the balance of this section provides that the actual and necessary expenses for the traveling of these officers are provided for in the latter part of this section. Also in reference to none but the rich being able to maintain the office at fifteen hundred dollars, I very much question whether any but the rich would accept of the position at the figure he has named of two thousand dollars, as there is not sufficient in it for a poor man to accept that even at that figure.

Mr. HART. Mr. Chairman, I did not

refer to traveling expenses, and in addition to the regular work of the executive, I call attention to the fact that we have now placed him upon four or five very important boards, which will consume a large part of his time. He is made a member of the board of pardons, a member of the board of insane asylum commissioners, reform school, and this work will occupy his time pretty thoroughly during the whole year. He will not have time to devote to any business on the side and his income from his labors will be wholly from the salary that we fix for him.

Mr. BARNES. Mr. Chairman, I am greatly in favor of economy in our movements here in fixing of salaries and whatever else may come before us. I have endeavored to pursue that principle in all of my business relations in life. At the same time, I do not think that we can afford to descend too low to what might be termed penuriousness. In looking at the duties that we have imposed upon the governor, if the measures which we have passed upon this afternoon become engrafted in the Constitution, and taking into consideration things referred to by Mr. Hart, that there are necessarily expenses devolving upon the office which I think should be met. I am aware that there is a great deal of honor necessarily attached to the office of governor—a great amount of honor attached to it, but in looking at it all around, I favor the proposition of Mr. Hart, that two thousand dollars per year for the salary of governor.

Mr. FARR. Mr. Chairman, I recollect in traveling through the Territory of hearing a good many express themselves that they were certainly opposed to having a State, because it would increase the burdens of the State, to pay the expenses of running the State so much to what it is now, to run it, as a Territory, as there were so many that were cramped, they could hardly subsist and pay their taxes, and certainly when the government pays the biggest part of the running expenses—then come to have additional loads put on the people, who feel themselves short to pay their taxes, they felt as though they would be compelled to vote against the Constitution inaugurating the State, because they could not pay the expenses.

Now, that is something that we should consider, if we are going to add to the running of the State so much expenses, whether the people would sustain it or would vote for it. I am satisfied it would be a great benefit and it might be a question—it might be got up by these persons who are opposed to statehood, to go through the Territory and make computations against it becoming a State, because of the hard times, and that they will be called upon to run the government, hence this is one reason why I am in for cutting down the salaries so that the people can live. I think they will not feel to vote the thing down, when it comes to be submitted to them, so I say, keep the salaries down.

Mr. SQUIRES. Mr. Chairman, I want to call the attention of the Convention, and especially Mr. Hart, to the fact that the compensation as now provided will only be during the pleasure of the Legislature. The first Legislature may change it. These figures are put in here for the first term. It might not last more than one term at the figures named.

The CHAIRMAN. The question will first be upon filling in the blank on motion of Mr. Evans, of Utah.

The question being taken on the motion, the committee divided, and by a vote of 45 ayes to 32 noes, the motion was agreed to.

Mr. FRANCIS. Mr. Chairman, I move that the salary of secretary of state be twenty-five hundred dollars.

Mr. STOVER. Mr. Chairman, I move as an amendment, that it be placed at two thousand dollars.

Mr. CANNON. Mr. Chairman, I am in favor of the motion of Mr. Francis, that the salary be twenty-five hundred dollars, for the reason that a great deal of work is required of the secretary of state, and I believe that the fees that he will receive, and which, by this article, are to go to the State, will more than pay the compensation. I favor leaving him at twenty-five hundred dollars.

Mr. CORAY. I would like to ask Mr. Cannon a question. What is the work of the secretary of state—what constitutes his labor? [Laughter.]

Mr. CANNON. They are so numerous it would take all afternoon to enumerate them.

Mr. CORAY. Is it not mostly in the line of bookkeeping?

Mr. CANNON. I call the gentleman's attention to the fact that in the absence of the governor the secretary of state becomes the acting governor, I think, and he has a great deal of work to do in connection with the various departments, and in addition to that, articles of incorporation are filed with and he issues commissions to notaries public and other officers.

Mr. FRANCIS. Mr. Chairman, I just wish to say that I understand that at times the secretary will have to perform the duties of the governor, and as has been already stated, his labors are greater almost than any other officer.

Mr. IVINS. When the secretary of state performs the functions that devolve upon the governor, he receives the same compensation that the governor does, under section 11. He receives his emoluments.

Mr. SNOW. Mr. Chairman, I am in favor of the amendment. I think twenty-five hundred dollars ought to be the maximum salary for our officers, no matter where they are or which one it is. I do not think when we have started a list at twenty-five hundred dollars that we need necessarily follow it out all down the line. There should be a discrimination made. I think two thousand dollars is sufficient salary for the secretary of state. I do not think the servant is greater than the masters. We ought to take into consideration the masses of the people, how they earn their money and how hard it is for them to get money to pay their taxes. Every dollar of these salaries will have to be raised by direct taxation, and it will be a burdensome thing for the people to bear. I am opposed to high salaries all around, and I say that I will not vote for any salary higher than twenty-five hundred dollars, and I think the governor is the only one that is entitled to that compensation. I am in favor of two thousand dollars for the secretary of state.

Mr. CANNON. Do you know what the present compensation of the secretary of the Territory is?

Mr. SNOW. I believe, sir, that it is about six or eight thousand dollars. I think it has been an outrage upon the people of this Territory, who have had to pay the fees in. I think it is time we made a reform.

Mr. CANNON. I would like to ask the gentleman if in his opinion a man who does twice the work, should receive one-fifth less salary?

Mr. SNOW. I think the work is all of a different character. I think the work of a secretary of state is more of a clerical character than the functions of the governor. I do not doubt but what he has a great deal of work to do, and I think two thousand dollars is sufficient compensation.

Mr. ROBERTS. Mr. Chairman, I just merely want to add this in line with what Mr. Snow has said on the subject—to call attention to the fact that the secretary of state, even if his labors should be equal to that of the governor, would not have the demands of hospitality upon him that the governor is likely to have. And for that reason, I should favor that the sum of two thousand dollars instead of twenty-five hundred dollars be fixed. When you

take into account the fact that the governor will have to expend not only all the salary he gets, but possibly several thousand dollars more per annum, in the way of keeping up a hospitable governmental establishment, I think that there should be at least that much distinction between his salary and that of the secretary of state, and for that reason, I shall support the two thousand dollar limit.

Mr. CREER. Is it not a fact that he will have to employ an assistant?

Mr. ROBERTS. Who?

Mr. CREER. The secretary of state.

Mr. ROBERTS. I am sure, I cannot say.

Mr. CREER. It is almost sure he will have to employ an assistant.

The motion of Mr. Francis was rejected.

The motion of Mr. Stover was agreed to.

The CHAIRMAN. What will be the amount for state auditor?

Mr. VARIAN. I move that it be two thousand dollars.

Mr. RICKS. I move that it be fifteen hundred dollars.

Mr. ELDREDGE. I move to amend by making it eighteen hundred dollars.

Mr. EVANS (Utah). I would like to know what he gets now. I think it would have something to do with governing us, perhaps.

Mr. IVINS. Mr. Chairman, the last Legislature appropriated four thousand dollars as salary for the auditor of public accounts, and seven hundred and fifty dollars for rent, and four hundred dollars for incidental expenses, this would be for two years. It would be at the rate of two thousand dollars a year with his rent and incidental expenses provided for.

Mr. HAMMOND. Mr. Chairman, I am in favor of this amendment of fifteen hundred dollars for the auditor. San Juan people may be poor, which I do not admit, but they are not mean. They are willing to pay a fair price and salaries for their public officers. Now, it is a fact that a good overseer or foreman of our cattle companies down there gets from eighteen hundred to two thousand dollars a year, and I am in favor of this amendment.

Mr. EVANS (Utah). Mr. Chairman, it seems like we have begun in this matter by cutting down. It seems to be the spirit of this Convention that our salaries should be fixed at a nominal sum and not be extravagant. We begun with the governor by cutting down one thousand dollars, with the secretary of state by reducing his from what it has been heretofore very materially, and I think that we ought to continue in that line and I think that fifteen hundred dollars is sufficient for that office, and I should cast my vote for that.

Mr. HILL. Mr. Chairman, it appears to me, notwithstanding my position on the question of governor, that if we place the salary of the auditor at eighteen hundred dollars we are doing him an injustice, that, as has been stated here this afternoon, and gentlemen making the statement are correct—have been paying almost three times as much, in fact more than three times as much as the amount mentioned here, two thousand dollars, and I trust that this motion will prevail. A man who occupies the position of auditor, I consider, occupies a more responsible position than the governor of the Territory. Therefore, I trust that the members of this Convention will vote to give that gentleman two thousand dollars.

The motion of Mr. Varian was rejected.

The motion of Mr. Eldredge was rejected.

The motion of Mr. Ricks was agreed to.

Mr. RICKS. I move that the salary of the state treasurer be fixed at one thousand dollars.

Mr. HART. Mr. Chairman, I move to amend by fixing the sum at two thousand dollars.

Mr. BOWDLE. Mr. Chairman, I move we fix it at fifteen hundred dollars.

Mr. EVANS (Utah). I move to amend by making it one thousand dollars.

The CHAIRMAN. There has been one motion for a thousand dollars.

Mr. SQUIRES. Mr. Chairman, I just rise to a question of information. We have got down now to a thousand dollars for the state treasurer. If we adopt this proposition, I expect the next proposition will be to give the attorney general about five hundred dollars.

Mr. THURMAN. That is plenty.

Mr. SQUIRES. And then the superintendent of public instruction will serve like a country school teacher—serve for nothing and board around.

Mr. KIESEL. Mr. Chairman, I would like to know about how much bonds will be required of the treasurer?

Mr. SQUIRES. A half million.

Mr. KIESEL. Well, would not that cut a figure?

Mr. THURMAN. You had better reduce the bond rather than to increase the salary.

Mr. KIESEL. What will be the duty of the treasurer? Is he liable to have a great deal of money in his hands?

Mr. EVANS (Utah). Put it in the bank and issue his warrants.

Mr. RICKS. Mr. Chairman, I believe one thousand dollars is sufficient. I believe that any banker in this city would be glad to accept that position at one thousand dollars, in order to get to handle the money.

Mr. MORITZ. Mr. Chairman, I think we will have over a thousand in this city that would be glad to have the position for six hundred dollars a year.

Mr. VARIAN. Mr. Chairman, now, the suggestion made by the gentleman, Mr. Ricks, seems to me ought to be considered a little more. Do you intend that you are going to embark upon this enterprise of a State government with the system of permitting your public funds to be utilized by private individuals and bankers? That is the rock upon which the people of Colorado split, and they have returned now to the true principle of defining the duties of the custodian of your public moneys and requiring him to keep the money so that when called for, it can be had, paying him a reasonable compensation for that duty. I, for one, object to this system of farming out the public revenue, depositing it with private bankers, who are to use the money for their own private purposes and the State is to take the risk, when it needs the money, of finding it. Business reverses may overtake them. It is against the true principle and system of government, and we ought not to legislate in that view. We ought not to fix salaries in that view.

Mr. STREVELL. I would like to ask for information, if there is not in some of the articles that we have had before us a clause which prohibits the treasurer from profiting from the State funds? I have been looking for it. I have not been able to find it in the records that I have, but I think there is some such clause as that.

Mr. CANNON. I have the clause if the gentleman would like it read. It is from the article on revenue, taxation, and public debt, section 9. Of course, that has not been adopted, but I do not think that anybody will object to it.

Mr. STREVELL. That is what I had in mind, but I was unable to locate it, and I was wondering if Mr. Ricks, in making his motion, had in mind or knew of that provision. It seems to me if that provision be adopted by this Convention that one thousand dollars is not sufficient salary to pay.

Mr. ROBERTS. Mr. Chairman, I shall vote for the sum of two thousand dollars for that officer. I am in favor of economy, and I am also in favor of safety in handling the money of the people, and I cannot believe that you can get good men to fill such a position as that, and give the required bond,

who would be willing to work for one thousand dollars a year, nor for fifteen hundred dollars a year, and I do not believe that the line of true economy lies in getting inferior men in those positions. We require for these officers men of character, men of standing, and I would be in favor of paying them what I would consider a reasonable compensation for their services, taking into account their responsibilities and the character of men that the State needs to serve them in those offices. And for that reason, in a mad streak of economy, or supposed economy, I am not willing for one to consent to the cutting down of these prices in these officers of the State.

Mr. SMITH. Mr. Chairman, I am in favor of the one thousand dollars, for this reason, that I suppose that two months in the year would be all the time that would be required at the hands of the treasurer. Many a good man in business, looking after his own business, could just as well attend to that matter and pocket the square two thousand dollars without any particular labor. Therefore, I am in favor of the lowest sum on this proposition.

Mr. EVANS (Utah). Mr. Chairman, I find by reference to the compensation now being paid that it is exactly one thousand dollars. As has been remarked by the gentleman who preceded me, perhaps two months in the year will be about all the time that he will be very busy. It appears to me that the way we are starting in, the salaries that we are fixing, that it will not take him long to consume all this Territory will be able to pay in paying out his warrants. I am in favor of voting for the provision in the revenue and taxation article that that money should be kept separate, and I believe that a thousand dollars will warrant and secure just such a man as will be able to do that—a man of stability, that will not take or consume anywhere near his whole time—perhaps one-fourth of the time, and that will pay for the responsibility that is attached to it, and I do not think there is any special chance to take. It is what we have been paying and I think it is plenty and I shall vote for it.

Mr. BOWDLE. I would like to ask the gentleman who just took his seat one question. Would not the duties and labors of the treasurer of a state be greater than that of a territory?

Mr. EVANS (Utah). Perhaps so, but we are cutting down. That is the point. It is on that basis that I am willing to vote for it at all, because he will do more work. Consequently we are reducing his salary.

Mr. BOWDLE. If that is the principle I have not anything to say.

Mr. HART. Mr. Chairman, in proposing the sum of two thousand dollars for the treasurer I have in mind the large bond he will be required to give, if he has to go among his friends and solicit them to become his bondsmen. It is a matter that is worth something; or if he chooses another method and gets a bond from a surety company it would cost him a large part of the one thousand dollars to get his bond for the year. I do not know just what it might cost him if he should adopt that method, but I imagine it would cost somewhere in the neighborhood of four or five hundred dollars. It is certain that the treasurer will be able to make out of that office just about what he wants, even though we have a penalty. Like Mr. Varian of Salt Lake, I am not in favor of farming out public moneys, such as would be suggested by the remarks of Mr. Ricks. I think that you should give him such a salary as will compensate him for the bond that he has to give for the great responsibility attaching to the office, and prevent a possibility of his farming out the moneys even though you have to have a penalty. If he is not getting sufficient out of the office, he will make it up in some way, and if he was inter-

ested in that kind of work there will always be just such cases when there is a proposition to draw money out of the treasury, will be to his interest to hold it back, and there is a great chance for quibble on whether a sum of money should be paid out or not. He always has it within his power to hold back on some technicality or another instead of paying money out. I am, therefore, in favor of the main proposition.

Mr. THURMAN. Mr. Chairman, I trust the amount we put in the bank will not exceed two thousand dollars. If that is all that the treasurer under the territorial law has been getting, it is all that we may hope the people of the State are going to be willing to vote for him to have. If there is any one thing that the people of this commonwealth are going to do, they are going to make comparisons between the salaries that we vote to officers here and the salaries that those same officers have been getting in the past, and I state now this to be my deliberate opinion, that if anything will cause the people to vote against this Constitution, it will be when they come to examine and figure up the amount of expense incident to State government they find it greatly in excess of what the Territory has had to pay in the past. There is no position that I can think of just now that I am willing to vote to give that officer any more for the performance of under the State government than under the territorial government; and for the reason that I want the people to be satisfied with the Constitution. They will have a chance to fix those salaries through their Legislature. There will be the opportunity for men to go before the people and the people to instruct their legislators just what they want them to do in relation to fixing these salaries. We talk here about giving the people a chance to vote on questions. Here at least is an indirect way of giving the people a chance to vote as to what these salaries shall be, and if the salary in the past has only been a thousand dollars or is a thousand dollars at the present time, let it continue a thousand dollars until the Legislature shall otherwise provide by law.

Mr. CREER. Mr. Chairman, I am in accord with the last speaker, and so far as I understand this matter of bonds, if we will take care to elect an honest man, I do not think it will cost him one dollar to obtain the bonds necessary over and above what it will cost to make out the papers.

Mr. MURDOCK (Beaver). Mr. Chairman, we frequently hear, it is said in all of our circles, I presume, that the office should seek the man, not the man seek the office, and that is just what we are doing I trust. If men are not ready to take hold of the office, we probably will be able to seek the man who is capable of taking hold of the matter. I do not think it is good policy to pay men to be honest. They frequently talk about men who occupy positions of trust that they should have enough so that they can be honest with the business. I think we are just as liable to get honest men for a reasonable salary, as we are to pay them a great big salary, so that there will be so much scrambling by such a great number to get a position, and I believe that we are taking the course that the office will seek the man and not the man seek the office.

Mr. CORAY. Mr. Chairman, I agree with the gentleman who has just spoken in regard to that. It seems to me that the main thing we desire is honesty and reliability, and I believe there are more reliable men to-day working for less than a thousand dollars a year than there are for more than that. I think this is enough.

Mr. HART. Mr. Chairman, I would like to know whether any member o the Convention knows what the salary of the treasurer was previous to the last session of the Legislature? If I remember correctly, it was cut down

very materially. I was of the opinion it was two thousand dollars as it stands now.

Mr. EVANS (Utah). It is two thousand dollars for the two years as shown by the appropriation for the last two years.

Mr. HART. What was it previous to that?

Mr. EVANS (Utah). I cannot tell you.

Mr. BARNES. Mr. Chairman, while this is largely a matter of honesty it is also to a very great extent a matter of responsibility. Now, I do not know whether I would accept that position for one thousand dollars a year, with the responsibilities on it, as much as I like office, and consequently I do not think one thousand dollars a year is enough, gentlemen. I would prefer we made it more.

The motion for two thousand dollars was rejected.

The question being taken on the motion for fifteen hundred dollars, the committee divided, and the vote being a tie, the chairman voted in the negative, and the motion was rejected.

The motion for one thousand dollars was agreed to.

The CHAIRMAN. The next is the attorney general.

Mr. PAGE. Mr. Chairman, I move to insert the sum of twenty-five hundred dollars for the attorney general.

Mr. CANNON. Mr. Chairman, I move an amendment to that, that we fix it at fifteen hundred dollars.

Mr. VAN HORNE. Mr. Chairman, I move we fix it at one thousand dollars.

Mr. SQUIRES. Mr. Chairman, I move to keep up the regular order of progression. I move we make it five hundred dollars.

Mr. PAGE. I believe, Mr. Chairman, that the ability required to fill that position properly is equal to the ability of filling any of the other positions that we provide for, and the duties of that office, I am satisfied, are really more important for the benefit and advancement of the Territory possibly than that of any other position. I hope that the motion for twenty-five hundred dollars will prevail.

Mr. ROBERTS. Mr. Chairman, I call attention to section 18 of this article on executive, where the duties of attorney general are stipulated. I do not think, sir, that it is intended to make him the public prosecutor of the State, and, following the arguments that have been used heretofore, I presume that very many attorneys would be able to give the legal advice necessary to the State officers and not take up very much of their time, and in view of the fact that the attorney, by devoting possibly an hour or two each week to giving the little advice to the State officers, or whenever they might apply for advice—I think, sir, that it ought to hold good, that it is not going to be very much of a duty to fulfill, and therefore, the sum of one thousand dollars at least will be ample as a remuneration for his services, and I shall vote for that sum.

Mr. SMITH. Mr. Chairman, I was just going to ask a question, and that is whether the attorney general of the State would be allowed under the rules that exist in the courts, to take cases and look after other legal business, or whether, as is the case with judges, he would have to forego that in the discharge of the duties in connection with this office? If they are allowed to take other business and simply render aid upon some of the occasions as the other officers of the State might require, I am in favor of a lower salary.

The CHAIRMAN. Except where the State was a party, he would be permitted to practice in all cases. Of course, he could not practice in criminal cases, but he could in civil cases.

Mr. JAMES. Will Mr. Varian tell me what the attorney general gets in Nevada?

Mr. VARIAN. I think it has been reduced to about two thousand dollars.

Mr. JAMES. What is it in Washington, Mr. Eichnor?

Mr. EICHNOR. Two thousand dollars.

Mr. KIESEL. It is twenty-five hundred in Idaho.

The CHAIRMAN. Fifteen, is it not?

Mr. CHIDESTER. Mr. Chairman, section 18 contemplates that there may be other duties imposed upon the attorney general by law by the State Legislature——

Mr. ROBERTS. May I ask the gentleman a question? If that same clause is not also attached to the section providing for the auditor and also for the secretary of state?

Mr. CHIDESTER. Yes, I presume it is, but I believe that this reaches further, if it is contemplated by this section that the attorney general shall conduct the legal business in behalf of the State, such as prosecuting and the like of that, he could not begin to do it for that sum. Was that the intention?

Mr. VARIAN. The duties of the attorney general, Mr. Chairman, would be as suggested, to advise the State officers, attend to all business, criminal and otherwise, of the State in the supreme court. But in exceptional cases, he might be invited and might go out into a county to assist in the prosecution of some important matter. They generally do that, but they are not obliged to.

Mr. CHIDESTER. Under the present system, there is to be several deputies or assistant prosecuting attorneys, would he have to pay them himself?

Mr. VARIAN. No; I think the gentleman misapprehends it. There will be a system of county or district attorneys who will attend to all matters of the kind indicated in the nisi prius courts. The attorney general simply takes the cases on appeal, briefs them, and argues them in the appellate court. If there are any civil cases to which the State would be a party, it would be his duty to bring them or defend them, as the case might be.

Mr. CHIDESTER. It is a question in my mind then, whether or not he can do that for the sum of one thousand dollars. That involves him in quite a labor in taking up these cases on appeal, etc. I understand now that the county attorneys, of course, will take a great deal of labor off from the prosecuting attorney, and that, under the present system, that has heretofore been the duty of the prosecuting attorney to perform, but of course if this Convention thinks that the prosecuting attorney can perform that duty for one thousand dollars, I am in favor of reducing salaries as much as any one else, but the only question in my mind was whether we could possibly get a prosecuting attorney to accept of that office for one thousand dollars, that is the question.

Mr. SMITH. Mr. Chairman, I do not want to take up the time of the Convention in discussing this matter. I take this view of it, that the position gives the man standing and will add to his practice if not prohibited from taking other practice, and that almost any right shrewd, moving attorney in the Territory would be mighty ready and willing to take it at one thousand dollars with the chance of being attorney general and enhancing and enlarging his practice and standing in his profession, therefore, I am in favor of one thousand dollars.

Mr. THURMAN. Mr. Chairman, section 18 provides that the attorney general shall be the legal adviser of the State officers, etc. This article also provides that the salaries fixed here shall continue such until otherwise provided by law. As a legal adviser for the State officers, I think that the sum of fifteen hundred dollars is enough. If the Legislature imposes other duties upon him, the same Legislature, if they find in their judgment that fifteen hundred dollars is not enough in consideration of

the extra duties they are imposing upon him, it will be their duty to raise the salary in accordance with the duties that are imposed upon the officer by law. I think, however, that the salary ought to be about fifteen hundred dollars. I draw the line of distinction between the treasurer which we have just voted upon and the attorney general, in this respect, that a man will be able to attend to his other business and that with very little interruption of his other business and discharge the duties of treasurer.

Mr. HART. The only duties, Mr. Chairman, that the attorney general would have under this Constitution would be the local adviser of the State officers and member of the board of pardons and of the board of reform school and of the state prison, and fifteen hundred dollars would be ample compensation it seems to me for all of those duties. No doubt the first Legislature will require of the attorney general that he shall represent the State in all civil cases. It is very probable that they will also require that he shall represent the State in all criminal cases that are appealed to the supreme court, for the reason that if the judiciary article as proposed by the judiciary committee goes through there will be no district attorneys. There will be simply county attorneys, who may not be able to represent the State in criminal cases in the supreme court. At least, not to such good advantage as the attorney general would. It is very probable that the attorney general, therefore, will be required to represent the State in all criminal cases in the supreme court and in all civil cases in which the State is a party, but until those duties or other duties are imposed upon the attorney general, I am not in favor of giving him any more than fifteen hundred dollars.

Mr. VARIAN. Mr. Chairman, I am not really prepared to say—I do not know as I have an exact judgment in my own mind, as to what the salary ought to be, but I want to call attention to this fact, if a lawyer is elected who lives away from the capital, he goes from the place where he has built up his business and from his home amongst the people who know him. When he comes here, he finds the field of legal work fully occupied. It will be very difficult for him to add to his professional practice, certainly during the first term for which he was elected, and not at all, until he has had an opportunity to indicate to the people what he can do, and what he is worth, so that to that extent the argument of my colleague from Salt Lake City could not, it seems to me, prevail. He would certainly have to depend alone on his salary for his first term. Now, if the Legislature should impose additional duties upon him, still that Legislature cannot increase his compensation during the term for which he shall be elected, because you prohibit that in this Constitution—that is the intention, as I understand it, to prohibit the increasing or diminishing of his salary during the term of the incumbent. All those things ought to be considered, of course. It is quite probable you may find in this district a number of desirable persons who will be willing to take the office for fifteen hundred dollars or two thousand dollars in addition to the practice they already have.

Mr. THURMAN. Mr. Chairman, in view of the suggestion made by the gentleman, which had not occurred to me before, that a salary could not be changed, would it not be better in this connection to provide an exception in cases of the first officers and permit the Legislature to fix it in accordance with the increased duties that they may impose?

Mr. VARIAN. Well, I do not know, Mr. Chairman. It occurs to me——

Mr. CHAIRMAN. That is not before the committee anyway.

The motion to fix the salary at

twenty-five hundred dollars was rejected.

The motion to fix the salary at fifteen hundred dollars was agreed to.

The CHAIRMAN. The next is the superintendent of public instruction.

Mr. EICHNOR. Mr. Chairman, I move to insert the sum of fifteen hundred dollars.

Mr. SMITH. Mr. Chairman, just for information, I would ask if it is not likely that the superintendent of public instruction, if he devotes himself to it—if it will not take his entire time? It seems to me that this is going to require the strict, complete, and whole attention of the man who would be elected superintendent of public instruction.

Mr. VARIAN. Mr. Chairman, I move that we make it two thousand dollars.

Mr. EVANS (Utah). Mr. Chairman, I see by looking over the schedule, he now gets a thousand dollars a year and four hundred dollars for his expenses, and I think we want to be very careful, as has been suggested by my colleague from Utah County. The people are going to examine these records, and there is not anything, that I know of, that would have a tendency to cut down or to endanger the adoption of the Constitution, like taxing the people. I have been among them, and I know that is the sentiment, and it is the prevailing sentiment, that if that Constitution is so arranged that the salaries are going to be high, and the taxes are going to be increased, until people will be burdened with them, they are going to vote it down, or else they state that that they do not calculate to do, and I am in favor of having it one thousand dollars.

Mr. FARR. Mr. Chairman, I think there is one very great redeeming clause in this article, that is, that these salaries do not necessarily need to remain only until the next Legislature meets. It is on that ground that I have kept my seat and been quiet. I have been told by scores, and I do not know but hundreds, that if the salaries were not reduced to reasonable sums, that they would vote against having this a State. They prefer having it remain a Territory, because they could not live and pay the taxes higher than they were paying. I told them that, as I was a member and was elected to come, that if I could have my way about it, I should go in for reducing the salaries of all the State officers, the county officers and city officers, fifty per cent, and then they will have more than we got when this Territory was first organized for the first thirty years, and four times as much in comparison. Hence I am in favor of putting these salaries down as low as reasonable so that they can live by it, and hence I shall say one thousand dollars on that.

Mr. EICHNOR. Mr. Chairman, if I should fix the salary according to my own personal view, I should fix it at higher than fifteen hundred dollars, but I think the tenor of this committee is in favor of low salaries. The superintendent of public instruction—I do not think that he can do any other work. He must devote himself to that position. You may possibly elect a county superintendent of some county, and make him also superintendent of public instruction of the State, but I think that would be injurious to the State at large. I have had considerable experience with school matters, and as I said before, if I could fix the salary, I would fix it at twenty-five hundred dollars. I am in favor of low salaries, but it should not be lower than fifteen hundred dollars.

Mr. MALONEY. Mr. Chairman, I do dot understand that our present superintendent devotes all of his time to his duty as such superintendent. I want to say to you, Mr. Chairman, that I am for low salaries all along the line. The people of this Territory now are burdened down. I know farmers' wives are knitting lace for the purpose of

accumulating money enough to pay their taxes, and I say to you, if the people of this Territory are loaded down with taxes more than they are now, it will defeat the Constitution. I say the whole matter ought to be fixed as low as possible, then let the Legislature fix the salaries.

Mr. EICHNOR. May I ask a question? Have you ever taught school?

Mr. MALONEY. No, sir; and never expect to.

The motion to fix the salary at twenty-five hundred dollars was rejected.

The motion to fix the salary at two thousand dollars was rejected.

The question being taken on the motion for fifteen hundred dollars, the committee divided and by a vote of 32 ayes (noes not counted) the motion was rejected.

The motion to fix the salary at one thousand dollars was agreed to.

Sections 21 and 22 were read.

Mr. HART. Mr. Chairman, it seems to me that the secretary of state should be the keeper of the great seal of the State. The secretary I believe will be the custodian of all official papers and files pertaining to the office of executive of the State, and it seems to me, if the governor be made keeper of the seal, it would be a very awkward matter for the secretary. Suppose he was called upon to keep a certified copy. I move to amend by striking out the word governor in the second line and inserting the word secretary in lieu thereof.

The motion was agreed to.

Section 23 was read.

Mr. HOWARD. Mr. Chairman, I would move that after the word governor, on line 2, the words, "except United States commissioners and postmasters of the fourth class," be inserted.

Mr. VARIAN. Mr. Chairman, so far as United States commissioners are concerned, they are not officers. That is to say, they will not be officers in the sense used here after this State shall become such. A United States commissioner is simply an officer of the federal court. He has none of the functions to perform that are now imposed upon him by law under special act of Congress. In relation to this Territory, and the way we read this section, it refers only to the State officers and not the county officers. We have no objection, however, to the insertion of the words, "postmasters of the fourth class."

Mr. HOWARD. From what Mr. Varian has said, probably United States commissioners will not be necessary to be put there.

The CHAIRMAN. Do you withdraw that?

Mr. HOWARD. I withdraw that but still hold to the postmasters of the fourth class.

The amendment was rejected.

Mr. EICHNOR. Mr. Chairman, I move to amend section 23 by striking out the fourth, fifth, sixth, and seventh lines.

The motion was rejected.

The committee of the whole then rose and reported as follows:

The committee of the whole have had under consideration the article on executive and have considered the same and recommend that it be placed upon the calendar and come up in its regular order for its third reading.

Mr. VARIAN. Mr. President, for the information, and by request of members, and for the information of the Convention, I desire to give notice that on Thursday next, under the appropriate order of business, which will be, I presume, motions and resolutions, I shall move a reconsideration, in accordance with previous notice, of the vote by which the article upon elections and suffrage passed. I desire everybody to have full notice of it.

Mr. THURMAN. Mr. President, I move that the motion which the gentleman from Salt Lake will then make be made the special order for that time.

The motion was agreed to.

The Convention then, at 5:06 o'clock p. m., adjourned.

FORTY-FOURTH DAY.

TUESDAY, April 16th, 1895.

Convention was called to order at 10 a. m. President Smith in the chair.

Roll call showed a quorum present.

Prayer was offered by Rev. Clarence T. Brown of the Congregational Church.

Journal of the forty-third day's session was read and approved.

Mr. Creer was excused for the day.

The following petitions were presented asking that the question of woman suffrage be submitted as a separate article to a vote of the people:

File No. 309, signed by Eliza A. Hall and 125 others from Portage, by Gibbs, of Box Elder.

File No. 310, signed by Geo. Austin and 90 others from Lehi, by Evans, of Utah, by request.

File No. 311, signed by Paul Cardon and 20 others from Cache County, by Warrum, of Cache.

File No. 312, signed by Wm. Pulsipher and 64 others from Paradise, by Hart, of Cache, by request.

File No. 313, signed by G. Mansfield and 40 others from Washakie and East Portage, by Gibbs, of Box Elder.

File No. 314, signed by John Barraclough and 44 others from Beaver, by Roberts, of Davis.

The following petitions were presented asking that an equal suffrage clause be placed in the Constitution:

File No. 315, signed by Jos. Cameron and 114 others of Panguitch, by Chidester, of Garfield.

File No. 316, signed by Thos. Wilson and 52 others of Rich County, by Nebeker, of Rich.

File No. 317, signed by F. M. Neff and 25 others of East Mill Creek, by Chidester, of Garfield.

File No. 318, signed by Caroline Flowers and 303 others from Mill Creek ward, by Cannon, of Salt Lake.

The Convention, on motion, resolved itself into committee of the whole with Mr. James in the chair, and proceeded to the consideration of the article on labor and arbitration.

COMMITTEE OF THE WHOLE.

Section 1 was read.

Mr. PARTRIDGE. Mr. Chairman, I have an amendment to offer to section 1, as follows: By striking out in line 2, after the word "calculated," down to and including the word "and," in line 4. The object of that amendment is to leave the other part of it to the Legislature. I think that will cover all the ground necessary.

The amendment was agreed to.

Mr. STREVELL. Mr. Chairman, I move to amend by inserting after the word "labor," in line 2, the words "conciliation and." The reason I propose this amendment is, I believe that the principal duties of such a board would be in the nature of conciliation. I believe that in New York state, in the last year, the board of arbitration there were really called upon to settle but about eight strikes, and there were some four hundred cases brought to their attention, and in the majority of cases, through the effect of mediation and conciliation, they were able to bring employer and employe face to face, and they effected a settlement before it reached a strike. And also in view of the fact, that the bill which was introduced in Congress last year, provides for a national board of conciliation and arbitration, and I have thought it would be better to add those words.

Mr. PETERS. Mr. Chairman, I move to strike out all after the word "labor," in line 2, to the end of the section. I think it is purely legislation and wholly unnecessary.

Mr. CANNON. Mr. Chairman, I move to strike out the entire section. My

reason for making that motion is that it is a purely legislative. We have never, in Utah, had difficulties enough of a labor character to require the insertion in the Constitution of a section of this kind. I believe it should be left to the Legislature. I do not think that it is the place to have it in the Constitution.

Mr. EICHNOR. Mr. Chairman, I am opposed to all the amendments and the motion to strike out, except the amendment offered by Mr. Strevell. There are 11 lines there. I think it comes almost with bad grace for this committee at this time to talk about legislation. Yesterday we legislated nearly all the afternoon, and now when it comes down to the working man, why "don't give him any show." I admit that it is legislation to a certain extent, but it can bring no harm to any one and it shows a good spirit.

Mr. STREVELL. Mr. Chairman, I hope this motion to strike out the entire section will not prevail. It seems to me that many of the constitutions which I have examined in these new western states have a provision for a board of labor arbitration, and while it may be true, as the gentleman from Salt Lake says, that at this present time there may be no very great need of it, I judge that we are building a Constitution, or attempting to do so, that will last some little time, and it seems to me that this article may be productive of very great good. Many strikes may be averted in this way and there will be a large loss of life and property, and I think it can be very largely avoided, if we have a provision which will create a board of conciliation and arbitration, and then if that is followed up by having the proper men appointed on the board, I believe that great good can be done, but I hope that this section will not be stricken out.

Mr. CANNON. I desire to ask Mr. Strevell whether or not the Legislature would not have power to create such a board without this section being in the Constitution?

Mr. STREVELL. I suppose they would do so, but my understanding of the matter is from men who are in a better position to pass upon this question than I am, certainly; they claim that it would be better to have a constitutional provision, and for that reason, I am in favor of the amendment offered by Mr. Peters—I am stretching the answer a little bit, to cut out what is purely legislation and give the constitutional authority for the creating of the board and leave everything else to the Legislature.

Mr. MALONEY. Mr. Chairman, I trust the amendment offered by the chairman of the committee, Mr. Strevell, will prevail. The very first line provides that the Legislature shall provide for the board of labor arbitration. Now, that is the foundation stone upon which the Legislature begins to operate and it is wrong for us to ignore the labor interests of this Territory. We have great corporations of great railroads. Last year we saw a strike which assumed national importance—a strike which the military of the government had to put down. Especially is that true in this Territory. Now, if by mediation and conciliation we can bury all these differences, I think it decidedly better for the interests of capital and the labor interests of the country that we do something in that direction, or in other words, lay the foundation by constitutional provision by which the Legislature may take hold of this thing and do something by which these strikes may be prevented. I am in hopes that none of these amendments will prevail, except that offered by the chairman himself. And again, this is in accord with the report of the Wright arbitration measure presented to the house of Congress which I hold in my hand. I say it is a step in the right direction, and now that we are laying the foundation timbers of a great intermountain

State we should not ignore these great labor interests. I say it is highly important that we leave this proposition as it is, with the exception of the amendment offered by Mr. Strevell.

Mr. BUTTON. Mr. Chairman, Mr. Maloney has covered in his remarks about all I would have said.

Mr. VARIAN. Mr. Chairman, the section as it stands seems to be inconsistent. The first clause down to line 7, down to and including the word employes, provides for a board of conciliation and arbitration. Then provision is made for a tribunal with power to hear and determine all differences and controversies which may be submitted to them by either of the parties. I do not know what the intention is, but certainly that is a very strange provision to have in a constitution or law. Either party to a difference may select a quorum like this and then give such a tribunal power to determine that question. It is investing this board with judicial power, and there seems to be no choice of selection either. It reads, "If either party shall submit a controversy." Now, there may be no objection to the first part of the section to provide means for the settlement by arbitration or conciliation of controversies, if it can be done in that way, but to take away from either party the constitutional right to trial by court and jury, because the other party chooses to submit it to a board of this kind, I am not prepared to vote for. I think all after the word employe ought to be stricken out, the first three lines for the reasons I have indicated, and the last three lines because they are unnecessary. The board would perform naturally such other duties and would receive such compensation, and none other, as would be provided by law. I move to strike out all after the word employe, in line 7. I call attention of the chair that this motion ought to be submitted first in order to perfect the section before the motion to strike out entirely is put.

The CHAIRMAN. The chair will hold that the motion is not in order. The motion in order is to strike out.

Mr. VARIAN. Will the chair please indicate why it is not in order—my moto strike out part of the section?

The CHAIRMAN. Your motion is in the nature of an amendment to perfect the section, while there is a motion made to dispose of the entire section.

Mr. VARIAN. I will take an appeal from the decision of the chair. I would like to hear on this question from some gentlemen who have discussed it heretofore a dozen times, my colleagues on the committee on rules; this is an important precedent. I lay down this proposition, that a motion to strike out the entire subject matter of the section, if it is not carried, is equivalent to a motion that the section shall stand and you cannot subtract from any particular portion of that section if the motion shall not prevail. Therefore, we must, assuming the possibility that the motion to strike out may not prevail, we must of necessity, if we desire to perfect the section, submit other motions and the motion to strike out a part of the section, if it shall carry, would leave the section in a condition to be voted upon by the house upon the motion to strike out the entire section, and then if that motion should be voted down, the matter remaining would be just as the house wants it to stand.

The CHAIRMAN. Mr. Varian, will you explain to me what would become of the two amendments that are already offered?

Mr. VARIAN. Well, I simply say this, I do not claim this motion to strike out a part need necessarily interfere with the other amendments to that, but I say that it ought to be submitted before the motion to strike out the entire section is submitted, for the reasons I have indicated.

Mr. EVANS (Weber). Mr. Chairman, as I have repeatedly said, I do not pretend to be much of a parliamentarian, but in this matter, I am decidedly of the opinion that the chair is right. As I understand the situation now, Mr. Strevell has offered an amendment, by inserting the words, "conciliation and," after the word labor, in line 2. Then Mr. Peters moved that all after the word labor, in line 4, be stricken out. Then Mr. Cannon moved that all of section 2 be stricken out. There are three amendments now pending before the amendment offered by Mr. Varian to strike out all after the word employe in line 7. That would make the fourth amendment, which, under any parliamentary rule that I am familiar with, would not be right. But aside from that, I go deeper into the question, and according to my view of it, where a motion is pending to strike out an entire section, it is useless to undertake to perfect that section and then have the motion prevail to strike out that which has been done prior to that time. Now, it looks to me like a common sense rule. Here is Mr. Cannon's motion to strike out section 2. If it be the sense of this committee that section 2 goes out, why spend time here for an hour or two trying to perfect something which the house probably is in a temper to strike out? I held that upon yesterday while chairman of the committee, whether right or not I do not know, but it struck me then that I was, and I still maintain that that is the right principle, and I disagree with my brother from Salt Lake, when he says that there ought to be a motion which would permit an amendment to the section which is sought to be stricken out. It would seem to me that if the principle were to prevail that the chair was wrong in this matter we would have an unlimited length of time taken up in undertaking to perfect something which may never be passed upon or approved by the committee. I therefore, shall vote to sustain the chair's decision.

Mr. HART. Mr. Chairman, as I understand, the ruling of the chair is that the motion made by Mr. Varian is not upon the ground that there are already two amendments to the motion, but it is on the ground that a motion to strike out has been made and until that motion has been voted upon any amendment to the question would not be in order. Now, it is true that there are two amendments before the house and if the gentlemen are going to be captious about this matter, why of course, you would simply have to wait until one of those motions are passed upon, but it is a matter of very little question. If Mr. Varian waited until the amendment of Mr. Strevell had been voted upon, then there would have been simply one amendment before the house and his motion would be in order. Now, Mr. Varian, as I understand it, concedes that there being two amendments before the house, his motion would not be in order, if the objection was made on that ground. Of course, as I stated before, he could simply wait for a moment, until the motion by Mr. Strevell was voted upon. That would bring one less amendment before the house and then his motion would be in order. But, as I understand it, the chair puts his decision upon the ground that the motion to strike out having been made, that must be put first and the gentleman from Weber (Mr. Evans) sustains the chair, as I understand it, upon that ground. He takes the position, as I understand it, that a motion to strike out is not an independent motion, but in the nature of an amendment and in the face of the authorities that were read here yesterday, he takes the position that when there are amendments pending and a motion to strike out is made the motion to strike out should be put first. I venture to say that the gentlemen will find no authority anywhere for any such a position as that.

The CHAIRMAN. Let me say to you, Mr. Hart, for your information, the chair ruled on the question as it stood before the house, without making any particular statement as to all the details.

Mr. HART. (Reading.)

If it is proposed to amend by striking out paragraphs, the friends of the paragraph are first to make it as perfect as they can by amendments, before the question is put for striking out.

That is from Jefferson's manual, and other parliamentarians are of the same opinion. I do not think there are any authorities that will substantiate the position taken by the gentleman. Now, they go so far as to hold this, that where there are two amendments to a motion, a substitute for that whole proposition will then be in order. And more than that, that two amendments to the substitute are in order. According to the theory of the gentleman from Weber, that would be entirely out of order, for the reason that there would be five amendments before the house, but that is what is allowed in Congress every day. That is in accordance with their rules, and for the last thirty or forty years that has been the practice in Congress, to permit two amendments to the original motion, then to permit a substitute for the whole thing, and then permit two amendments to the substitute, and their order of voting upon the proposition would be simply this, they would vote first upon the two amendments to the original proposition, then they would vote upon the amendments to the substitute, after they had the original proposition perfected, and after they had the substitute perfected, then they would pass upon the question of whether they would strike out the original proposition as perfected and place in its stead the substitute as perfected. If the chair is going to be captious or members of the house, about permitting three amendments at once, when the gentleman can simply avoid the situation by withholding his motion for a moment, and then placing his amendment before the house, after one of those amendments is disposed of, why of course, the matter can be done, and in that way, but if the chair insists that the motion to strike out shall be made first, it is a very different matter, and a very serious one, for this reason, that a person son might vote to strike out an imperfect proposition, whereas, if the proposition was perfected, he would not move to strike it out. It is reasonable. There is no other reasonable proposition that can be made on that subject. It is reasonable to perfect first a proposition before striking it out.

Mr. EVANS (Weber). May I ask the gentleman a question? You admit that the right so far as this question is concerned, that is that Mr. Varian's motion is not now in order, until Mr. Strevell's is disposed of?

Mr. HART. Well, yes.

Mr. EVANS (Weber). Why not sustain the chair then and when we reach the other bridge, cross it?

Mr. HART. Well, you discussed the proposition and the chair placed its decision upon that ground. I do not think the gentleman would make an objection, the only purpose of which would be to hinder business instead of to facilitate, which that objection would be if the only objection to it was that two amendments were already made, because the amendments were not connected. There is no connection between Mr. Strevell's amendment and the amendment offered by Mr. Varian, and the only purpose, it seems to me, in objecting to that would be to obstruct business rather than to facilitate it, because he could present it a moment later as soon as the question was voted down.

Mr. EVANS (Weber). You then oppose the chair, because he has given a wrong reason for a right decision, do you?

Mr. HART. Oh, I will sustain the chair upon the proposition of three amendments. I was not aware at the time that Mr. Peters' amendment was before the house.

Mr. VARIAN. Mr. Chairman, it is hardly fair I think for gentlemen to discuss this question upon the appeal as it was taken actually and when driven from that position by my friend from Cache County to fall back upon the quibble that there is another question in it that was not considered. Of course, I did not take an appeal upon the proposition now advanced by Mr. Evans, and as that seems to be insisted upon, I withdraw my appeal. I understood and so did the chair, and so did the gentleman when he first argued it, that the sole question for decision was as to whether a motion to strike out a part of a section should be put before a motion to strike out the whole section. I withdraw the appeal of course.

Mr. FARR. Mr. Chairman, I would like to say a few words on this subject. It does seem to me that every member of this Convention understands what they are about. It is before them and they know whether they want this section stricken out or not. I think the ruling of the chair is quite right. If a majority of the members of this house want this section stricken out, it ends all controversy, but if they vote no, then the members here can have it amended. They can amend that section as long as it is before them, but if it is stricken out, it ends it, as I understand it, consequently, I think the ruling of the chair is quite right to decide whether we want that section here at all or not. Then if we want it we can move to amend.

The amendment of Mr. Strevell was agreed to.

Mr. PETERS. Mr. Chairman, I trust the amendment that I offered will prevail. I think that the point that Mr. Varian refers to is covered in the word conciliation——

Mr. EVANS (Weber). Mr. Chairman, I arise to a point of order. I submit that when amendments commence to be put they ought all to be put until disposed of.

The CHAIRMAN. I understand this amendment is to another part of the section. It is not an amendment to the amendment.

Mr. VARIAN. I make the motion now to strike out all after the word employe, in line 7.

Mr. KIMBALL (Salt Lake). Mr. Chairman, I trust that this will not be stricken out, or that this part Mr. Varian moves to retain shall not be stricken out by Mr. Peters' amendment, from this fact, that it is plainly known by experience that there is a great loss through strikes in our country, and if this shall prevail, it will require the Legislature at once to form a law appointing a board of arbitration. The duty of the board made known here in the part down to employes, whereby they will be under the necessity in case of strikes and labors—the employers and employes will be under the necessity, if I understand right, of arbitrating in this matter at once, that the difficulty might be adjusted, and that work may be commenced. It will save the employers a great amount of means, as also the employes, and I see that there would be no harm in retaining that part. I trust that Mr. Varian's amendment will prevail and that this will not be stricken out.

Mr. BOWDLE. Mr. Chairman, I hope that the section will not be stricken out. I do not like it just as it stands, but we ought here to recognize the laboring man's rights. The question of labor and capital is one of the most prominent questions before the people of the country to-day, and in this Convention the laboring man's rights ought to be respected and they ought to have some show, but I do not believe in legislating particularly upon that point. I believe in leaving some-

thing for the Legislature to do. It is true that we have in a great many cases been afraid that this Constitutional Convention contained all the brains of all the coming generations and that there would not be anything for the coming Legislatures to do or perform. Maybe we will come to the conclusion that there will some follow us that can handle these questions a little as they come up, and as a part of my argument, I want to simply state what my position upon this case is. I propose that the section should read that the Legislature shall provide by law for a board of arbitration which shall fairly represent the interests of both capital and labor, and shall have such power and perform such duties and receive such compensation as may be prescribed by law. That will provide for a board of arbitration that shall fairly represent both labor and capital, with such powers as may be given—discharge such duties as may be placed upon them. It seems to me it will meet the case better than the section or the amendment thereto.

Mr. STREVELL. I would like to ask for information this question; if you do not say that the board shall have such powers and perform such duties and receive such compensation—would the Legislature not have the power to grant those if you say nothing about it?

Mr. BOWDLE. The Legislature can exercise such powers as it may see fit.

Mr. BUTTON. Mr. Chairman, I am in favor of the section as it stands now. I did have a little confidence in the people of the Territory until I heard all this talk here about the Legislatures. They all told how the Legislature was going to be bought up. If they are going to be bought up when all these fellows that have been in before said so, I believe this section ought to stand just as it is, and I am going to vote for it.

The question being taken on the motion of Mr. Varian, the committee divided and by a vote of 42 ayes to 32 noes, the motion was agreed to.

The question being taken on the motion of Mr. Peters, the committee divided, and by a vote of 31 ayes to 40 noes, the motion was rejected.

The CHAIRMAN. The question is on the motion of Mr. Cannon.

Mr. CANNON. Mr. Chairman, my reasbn for offering that is this, I am not opposed to a board of arbitration, but I cannot see any advantage that would be obtained now by the laboring man by having a provision in the Constitution to this effect. (Reads section.) For this reason it is very evi dent the provision does not go into effect until the Legislature acts. I am opposed to it for several reasons. One is that another board is provided for here and if the argument used is good that the people are opposed to the creation of offices and to attendant expense, they will certainly be to the appointment of this until it is needed. Another thing, that I believe the Constitution should be more than a collection of high sounding phrases. This does not provide for anything at this time, except that the Legislature may do that which it already has power to do. I believe that there is no other state in the Union where there has been less conflict between capital and labor than in Utah.

I believe that the people of Utah have had less labor difficulty than any of the surrounding states or many of our eastern states, and I believe that if we place in here a provision for a board and requiring that a board shall be appointed that it will indicate to the people from the east, capitalists, that there is existing here a conflict between capital and labor. I do not believe that there is such a conflict. I believe in the past when there has been no such board that the people have been able to arrange their affairs satisfactorily. I think that men who labor can go to their employers and can settle their

difficulties with them easier than if they called in a third party. I believe that the principle is not a particularly good one, and I, for one, favor striking out the entire section and leaving it to the Legislature, when it can be changed if found necessary. A board can be provided for at any time, but if we put it in here, it will require considerable trouble to change it, and there may not be a necessity for the board and it would have to be created if we put it in the Constitution, whether we needed it or not.

Mr. BOWDLE. Mr. Cannon, as I understood your remarks, at first, that this, if it was put in did, not compel the Legislature to constitute a board?

Mr. CANNON. Not until the Legislature meets,—no board will be appointed until the Legislature meets.

Mr. BOWDLE. But when a Legislature would meet then they would have to constitute that board?

Mr. CANNON. Whether they want to or not; yes, sir.

Mr. SQUIRES. I would like to ask Mr. Cannon if he thinks it wise to wait until we get into the midst of a strike before we provide for a board of arbitration? If we leave the matter to the Legislature without making it mandatory, they may not appoint any board or provide for such a board until some great strike has overtaken the State, and then it will be too late. It will be locking the door after the horse is stolen.

Mr. CANNON. I would like to answer that question, if permitted; I suppose it was asked for the purpose of being answered. The provision here would not provide a board, if we had a strike a month from to-day; we would have no board until the Legislature meets. When the Legislature does meet, the Legislature has full power to provide for a board, and I am certainly in favor of keeping it to that.

Mr. SQUIRES. I think it should be mandatory.

Mr. HEYBOURNE. Mr. Chairman, I am not in favor of the gentleman's motion to strike out. The statement that the gentleman has just made with regard to the record of the people of this Territory is very praiseworthy indeed, but I apprehend, Mr. Speaker and gentlemen, that we are growing, our industries will increase, and that this sentiment prevails so extensively throughout our nation between capital and labor, it is very likely to be entertained here in the Territory and the coming State, therefore, Mr. Chairman, I approve of the section as reported by the committee. I do not think it will do any harm. It will have a tendency to make the necessary preparations in case anything should happen to us, of this character. Therefore, I shall oppose the gentleman's motion to strike out.

Mr. STREVELL. Mr. Chairman, I do not wish to talk too much on this question. But I would like to call attention to one thing, which was contained in the remarks of the gentleman from Salt Lake. As I understand it, he is a little afraid that if we put an article in the Constitution creating a board of labor arbitration that that is a notice to capitalists that we have had labor difficulties. I do not regard it in that way. I regard the remarks of the gentleman from Iron County as covering the ground; that there may come a time when we will want this very thing, and that the time to provide for it is now, when we can do it; and also in the remarks of the gentleman from Salt Lake, he seems to think that this would be detrimental to capitalists. I would like to ask that, if the majority of the people that have come into this Territory for the last twenty years have been capitalists? and if not, as I take it the answer must be, if this article would not do just as much in attracting the attention of laboring people to this community as it would the capitalists? I will say right now that the com-

mittee have tried to be very careful in preparing this article not to infringe upon any of the rights of capital, but we did believe that there were rights that the laboring people were entitled to inasmuch as they constitute seventy or eighty per cent. of the people. There are undoubtedly wrongs which the laboring people have had to put up with, and if in a measure we can alleviate some of those wrongs without going so far as to inflict an injury upon the capitalists, that is what we would like to do; and I will say this, this report of the committee is practically unanimous, and that we think we have come about as near accomplishing these ends as it is possible for us to do.

Mr. MALONEY. Mr. Chairman, I wish to offer an amendment.

The CHAIRMAN. The amendment would not be in order. We have taken up the amendments and perfected the question and now have come down to the motion to strike out.

Mr. MORITZ. Mr. Chairman, I hope the motion to strike out will not prevail. I can talk about experience in this matter. I have engaged a great deal of laboring men during my time, the last twenty-three years in Utah, and I found such a section as this, the way it is amended, is quite unnecessary. We, as manufacturers, had no cause whatsoever of getting justice in arbitration. It was always a one-sided affair if we had any difficulty with our laboring men. They have demanded certain hours and certain amount of wages per month, and if we did not like it, they say, "We will go out, we will quit." The consequence was we looked around for some other skilled labor to take these gentlemen's places, if they would insist upon it. We found we could not obtain that kind of labor which is desirable for our business, therefore, we were handicapped and the consequences have been we have had to give in every time. We had no arbitration. It was merely a matter of a bulldozing arrangement, and therefore I hope the striking out will not prevail, and such a matter as this is asked for will be put in our Constitution.

Mr. KIMBALL (Weber). Mr. Chairman, I trust that this section will not be stricken out. The point was raised by the gentleman from Salt Lake that it would not be in favor of the capitalist. I claim that it will be as has just been argued by the gentleman——

Mr. CANNON. I arise to a question of personal privilege. I have not claimed that that was stated by Mr. Strevell, nor the present speaker. I have not claimed that this section would be opposed to capitalists.

Mr. KIMBALL (Weber). That is the inference that I have but I claim it is a protection to capitalists and also to labor, and as for the expense part, this is the way to avoid the expensive part. There is a proposition in my mind respecting this arbitration that if it could be carried out, will make it much less expensive than going into the courts and it can be adjusted in a very short time. That is, suppose the Legislature should arrange for an arbitration board of this character to appoint a board whose duty it shall be to adjust difficulties between employer and employe.

They will meet together and arbitrate upon this proposition immediately and settle this difficulty. If it be in favor of employers then it will also be in favor of employes, and settle this without bringing it into courts and making it very expensive, and keeping the poor men out of their employment and also keeping the doors closed of the manufactories.

Mr. VAN HORNE. Mr. Chairman, it seems to me that some provision ought to be left in the Constitution making it obligatory upon the Legislature to appoint a board of arbitration. The exact manner I care nothing about, but I do agree with the gentleman from

Salt Lake that capital would take warning from the fact that we have a board of labor arbitration here and consider that we had more labor troubles than we have. I think the effect of it will be just exactly the contrary. Labor and capital are by nature absolutely one in their interests. Where capital is well employed labor has good wages. Where capital is not productive, there are no men employed in work. The whole trouble is falling out between the two. That could be settled properly if coolly and calmly considered by a board of arbitration and if you gave notice to capitalists, "No, we are not liable to have labor difficulties in Utah, because we have in our Constitution a provision that when such difficulties arise, they shall be determined by a board of arbitration." They will say that labor and capital are acting as friends—are arbitrating their differences instead of fighting them out to the bitter end, and you will find that they will think under those circumstances that there is less danger of the disastrous strikes and long continued lockouts that are had in many states than there would be if there was no board of arbitration.

Mr. SMITH. I would like to ask the chairman of the committee on labor and arbitration, if there is another constitution of any state that has an article like this, taking the whole article?

Mr. STREVELL. Yes, sir, several of them. The ones that come to my mind first are Wyoming and Idaho. Montana has an article, not exactly for the board of arbitration, but providing for rights of labor, so that I think a board of arbitration could be appointed under that article.

Mr. SMITH. Has the gentleman any information as to how it has worked? I was told in Wyoming not a great while ago that it was more trouble to them than otherwise.

Mr. STREVELL. I cannot answer that question. I do not know.

Mr. SMITH. It seems to me there is too much of the article, and if a proposition could be brought in here that should provide that the Legislature might provide for arbitration if in their judgment it was proper and right, I should be pleased to vote for it, but it strikes me that this is not a thing that is going to tie up capitalists alone, but labor, and it is going to create confusion that all of us will regret in time. I have observed that in the early days in this Territory under certain conditions the Legislature went to work and put the law making power in the governor's hands and then they tried to lawmake it out of his hands, and whenever any effort is made in a constitution to accomplish a specific purpose, it is just as sure to return and plague the parties as that they do it, and as to this, it seems to me a simple provision that should enable the Legislature to enact some law in regard to this matter would be much more fruitful of good than the possibility of our arranging this thing in a form one day and wanting to change it the next. I am a laboring man myself, and I expect to labor, and it seems to me under the circumstances that a proposition of this kind we are hedging up the road, and if there is a possibility of cutting this down and shaping it in a form that it shall leave the Legislature to do something and not want to legislate here so much, I am in favor of that part of the proposition as a whole.

Mr. RALEIGH. Mr. Chairman, I want to say just a few words. Now, if gentlemen have studied up this labor and capital question, probably they will have discovered that the one is dependent on the other all the way through. It is just as important to the laborer that capital should be condensed or brought together, in order to establish great enterprises, in order that the laborer may have something to do. Well, the laborer when he strikes injures the capitalist and shuts out from him-

self a source of livelihood. Now, they should harmonize and if something can be done here that will set them to studying upon the question properly and harmonize and be united to a greater extent than they are at the present time, it will do some good, and I am in favor of an article being placed in the Constitution sufficient to enable or to require the Legislature to make a provision something like the present one that is before us, but not so extensive.

Now, I know very well and everybody knows that if capital was in use there would be labor sufficient for every man. The trouble is now and has been for some considerable length of time here, it is not in use in this Territory or this locality at least. Prices have become too high for labor. There is not circulating medium sufficient in the country to carry on the business of the country at the prices being so high. Now, if a laborer will perform his work for what it is worth, after it is performed in the construction of buildings, or anything else, the capitalist will invest, but if the laborer will not perform that labor for what it is worth, why then he withholds. Now, they should economize. They should see to each other's interest, the laborer should be diligent in sustaining the part of the person that employs him—the capitalist, and thereby the capitalist would be interested in the laborer, to furnish him labor, by the capital that he has and wishes to invest. Now, if something could be done, I should be very much pleased myself, in this direction, and it should be the study of the people, both the capitalist and the laborer, to study each other's interest and harmonize and not be eternally at war, as they have been in the other parts of the country. It is true, it has not been in Utah simply because this strike element is not here, to the same extent as it is elsewhere. It does not belong to this community, that is to the community that came here first. There is none of that element in that portion of the community.

Mr. GOODWIN. Mr. Chairman, I dislike very much to interfere with the work of a faithful and careful committee, after they have prepared with a great deal of labor an article to be submitted to this Convention, but the situation is peculiar in this day. Within the last few years two causes have been at work, which have a tendency to cause differences between employers and employes. The first is the establishment and the unanimity of the work of labor unions, not always in the hands of broadminded men. The second is the steady fall in prices, which amount to fifty per cent in the last twenty years. Now, to cure that, this committee has proposed that a board shall be established that shall endeavor by mediation and conciliation to effect a settlement. Suppose the employer and employe both laugh at that arbitration, and do not arbitrate? They are simply authorized under this to try to effect a settlement. I shall not vote to strike out the section, but I shall be very glad to see it returned to the committee so that it can be amended in a way that they arbitrate always; if such a board is established, that it shall have authority to act. Of course, I am working for you and you and myself may quarrel, and three better men than either of us may decide—mediate and conciliate matters, and if we are not in the humor of being conciliated we will simply tell those gentlemen to go about their business. I do not see anything in this section that gives the proposed board power to act, and if you are going to have a remedy it has got to amount to something more than a poultice in a case of this kind. This is all this does, as I construe the language. I think there ought to be something in the Constitution directing tersely a Legislature to so legislate that when the difficulty comes between

labor and capital, there shall be some immediate court that can say to labor, stop here, or to capital, stop here.

It looks to me as this is constructed, that of all places in the world, I should dislike most to be one of those arbitrators. For instance, to go before a board and say to them, "You are wrong," and be told, "It is none of your business, suppose we are." We go to capital and say, "You are right, you can dispose of those men and get new ones," and capital will say, "If I do those who have been employed will run my men off of the ground." This is something that either needs a remedy or letting it alone. I know something about the business. I have served in nearly every capacity and I know that while it is the habit of capital very often to become arbitrary where, especially in this country, as machinery is more and more used, the real owners of capital are drawn further and further away from their employes. At the same time employes are not always considerate of the rights of the employers. Sometimes, when times are hard, when prices are falling, and what was a paying investment a few months before has ceased to be so, capital is in trouble and labor makes up its mind that it will not make any concession. I know a case of that kind. I do not believe that this board as provided could interfere with that. I shall vote to retain the section and then if some gentleman will move to refer it back or make it more specific, or if some gentleman will amend it so as to make it more specific or offer a substitute which will cover the case better, I shall vote for the amendment or the substitute. As the section stands, it is a recommendation simply. The only authoritative thing is that it compels the Legislature to appoint a board of arbitration. It does not instruct that Legislature or make it mandatory upon that Legislature to surround that board of arbitration with authority to deal with the question, and unless it does why it will only be an irritant instead of the poultice that is intended.

Mr. MACKINTOSH. I would like to ask Judge Goodwin a question. Would there be any binding and legal effect upon the decision of any board of arbitration between employer and employe?

Mr. GOODWIN. Not unless the Legislature had the power to make it binding.

Mr. MACKINTOSH. Would they have the power—could you give them the power?

Mr. GOODWIN. Yes, sir.

Mr. MACKINTOSH. Could you compel a man to go to work, if the Legislature says so?

Mr. GOODWIN. You could not compel a man to go to work. The laws of this country have been trying to make men like Mr. Mackintosh work for the last fifty years, but they could not?

Mr. ROBERTS. Mr. Chairman, as I understand it, the proposition is now to strike out section 2. I shall vote for striking out that section, and if it were possible, I would like to vote for striking out all the sections, for the reason that I believe that subsequent sections will materially interfere with several rights guaranteed by the other parts of the Constitution. I suppose it is now in order to offer a substitute for the whole article?

The CHAIRMAN. No, sir.

Mr. ROBERTS. But when that time shall come that it is in order to do so, I shall offer the following as a substitute for the whole article:

The Legislature shall provide by law for a board of labor arbitration which shall fairly represent the interests of both capital and labor, and it shall be the duty of said board under such regulations as may be provided by law to endeavor by mediation and conciliation to effect a settlement of difficulties between employer and employe.

I believe, sir, that that is about as far as the Constitution ought to go in deal-

ing with this question. To my mind the greater part of this article—in fact the whole article, is purely legislative in its character, and the general provision requiring the Legislature to provide by law for a board of arbitration, and to authorize it under such regulations as may be fixed by law, to attempt mediation and conciliation, between employer and employes, is about as far as we can go. I wish to make this general explanation of my reasons for voting against this section 2, and the subsequent sections also.

Mr. SMITH. Mr. Chairman, I move to recommit the whole article to the committee on arbitration and labor with instructions to bring in an article covering about two sections that shall answer the purpose of this matter.

The motion was ruled out of order.

Mr. STREVELL. Mr. Chairman, I hope the motion will not be carried to recommit this to the committee for several reasons. If this matter is referred to them, I do not know what they would do, but improve this. This is the idea of the committee, we knew that it would be cut and slashed here, we went there sure of that, but we were a committee to report our ideas. We have done that. If the committee sees fit to change it, very well.

Mr. EVANS (Weber). Mr. Chairman, this matter which is now under consideration is one which I know many members upon the floor feel a great delicacy about expressing opinions upon. Indeed it is one of those matters which require our best thought, whether in the Constitutional Convention or whether in the Legislature, is a matter about which people will honestly differ. When we see all around us difficulties springing up between capital and labor, the natural impulses of us all is to try to devise some plan by which those difficulties might be averted and by which a different and a better condition of affairs might exist. But I fear, gentlemen of the committee, that there are many things in this article which would prove detrimental to the very man whom we believe it would benefit, that is, the laboring man. I am a believer myself in the question of arbitration between capital and labor, but I know of no constitutional rule by which it can be done, except by a voluntary submission. I do not know of any rule by which a compulsory submission to arbitration between capital and labor can be accomplished. Indeed our best law writers lay it down that it cannot be done. Judge Cooley, in a very exhaustive opinion upon this question before the national bar association recently, gives it as his opinion that compulsory arbitration cannot be effected under the system of our government. It requires, of course, two parties to an arbitration and it requires that those parties should be within the jurisdiction of the board of arbitrators. It requires that there be something to be arbitrated by which each of the parties may be bound or must be bound. I believe that a system of arbitration can be devised which will conciliate capital and labor to some extent and I would favor it in one form or another. But, gentlemen, we have an article here, the whole of which is not under consideration now, but which in many respects might prove extremely dangerous. The chairman of the committee has called our attention to the fact that in two constitutions, that of Montana and that of Washington, this question has been dealt with. He is correct so far as this question is concerned, but the dealings of the particular states referred to have been so meager and it has been deemed to be so dangerous that but little has been said upon the question. Let me read to the committee just what was said in those two constitutions, to see how much further we are going in this respect than any other state. In Montana this section is found:

The legislative assembly may provide for a bureau of agriculture, labor, and

industry, to be located at the capital and be under the control of the commissioner appointed by the governor, subject to the confirmation of the senate. The commissioner shall hold his office for four years and until his successor is appointed and qualified. His compensation as provided by law.

That is all that is said in Montana.

Mr. STREVELL. Will the gentleman allow me to make just a statement. I think you misunderstood me. I said that Idaho and Wyoming, but there was an article in regard to labor in Wyoming which I thought a board might be appointed under—Idaho and Wyoming.

Mr. EVANS (Weber). Now, I will read from the consitution of Wyoming, which is very brief and which deals with this subject in a very meager manner.

The legislature may provide by law for the voluntary submission of differences to arbitrators for determination, and said arbitrators shall have such powers and duties as may be prescribed by law, but they shall not have power to render judgment to be obligatory upon parties unless they voluntarily submit their matters of difference and agree to abide by the judgment of said arbitrators.

That is all in Wyoming upon the subject. I do not want to be understood, gentlemen, that I am not in favor of arbitration. I am not in favor of boards of arbitration. I always have been all my lifetime, since I have been old enough to think about the question at all, but I am showing how the other conventions have dealt with this question and how careful they have been not to go into details. Now, in Idaho there is a provision in reference to it. (Reads.) Now, it will be observed also that Idaho has been careful in dealing with that question. There are some things in this article that probably ought not to be discussed now, but which, in my opinion, come squarely in conflict with the Constitution of the United States, which would impair the obligation of contracts and there are so many things in it which seem to me are crude and which ought to be left to the Legislature, that I would be willing to vote here to have the committee rise and have it resubmitted.

Mr. FARR. Mr. Chairman, I would like to say a few words. I am aware that the Legislature as many have said, has the right to legislate for all these matters, but the question is will they do it? We have said in this that they shall do it. Now, when it goes abroad, they look to Utah, they want to know whether there is a section—when the laboring man goes to Utah or when they are here, they will want to know whether this Convention has made any provision to protect them. Now, I want to say right here, I am opposed to striking out this section in whole, but I am opposed to legislating so much as this article legislates, but when this article says the Legislature shall provide—the other states say, "may provide," but we want to say that they shall provide. When we have said that, we have said all that is necessary. They will be compelled to appoint that board. I do not wish to leave that to them. I voted for Mr. Varian's motion to strike out all after the word labor. I thought that covered the whole, but that seemed to have been voted down, and I would be in favor of saying no more about this business after you get to the word labor—to strike out the whole article, and I shall oppose the striking out of the section. I would rather have the article than not have anything said, but I believe when we get down to labor we have authorized the Legislature all that is necessary and we have compelled them; we do not say they may, but that they must do it. I think it protects capital and labor all that is necessary.

Mr. HAMMOND. Mr. Chairman, I have been present while this section has been under discussion, only for a few moments, and that is sufficient to convince me that the article should be stricken out entirely. I belong to one

party at least mentioned here—the capitalists and labor—and I have always been the laborer. I have never had any trouble with my friends, the capitalists, never. I made a contract with them, I have generally got my price that I agreed to work for. I have no desire to tie up the Legislature and compel them to organize or provide for a board of arbitration or a commission. No doubt he will have a salary, but if I am going into arbitration, I want to choose my man myself; if I am to drink the whisky, I want to get a man that is making whisky or beer, he will be my friend. This does not provide for that. I would be compelled to get a teetotaller, perhaps, to judge my case. Leave it to the courts to judge of these matters.

Mr. PARTRIDGE. Mr. Chairman, I do not wish to take up much of the time, but I am opposed to striking out this section. I wish to say this much, that the committee on labor and arbitration have labored to bring in an article, in their judgment, that would meet the requirements of the case, and I hope that if this committee, in their judgment, think that the article is too comprehensive, that they will cut it down. If they think that it is useless in its entirety, why abolish it, vote it out of existence, but do not send it back to the committee. I see a disposition here to eliminate a great many things, and it is stated by gentlemen that there is too much legislation. Now, I hold that there should be some legislation in this Constitution. If it is necessary that we have certain things specified, why it should be in the Constitution, leave the matter of details only with the Legislature. If it is necessary that we should have a board of arbitration in the interests of laboring men and capitalists, let us provide in the Constitution for a board of arbitration. Of course, the details can be left, but I do not see why everything should be left to the Legislature, on the ground that the Legislature will have power to provide for it. We might say that we have no need of a Constitution. The Legislature can make laws. I do not so view it. The most important matters that pertain to the welfare of our country, I think, should be provided for in the Constitution, and the Legislature required to make provisions to meet those requirements, leaving the details with them. I was willing to have stricken out of that section all after the word labor. I voted for it, but inasmuch as it is left in, I do not believe that we ought to strike out the section, but I think that if there is any gentleman here, after the vote is taken and the striking out is defeated, that has a substitute that will fill the requirements, that is what we want; why, put it in and let us go on with it, and eliminate everything that is not wanted, and add what we do want. If we do not want any of it, strike it all out, but don't send it back to the committee.

Mr. THORESON. Mr. Chairman, I am in favor of striking out the entire section. And I have been more and more convinced that I was right in that, from the arguments that have been made here. In that section, the Legislature is merely recommended to adopt an outside policy—something that is new, as it were, in this western country, and it is in the constitution of many states not mentioned, in fact in the majority of cases. Now, in the first section here, the rights of labor shall have just protection through law to promote the industrial welfare of the State. I think that gives the Legislature a chance to investigate this matter and to ascertain which is the best mode to give labor its just rights and also to promote the industrial welfare. The chairman of the committee was asked if he had ascertained whether or not these boards of arbitration were successful. It appears that the committee on this subject has not investigated the results of the proposition that they

even recommend to the Legislature. They have not been successful as a general rule and by the time the Legislature meets we may ascertain some other method that would be preferable to this, would be recommended, and we give them ample authority here to adopt the best mode for the protection of labor, and also for the industrial pursuits. We are told that it is not policy to leave everything to the Legislature. I admit it, but it is policy to leave questions that have not been determined by the country at large or even by our neighboring states. I think it is good policy to leave that to the Legislature and I favor the striking out of this section.

Mr. RYAN. Mr. Chairman, I would not like to vote for the striking out of this section, if I did not think something else a little better should take its place, and while I appreciate the labors of the committee in preparing the article, I believe that the matter of arbitration exists already, and all the advantages that labor and capital might obtain by that they have now, when they wish to resort to it. I, myself, have often been a party to arbitration in mining affairs, and it works well, as a rule. And I believe the first section will cover that, that the Legislature would have the right and the power to appoint boards of arbitration, and with that view I have prepared a substitute that I wish to offer which is in possession of the house, which I think would direct the Legislature in certain ways, or to certain evils possibly that exist with the idea that they might right them and I have not enlarged it. I have simply mentioned the article in that substitute and for the information of the house I will read what it proposes:

Section 2. The Legislature shall provide first for the protection of men employed in mines and other dangerous occupations. Second, the cheap and speedy collection of wages for labor performed. Third, protect employes from political and commercial control. Fourth, regulate and prohibit the importation of labor.

It also, I think in the substitute that I submitted, provides:

Regulate or prohibit blacklisting and the importation of labor.

Now, I think that those provisions or the direction to the Legislature points out particular evils that exist. First, the protection of men employed in mines. That is a very important matter, when we consider the number of accidents and the great number of men that are injured annually, and even since we have been in session the members of the Convention very generously donated in aid of a great disaster in our neighboring state, and I think just the direction to the Legislature pointing out in this Constitution the necessity for some legislation in that direction would probably be all that would be necessary. Then the cheap and speedy collection of wages for labor performed. Most of our Legislatures have passed lien laws for the collection of wages, some of them very good, some of them rather poor. The great difficulty or the inadequacy of the laws, as a rule, is the time for the collection. They generally extend it over six months or a year, so that the remedy is often not a remedy, but this simply directs the Legislature.

Then, the protection of employes from political and commercial control. That is a very serious matter also, that where a company of men or an individual employing a number of men—now, in a matter of politics, or in the selection of a candidate for office, or something of that kind, he wields a great power and he uses it—a great many use it, and do not hesitate to use it. Hence, you destroy the individual liberty of the man or you give it in the power of the man wielding the capital to use the men, that is to deprive them in a measure of their liberty.

And prevent the commercial control. That is another very important matter, and a matter that men universally complain of, and if any one has ever lived in a community where companies employing bodies of men have supplied them with all the necessaries at general store and boarding houses and things of that kind, they will see and know how it paralyzes a whole community. If you go from that community to another community following a like line of business where the individual liberty of the worker is regarded and he can do as he pleases, you will see the great difference. The more prosperity, the greater content in a community. Men are better and live better and are better citizens under that condition than they are under the condition of restraint and control. That would be the reason for that provision.

Then, the prohibiting of the importation of labor. That is one of the most serious conditions I believe that confronts this whole country. That for years we have permitted, and men that have wielded great capital and great combinations in companies have for years gone to Europe and imported labor. They become dissatisfied with one class and they go after another until our whole country is filled up with labor, more than we want, more than we can use in any way. Now, when labor troubles occur here, or there is a want for the use of a great number of men in any localities, our great industrial capitalists, as you might say, can wield one battalion against another. If there is a little difficulty here, they go outside and they bring in a battalion or more and they put them against these men. They are thrown out of employment. They are poverty stricken and sometimes become charges on the munity, and the whole civil or social system is disturbed. Now, should not the State take hold of these things and regulate them? And I believe that some single provision that would direct the Legislature to the evil now would be a greater benefit than providing for some board of arbitration, because the boards of arbitration would not have any authority to enforce their edict, whatever that might be. And if they had, would it be the proper thing to force labor to work under guard or would it be the proper thing to force capital to employ labor if they did not want to? I do not see that the remedy proposed would do any good, and therefore, I shall vote to strike out the section, hoping to get something better.

The motion to strike out was rejected.

The committee then took a recess until 2 o'clock p. m.

AFTERNOON SESSION.

The committee re-assembled at 2 o'clock p. m., with Mr. James in the chair.

The CHAIRMAN. Gentlemen, the business properly before the committee is the substitute of Mr. Bowdle.

The question being taken on the substitute, it was rejected.

The CHAIRMAN. The next is the substitute offered by Captain Ryan.

Mr. RYAN. Mr. Chairman, I would like to say a word further in support of that amendment or substitute. I presume, and I think it is the desire of all the delegates in this Convention, if they do anything on this matter at all, to do something that will be practical; and there are abuses all over this Territory, and all over the mining regions, you might say, especially on the Pacific coast, where I have been, that should not be tolerated in any community, and I endeavored to name some of those this morning, and it is for the curing of those that I submit this substitute. First, in the mining operations and in other employments, not necessary to mention, there is a great deal of danger to workmen, and I think the Legislature should pass the necessary

laws for their protection, and I think when we get that far, we have gone far enough. It has been my experience and it has extended over a good many years, both as a laborer and as an employer of labor, that personal supervision is not always good. It is hard to get a man who has the ability and the knowledge and the heart, as you might say, to inspect certain lines of labor or avocations that people follow, like mining. I do not think that the personal supervision coming from the inspection of mines and other dangerous occupations has ever resulted in any practical good, and I think if we had laws covering those matters, that it would work a greater benefit than the practice of personal inspection. I therefore have left that with the Legislature, that it was simply a guide calling the Legislature to a certain condition, and in their judgment they might enact such laws as they thought necessary. Then, you take the next clause, and that is in the prohibition of the control of employes in political and commercial relations. Those are important matters. It is very easy, under certain conditions, where men have control of a large body of men, to wield them politically. As I said this morning, they are favorable to a certain man's selection who is favorable to their interest. They are able to wield a great number of men in favor of their view. They destroy the individuality in favor of the citizen workman, and it is a blow in a measure at the political institutions under which we live. You undermine the respect and regard the common people have for laws and their government. And I think it is the duty, not only of this Convention, but of legislative bodies, to consider those matters, and as far as they can remedy them. Some practical legislation or some practical provisions that will eradicate those abuses. Then, the matter of controlling men commercially, that has got to be a great abuse. A man, for instance, has a mine, and he employs a hundred men or two hundred men' and he runs a store and he runs a boarding house. Now, a man in order to get work must board with you or he must trade with your store, or he must do both. Now, that is largely practiced all over this country, and it is a great abuse. The only proper way to employ men is to fix their wages, pay them their wages and let them do as they please. For instance, you are a miner, you have a good mine, well, we are all after good mines. Nature lavishes on a man great wealth. They are not satisfied with that, but they must control the labor, they must control it commercially as well as politically, and these measures are for the protection of men. I say if we do anything, we should do it practically—for some practical end. Why should a man be entitled or allowed to pinch a little out of every man's dollar that he pays him? Years ago, we are told, or we read in history, that the changers of money, or the bankers, were in the habit, as they received a piece of money, to pinch a piece out of it—filing a piece out of it, or punching a hole through it, but laws were made to prohibit that, yet in this day and age we allow a man to hire a man and he pays him a dollar and he is allowed to pinch a certain amount out of it for some other purpose, and it is an abuse and I think we ought to remedy it.

Now, you come to the next matter that I aim to regulate. It is blacklisting, and I think that should be left to the Legislature. That has come to be a great abuse. Even here in this last year, since the troubles throughout the country and particularly on the Pacific coast, men who left the employment of the Pacific railroad went up into adjoing states, out of California into Nevada, and other places and sought other employment. It is well established that the railroads pursued them into other fields.

You come to the matter of importa-

tion of labor. Now, people, many of them, say, "What does that amount to? You cannot prohibit the importation of labor." I think we can and I think we should. I think it is a matter of protection to the State and to society that we should have some measures prohibiting the importation of labor. I attempted to show this morning, when I spoke a few minutes on this question, that the importation of labor was a great abuse. That it had been followed in this country for a great many years in corporations employing numbers of men. They first become dissatisfied with one class of labor and they have gone after another to supplant it, to gain temporary advantages and by that means our country is filled up with labor. Now, all they have to do is to wield labor from one state to another and they are doing it. That very question itself I think, or that very matter of the importation of labor, has been one of the greatest abuses and something that this people have suffered more from than from any other cause whatever, I believe. Why, if you go back to the foundation of the government, the very idea of controlling or owning labor first induced the importation of slaves on this continent, with all its attendant consequences. There is no question about that and that has been going on ever since. Why, there was nothing less but the idea of owning or controlling labor that imported that similar race upon the Pacific coast, a few years ago. Would not we all be glad to get rid of it? And we permit it to go on. Now, we have more labor than we want, and as I said this morning, the industrial captains are continually wielding the force of labor from one state to another. They have some trouble here and they go into another state. Lately they have been going into the southern states and taking the negroes that were first imported under this pernicious system ages ago, and wield them against the labor of other states. You might say that the sins of the father are being visited on the generations afterward. I do not see why it is not in the province of this Constitutional Convention to direct in some way the future legislation of this State looking to the prohibition of that practice. And it was in that view and for these considerations that I submitted that substitute. And I believe that it would be of more practical use in the settlement and the control of the labor question than anything else that we have before the Convention.

The substitute offered by Mr. Ryan was rejected.

Mr. STREVELL. Mr. Chairman, I move you, sir, to strike out all after the word labor, in line 4, and to add after the word labor "the board shall perform duties and receive compensation as prescribed by law."

The amendment was agreed to.

Mr. Evans of Weber offered the following substitute for the article:

The Legislature shall provide by law for a board of labor arbitration which shall fairly represent the interests of both capital and labor, and it shall be the duty of said board, under such regulations as may be provided by law, to endeavor by mediation and conciliation to effect a settlement of difficulties between employer and employes.

Section 2. The exchange of blacklists between corporations shall be prohibited.

Mr. EVANS (Weber). Mr. Chairman, I move the adoption of that substitute for the entire article on labor. And I want to say, in support of it, only a few words. I realize that we are taking up a great deal of time in the discussion. It will be observed that this substitute differs from those offered in the fact that it seeks to protect by arbitration both labor and capital. One is as much entitled to protection under the law as the other and should receive as fair consideration. There is no prosperity without labor. There can be no labor without capital. These two elements ought to be in some manner by

some mediation harmonized, so that less friction would occur between them than has occurred in the recent past. It is a very difficult problem for this Convention to deal with. I do not believe that we can deal with it here intelligently. The whole question, Mr. Chairman, is a new one, and when put into practical operation under a constitutional provision it may prove to be a failure. If so, the Legislature could readily remedy the defect. If labor is oppressed, if it does not have a fair share of that which it produces, I believe so far as we can go in a legislative capacity, that we ought to remedy that defect and ought to extend the labor, which is the creation of all capital, as much protection as we consistently can.

The balance of this article, it will be seen, provides for many things which, in its very nature, might be extremely dangerous to labor as well as capital. I believe that it would create a friction between the two elements—a greater friction than we have ever had in the past, but if we will leave this question to the Legislature in the manner in which I suggest, the Legislature will wisely deal with it. If they find that it is not wisely dealt with, they can readily repeal the act, and substitute something more beneficial in its place. But if we fix in the organic law of the new State, these provisions which are engrafted into the report of the committee, and which I desire to say were honestly engrafted there, we may find many barriers in the future that would hamper labor and that would frighten capital, and create a friction between the two which ought not to exist. As I stated before, I am in favor of a board of arbitration to conciliate these matters, just as far as we can constitutionally go, and I believe that this will effect the object. Now, so far as the question of blacklisting is concerned, I am opposed to that which is reported by the committee, because I believe it is not right. That simply provides that no corporation or association shall keep a blacklist. I do not think we can say that. I think that any corporation can keep a list of its discharged men or of the reasons why they were discharged, but the thing to be reached, and the only thing thing that is found in constitutions which I have examined (and I believe I have examined all of them) is to prevent these corporations from exchanging with each other the lists of discharged men. That thing, as has been wisely stated by the gentleman from Juab, has caused a great deal of trouble, and in many cases actual crimes.

During the recent great strike, sympathetic as it was, having its source from Pullman's at Chicago, we find that those people who were engaged in that strike, and with whom I did not sympathize, because I do not believe in sympathetic strikes—it is something that cannot be reached by legislation or arbitration—but that strike caused the discharge of a great many men. Corporations in various sections of the country exchanged their lists and whenever a man sought employment in a different section of the country, he was immediately spotted as having been in a strike upon some other road. The result was that he was discharged again. The result was at last that these men who were discharged and who were honestly mistaken in their forlorn fight sought employment in other localities and actually changed their names—went under fictitious names for the purpose of securing employment and thereby to secure bread for themselves and their families. I am opposed to this exchanging by corporations of that blacklist. It is a thing which is a proper subject of legislation. I think it would be proper in the Constitution, but to adopt the committee's report, I think it would not be right, because any company has a right to keep a list of its discharged men. It is

perfectly proper that it should. I think that we cannot constitutionally prevent them from doing it. I think if this substitute is adopted, no harm would be done and large benefit would be derived.

Mr. CORAY. I would like to ask if you think the law would prevent them from keeping that blacklist?

Mr. EVANS (Weber). The committee has reported section 7, that prohibits the keeping of a blacklist at all.

Mr. IVINS. Do you suppose any law can be passed and be enforced that would prevent one company from giving a list of discharged employes to another, if it wanted to?

Mr. EVANS (Weber). I do. I think whenever any individual or corporation undertakes to prevent the laboring man from securing labor in any other section of the country than that in which they themselves are directly interested that it is a conspiracy under the law as it stands to-day and ought to be punishable. A man has a perfect right to discharge his employes—a perfect right, and no gentleman upon this floor will question that right, but he has got no right to pursue each man into other localities when he is seeking labor from others and thereby form a conspiracy with others by which that laborer may be deprived of his labor for the support of himself and his family. It would be a conspiracy, I say, under the law as it exists to-day and it ought to be punishable.

Mr. THURMAN. Suppose these companies should adopt a system by which they would ask each other for information respecting men that had been discharged from their employment within a given time. Is there any law that would be made that could prohibit that information from being given and after it is given, is there any law that would compel the company that asks for the information to employ any man if they did not want to?

Mr. EVANS (Weber). We propose here to make a law that will do it.

Mr. THURMAN. We can never do it.

Mr. EVANS (Weber). We can do it, and as I stated before, it is for the purpose of meeting the kind of cases which my colleague gives. When one corporation asks another corporation for a list of its discharged employes, it asks them for that list for the express purpose of depriving those men of labor in that company, not because they have committed any crime, but simply because they had ceased to work because of a mistaken idea that their employer has not treated them right. If it were a crime to quit work, then it might be different. But when men simply quit work because of a mistaken idea, why should they be deprived of work in other localities? In other words, suppose a laboring man sees his mistake and suppose he desires to repent, suppose he desires to go to work, and never engage in another strike, should there be a system of laws by which corporations could simply grind that man down and tread upon him with the iron heel of capital and keep him there, simply because of one mistake which he has made in the past? The idea is to prevent that, to show as far as we can that we are willing to aid labor to secure work when it is legitimately seeking work, but when it undertakes to violate the law itself, the same as a corporation, then it must come under the ban of the law the same as a corporation.

Mr. MALONEY. Will you consent that your amendments take the place of sections 2 and 7?

Mr. EVANS (Weber). My amendment is offered as a substitute for the entire article.

Mr. MALONEY. Your amendment does not cover the entire ground. I would be glad to support it if it took the place of sections 1 and 7.

Mr. SQUIRES. Mr. Chairman, I arise to a point of order. I understand now

we have under consideration section 2 of this article and under that consideration the gentleman offers a substitute for the entire article. That, I apprehend, is distinctly not in order.

The point of order was sustained.

Mr. STREVELL. Mr. Chairman, I hope this substitute offered by the gentleman from Weber will not pass for this reason: the report of the committee is made up of several sections, and I think with one exception we have constitutional authority for every section we have offered, and I think we should at least be permitted to pass upon these questions separately. There are several things that the substitute does not take into consideration that I would like to have the expression of this committee upon.

The substitute of Mr. Evans was rejected.

Section 3 was read.

Mr. STREVELL. Mr. Chairman, I have an amendment that I wish to offer for section 3 right now. I would like to state why I am offering so many amendments to this section. That is, since the committee have made their report, we have consulted some of the highest authorities in this country, and amendments which I am offering here as my own have been suggested by this gentleman, but with instructions that in no case I am to use his name in introducing them. Several of them have been handed to other members of the committee. This is one of the amendments:

Amend section 3 by adding before the word "not," in line 1, "in the absence of any specific contract."

Mr. THURMAN. Mr. Chairman, I offer an amendment to the amendment by moving to strike out all that the gentleman proposes to prefix to the words "not more than," making it read, "Eight hours' actual work shall constitute a lawful day's work in all underground mines," etc. I think that if a man does twelve hours' work that ought to be considered a lawful day's work, but this would prohibit that.

Mr. STOVER. Mr. Chairman, I move an amendment to section 3, after the word "mines," in line 3, insert: "And in all smelting works for the reduction of lead ores." For the reason that one of the most important——

Mr. CHAIRMAN. Captain Stover, please give the chair an opportunity to be heard. The chair has made up its mind to make a ruling of this kind—I don't know that the Convention will sustain me, but whether they will or not, it is one so far as expediency is concerned, should be sustained by this Convention, and that is when an amendment is made, and an amendment is proposed to the amendment, that should be disposed of before any other matter comes before this Convention.

Mr. THURMAN. That is right.

The CHAIRMAN. The trouble about these amendments to amendments and substitutes, etc., is they are simply confusing to this Convention and lead men's attention away from the subject matter that is before the Convention, and when a vote is taken, half the time they have to be re-read to know what we are voting upon. The question now comes properly upon the amendment to the amendment by Mr. Thurman.

Mr. THURMAN. Mr. Chairman, I will withdraw my amendment, if my second does not object. I am opposed to the whole article, section by section, and I am opposed to it in toto. I shall move to strike it out.

The CHAIRMAN. Captain Stover's would be in order now, if it is an amendment to the amendment offered by Mr. Strevell.

Mr. STOVER. No, sir; it is an amendment to the section.

The CHAIRMAN. Then it is not in order.

Mr. IVINS. Mr. Chairman, I wish to move as an amendment to the motion of Mr. Strevell, by which he adds a few

words to section 3, that section 3 be stricken out.

Mr. THURMAN. Second the motion.

Mr. IVINS. Inasmuch as I have a second, I wish simply to say that the sentiment of the house seems to be that these sections be passed upon singly and that it would not be in order to strike out the whole article until each section has been passed upon. Therefore, I move to strike out section 3, and hope that all other sections will be stricken out and this whole matter will be left with the Legislature, where I think it properly belongs. It manifestly will be within their power and jurisdiction to provide for any differences that may arise between labor and capital, and I believe that that will do it better than we can possibly do here in the limited time at our disposal.

Mr. MACKINTOSH. Mr. Chairman, can I offer a substitute for part of section 3—am I in order now?

Mr. KEARNS. Mr. Chairman, I hope this motion will not prevail.

Mr. SQUIRES. Mr. Chairman, I understood Mr. Ivins to amend the motion by striking out the section.

The CHAIRMAN. That is what I understood.

Mr. SQUIRES. I submit that that is not proper amendment to the amendment already before the house.

The CHAIRMAN. It is hardly germane, the chair will admit that.

Mr. IVINS. Mr. Chairman, the rule very distinctly says that an amendment may be offered by adding to or taking from or striking out.

Mr. SQUIRES. But that is not an amendment to this amendment.

Mr. MACKINTOSH. Mr. Chairman, I think mine should come in under that.

The CHAIRMAN. Mr. Mackintosh, what is your proposition?

Mr. MACKINTOSH. I sent it up to the clerk.

Mr. HART. Question on the motion to strike out.

Mr. PRESTON. Vote them all down.

The CHAIRMAN. Gentlemen, we will take a vote on Mr. Strevell's amendment. All in favor make it known by saying aye; contrary, no.

The noes have it.

Mr. CANNON. Mr. Chairman, I would like to hear it read.

Mr. VAN HORNE. Division called for.

The CHAIRMAN. All in favor of Mr. Strevell's amendment, make it manifest by rising to their feet.

Mr. CANNON. I want to know what we are voting on.

The secretary read Mr. Strevell's proposed amendment.

Mr. BUTTON. Is this Mr. Strevell's amendment? I thought it was Mr. Ivins' amendment.

The CHAIRMAN. Thirty-eight ayes. Those opposed will rise to their feet.

Thirty three noes. The amendment is carried.

Mr. IVINS. Mr. Chairman, I now move that this section be stricken out.

Mr. STOVER. Mr. Chairman, I call for the question on my amendment.

Mr. SQUIRES. Mr. Chairman, what became of the amendment offered by Captain Stover?

The CHAIRMAN. The gentleman will please take his seat. Captain Stover has offered no amendment.

Mr. SQUIRES. Captian Stover of Tooele offered an amendment.

Mr. CHAIRMAN. The chair has heard no amendment from Captain Stover. He offered a substitute awhile ago, while it was out of order, and the chair refused to entertain it. The gentleman will please take his seat.

Mr. STOVER. Excuse me. I offered no substitute. It was an amendment.

Mr. SQUIRES. Is that the decision of the chair on this question?

The CHAIRMAN. It is the decision of the chair.

Mr. SQUIRES. Then I appeal from the decision of the chair.

The CHAIRMAN. The decision of the chair is appealed from. All in favor——

Mr. SQUIRES. Mr. Chairman, before you put that question——

Mr. HART. I would like to ask Captain Stover if he did not make that motion?

Mr. SQUIRES. He offered it and read it at his place.

Mr. STOVER. I read it plain, after the word "mines," in line 3, insert, "and in all——

The CHAIRMAN. The gentlemen will please come to order. This proposition was brought before the attention of the chair and the chair ruled it out of order and it was not read, and Mr. Squires will please take his seat.

Mr. SNOW. Mr. Chairman, I move that the sergeant at arms be instructed to have Mr. Squires taken——

Mr. EVANS (Weber). Mr. Chairman, in support of the chair's decision, I want to say that there ought not to be any trouble about this matter——

Mr. SQUIRES. Well, we do not want a delegate choked off on this floor, Mr. Evans, that's what's the matter.

The CHAIRMAN. Will Mr. Squires please take his seat? He is out of order.

Mr. SQUIRES. I am not half so much out of order as is the chairman at this minute.

Mr. EVANS (Weber). I move that the chair rebuke Mr. Squires for his words of castigation of the chair at this time and that he be called to the bar of this committee for that purpose.

Mr. THURMAN. I second the motion.

Mr. HART. Mr. Chairman, I arise to a point of order. The motion is out of order in committee of the whole. This committee can do nothing but rise and report the circumstance to the Convention if there is any castigation or anything of that kind.

Mr. EVANS (Weber). Now, Mr. Chairman, I want to say in support of the chair's ruling that Captain Stover did offer an amendment, which, at the time it was offered, was out of order and the chair so ruled. The amendment of the captain was not offered again at the proper time. If it had been, then it would have been proper to have considered it, and for that reason I want the decision of the chair sustained. There is no use of getting excited about this matter at all, and neither is there any use of using such words as those used by the gentleman from Salt Lake.

Mr. SQUIRES. Mr. Chairman, when the motion of Captain Stover was made there was but one amendment before the house; that was the amendment offered by the chairman of the committee, Mr. Strevell. There was no other amendment before this house—that amendment was certainly in order, strictly in order. That is the position I take and that is the reason I appeal from the decision of the chair.

Mr. VAN HORNE. Mr. Chairman, at the time Captain Stover offered his amendment, he offered it as an amendment to Mr. Strevell's amendment of the section. It introduced an entirely new subject matter into the section, and was not germane to the motion of Mr. Strevell, and the chair ruled positively that at that time and on that particular motion of Mr. Strevell's it was out of order.

Mr. BOWDLE. Mr. Chairman, I think the chair is entirely correct upon this proposition. He made a ruling upon Captain Stover's amendment. There was no appeal taken from that ruling. If he was wrong, then was the time to have taken the appeal.

Mr. HART. Mr. Chairman, I remember it now, just as the gentleman explained it. I thought at the time Mr. Squires made his appeal, that the amendment had been admitted. I remember now that the chair ruled it out, and the question is now, not whether the chair made a mistake then. That is past. The question is whether there is any amendment before the house.

The question being taken on the appeal from the decision of the chair, the decision was sustained.

Mr. MACKINTOSH. Now, Mr. Chairman, I have got a little resolution, "That four dollars shall be the per diem of underground miners, and silver shall have a fixed value of $1.25 per ounce." [Laughter.]

Mr. GOODWIN. Mr. Chairman, I ask unanimous consent that Mr. Mackintosh make the opening and closing speech on that amendment.

Mr. IVINS. Mr. Chairman, I renew my motion to strike out the section.

Mr. ANDERSON. Mr. Chairman, I hope this motion will not prevail. I am in favor of the section as it stands now amended. I think that it will be a benefit to those working underground. I think that a man will do as much work in eight hours as he will in ten, because he will be in a better condition to work and according to this amendment, why the employer is allowed to make a specific contract and I think that this will be a good thing.

The question being taken on the motion of Mr. Ivins the committee divided, and by a vote of 41 ayes to 40 noes the motion was agreed to.

Section 4 was read.

Mr. THURMAN. Mr. Chairman, I move to strike out section 4. I wish to say that that is legislation pure and simple. We have got such legislation to-day. We always will have it. There is no question about it, and this only leaves it to the Legislature to do it. There is no way of mandamussing the Legislature and compelling it to do a thing, and if gentlemen will only bear in mind that this is the last day you are going to get any pay for your work done here, you will get down to Constitution making instead of legislating on these subjects.

Mr. STREVELL. Mr. Chairman, I would simply like to say in behalf of the committee that we took this from the Idaho constitution and there were several members of the committee who thought it was worth while to insert it in the article.

The motion of Mr. Thurman was agreed to.

Section 5 was read.

Mr. SMITH. Mr. Chairman, I move to strike out section 5.

Mr. CANNON. Mr. Chairman, I move to amend the section by inserting the word "of" after the word "or," in the second line.

The amendment of Mr. Cannon was rejected.

Mr. EVANS (Weber). Mr. Chairman, I want to say in support of the motion to strike out section 5 that it provides that the Legislature shall prohibit first, the employment of women or children under the age of fourteen years. Now, that is proper enough in a legislative enactment, but no abuses as I understand it have ever occurred in Utah with respect to matters of that kind. If it ever does occur in the future the Legislature will amply provide for it, and why put it in the Constitution? The next is a provision against discrimination in wages on account of sex. I do not believe that there ought to be any particular discrimination where the work is exactly the same between the sexes, but would not that prevent the paying for instance our stenographer of this Convention, if he were employed by some private individual and who is (without desiring to compliment him) a prince among reporters and whose skill in that direction challenges the admiration of every one, from receiving any more wages than a lady who is doing like work, but who is not nearly so efficient?

Mr. CANNON. I would like to ask the gentleman a question. Does the clause "discrimination in wages on account of sex" prohibit payment of a different amount on account of ability?

Mr. EVANS (Weber). It probably would not—putting it as broadly as that, but what are we going to with this question: Is the Legislature or is the Constitution going to prohibit an individual from employing men and

women in proper avocations and then say that their wages shall be exactly the same for the same kind of work? Is it not a matter of individual contract between people who employ men and women? If any abuse arises out of that, it could be arranged for by the Legislature. I know no complaint now upon this particular question.

The third is contracting of convict labor. I know of no contracts which have ever yet been made in this Territory by which convict labor has been contracted out to do any particular work. If any other gentleman does, he has heard something that I have not. So, why the necessity of putting that in? Why not leave that to the Legislature? I do not believe that convict labor ought to be contracted by the State authorities outside of the prison walls, but no abuses have yet arisen and why cumber up this Constitution?

Then, the fourth, the labor of convicts outside of prison grounds, etc. The policy of that is all right, but I have known nothing yet in this Territory which should call forth a constitutional provision of that kind. Usually the constitutions are made for the purpose of prohibiting something which experience has shown to have been an evil, and if experience has not shown that these things which are prohibited here have grown into an evil, why place it in our organic law? It is a perfectly proper matter for the Legislature to deal with, and let us leave it to the Legislature.

Mr. CRANE. May I ask the gentleman a question? By the insertion of this section into the Constitution, would not it be a guaranty hereafter as the density of population became very great in Utah that convict labor should not be farmed out, as it is in Texas and some of the southern states?

Mr. EVANS (Weber). I say, Mr. Crane, that I believe in the policy of it, but I do not believe in encumbering the Constitution with it. It is not self-executory anyway in the Constitution. It simply says the Legislature shall do these things. Now, the Legislature has the plenary power to do it. Why not let it do it? That is the only point I make and I do not desire to say anything against the policy of a legislative enactment upon these subjects.

Mr. CRANE. Mr. Chairman, if it is made mandatory for the Legislature to do this, I do not see where it encumbers the Constitution at all. It is just merely two or three lines of insertion in the Constitution, and if it is a guaranty that the working man will be protected from convict labor by the State, it seems to me a good provision.

Mr. EVANS (Weber). It does say that the Legislature shall prohibit, but suppose that the Legislature failed to pass any laws inhibiting those things? The constitutional provision would be ineffectual. The Legislature must do it anyway. We have no power here to say that the Legislature shall do a thing and compel it to do it. The most that can be said in favor of it, is that it might be a reminder to the Legislature, but there is not a single item in that section but what the Legislature would wisely provide for. Any sensible, right thinking man would make such a provision if he were in the Legislature if any abuses should be found to exist by reason of a failure of such laws.

Mr. CRANE. Do I understand the gentleman from Weber County to say that when in the Constitution it says the Legislature shall prohibit, that it is left to the Legislature to do it or not as suits themselves?

Mr. EVANS (Weber). I do. I say that suppose the Legislature did not do it, how are you going to compel it to to do it? It is a body sovereign in itself. I would say that the courts could not compel it to do it if it failed to act. The constitutional provision would simply be ineffectual.

Mr. EICHNOR. I would like to ask

Mr. Evans a question. Every member of the Legislature takes an oath to support the Constitution of the State of Utah, does he not?

Mr. EVANS (Weber). He does.

Mr. EICHNOR. He would be very naturally inclined to follow it out, would he not?

Mr. EVANS (Weber). Suppose he takes an oath to support the Constitution? That is not taking an oath that he will legislate in the Legislature of the State; but I will ask my brother Eichnor a question, as a lawyer, if the courts could compel the Legislature to legislate upon these questions?

Mr. EICHNOR. Under no circumstances.

Mr. BOWDLE. Mr. Chairman, I am in favor of striking out the first two of these sections, but the two relating to the convict labor question, I am not in favor of striking out. I understand that we have declared in this Constitution that it shall be mandatory. I think that has already been passed. And it shall be mandatory upon the Legislature to pass a law that there should be no contract of convict labor or that the labor of convicts outside of the prison grounds, except on public works. Perhaps some of you remember two or three years ago, or a little longer than that, the trouble they were having, I think in Tennessee, where they were farming out the convict labor. They had no provision like this in their constitution. The legislature saw fit to go on to the disgrace of the state and to the disgrace of the laborers in the state——

Mr. GOODWIN. May I remind the gentleman that he is treading on dangerous ground when he goes to Tennessee, with Mr. Maloney on the floor?

Mr. BOWDLE. I had Mr. Maloney in mind when I made the assertion, but I do not think Mr. Maloney would defend that position for a minute in this Convention. And it is simply to provide against that. We have never had that trouble here. In fact, I do not know whether the Legislature could have passed a law here. It could not certainly with reference to the United States prisoners on that subject, and I am in favor of something like this, probably with a little amendment to that.

Mr. MALONEY. Mr. Chairman, what Mr. Bowdle says as to the competition of convict labor is true. It has been a source of trouble for a number of years. Convict labor was in competition with honest labor. It was the same way in Arkansas and in Texas. I agree with Mr. Bowdle, that sections 1 and 2 ought to be stricken out, but that sections 3 and 4 ought to be in the Constitution. If we keep it in the Constitution then the Legislature cannot farm out convict labor. It is true, as Mr. Evans says, we have never had that trouble here, but when statehood is had the probabilities are the convicts will be worked, and if we kept sections 3 and 4 in, we will never get into trouble that Tennessee, Texas, Arkansas, and a number of the southern states have had.

Mr. CRANE. Mr. Chairman, I agree certainly with Mr. Maloney and Mr. Bowdle in this matter. It seems to me a very good thing for insertion in the Constitution. While I do not doubt the position and the ground taken by the gentleman from Weber County, it seems to me a very singular provision of law, if it is law, and I have no doubt it is if the gentleman says so. When we enact in the Constitution that the Legislature shall not prohibit or shall not do something, that the Legislature is compelled to obey the provisions of this Constitution, but when we say the Legislature shall prohibit, that that is nugatory. Now, as I understand it, Mr. Chairman, when a member of the Legislature is elected and before he——

Mr. EVANS (Weber). I want to suggest one thing. He says the Legislature shall prohibit.

Mr. CRANE. The Legislature shall

prohibit. If I understand the gentleman from Weber right—and I presume he is quoting the law, although it seems to me a very peculiar law that makes fish of one and fowl of another, if we say in our Constitution the Legislature shall prohibit, it seems to me that that is mandatory, that is compulsory, because when a member of the Legislature is elected to that office he takes the oath of office to obey the Constitution, and it seems to me that this could be just as prohibitory, just as mandatory, as if to say it shall not. This directly says the Legislature shall prohibit the labor of convicts outside of prison grounds, or the contracting of convict labor in competition with the laborer who is not in prison, and it seems to be a very good provision and I trust it will be inserted in the Constitution.

Mr. SMITH. Mr. Chairman, I certainly do not agree with the gentlemen on this proposition. I have never been able to satisfy myself that there was any reason on earth that working men should be taxed to support a body of men in idleness in the penitentiary and I have not been able to understand the purpose and design of the several sections of the country which have risen up in opposition to men being employed instead of being fed in idleness. So far as I am concerned in this matter, it looks to me as if the most prudent thing to do is to leave the matter entirely to the Legislature to act upon as they may deem proper, because the best position a man can be placed in is that he be kept busy at something. While it is possible that in the future, it is not likely the State will contract this labor, yet it seems to me that conditions might arise in the experience and development of the State that it should not be properly done, and therefore I am opposed to the section.

Mr. MALONEY. I wish to state that where the convicts in the penitentiary are compelled to labor they are self-supporting, that the convicts of Texas and other states earn something like fifty thousand dollars a year. That institution is entirely self-supporting.

Mr. SMITH. I understand it to be.

Mr. MALONEY. That is exactly what we want. We want those convicts to be self-supporting and that the honest men who are working by day's work shall not be compelled to support them and at the same time we do not want convict labor put into the market in competition with honest labor. That was the trouble in those states.

Mr. CRANE. I would to ask if the gentleman is in favor in case necessity should arise or in case it should be done, that they should start a shoe factory in the penitentiary here where they probably have seventy-five or a hundred or a hundred and fifty convicts? I would like to ask the gentleman if he believes it right that those convicts, making shoes in the penitentiary, should have a right to compete with the men who are paying taxes to support this penitentiary in the making of boots and shoes in the city here?

Mr. SMITH. Why should not they be compelled to work and support themselves under the conditions of the law? I see no reason why these men should not be required to do it and not be put in there as idlers.

Mr. EICHNOR. I will answer the question, because they are criminals, because they are outlaws. Their labor should not come in competition with honest men, because they are criminals. In a certain sense, they are outlawed from society, that is the reason, and that is the reason when the great state of New York embodied that principle in its constitution of 1894, and that is the reason that every state that has been forming a constitution within the last several years sticks that principle in some article or other. Now, my friend, Mr. Evans, from Weber County, says we have no such thing in this Territory. I grant it. We never had slavery here, yet we have a provision

in the bill of rights prohibiting slavery. We never heard that the people of Utah were going to secede from the rest of the Union. Section 3 of the bill of rights says that Utah is an inseparable part of the Federal Union, and a number of other provisions of that kind. It is good common sense.

Mr. THURMAN. That is on account of the war of 1858.

Mr. EICHNOR. It is good common sense. It is good law, and it reaches the very heart's core of society. It is the line of demarkation between the criminal class and the law-abiding class.

Mr. VAN HORNE. Mr. Chairman, I move, as a substitute for section 5, the following:

The Legislature shall not authorize the contracting of convict labor or the labor of convicts outside of prison grounds, except on public works.

I have heard a question raised about one kind being not covered, and that is where it was outside of the prison ground. I take it that there is only two points to be considered in the question of convict labor. The first one is whether the contract shall be let—hiring out the labor of prisoners, and the second is whether they shall be worked outside of the prison ground. I take it that the first provision would prevent their being worked on anything but public works outside of the grounds, which were under the control of the State itself, because if those public works outside of the prison grounds were not State buildings, they would have to contract the prison labor, in order to have them work out there on this public work. It would have to be contracted public work, and they would have to turn over the prisoners to the contractors at some agreed price, which would be covered by the first part of the substitute, which is that they shall not contract convict labor. If that be true, the whole thing is covered in a short section and I think that there should be some provision of that sort. I do not believe that it is right for any state to leave to its legislature the power to put in competition with the honest men of families the man who is a criminal and is working for his water and bread for the state and put the wares manufactured by such men as that into competition with the wares of men who have to support themselves and their families.

Mr. EVANS (Weber). Mr. Chairman, as I have been referred to several times, I want to put myself right. I think my friends do not understand my position. I am simply trying to relegate this matter to the Legislature. I will go as far as any of the gentlemen on the question of convict labor, and there is one thing in this article that I desire stricken out in the fourth subdivision, because of the very fact that it would permit convict labor to work upon public buildings outside of the prison walls. I say, too, that that is degrading to honorable labor, and I would preserve that work for honest labor and not have men who have committed crimes to do it. But I do not want to make it constitutional here. I think it is wholly unnecessary. No abuses have ever arisen and if they do, I say the Legislature will correct it.

The substitute offered by Mr. Van Horne was rejected.

The question being taken on the motion to strike out section 5, the committee divided by a vote of 33 ayes to 46 noes, the motion was rejected.

Section 6 was read.

Mr. ELDREDGE. Mr. Chairman, I move to strike out section 6.

The motion was agreed to.

Section 7 was read.

Mr. Evans of Weber offered the following substitute:

The exchange of blacklists between corporations shall be prohibited.

Mr. THURMAN. Mr. Chairman, I move to strike out that section together with the substitute.

Mr. STREVELL. Mr. Chairman,

would an amendment be in order at this time to the section?

The CHAIRMAN. No.

Mr. THURMAN. Mr. Chairman, I will say if there is any amendment that will help to make this at all a proper thing, I will withdraw my motion for the purpose of an amendment being offered. As it now stands, or as the substitute is presented, I do not think it ought to be adopted.

Mr. STREVELL. Mr. Chairman, I do not know that the amendment I have to offer would meet the approval of the gentleman from Utah. It is practically on the same line as the one of the gentleman from Weber, but I would offer to amend by striking out the words in line 1, "blacklisting or similar practices," and add "the exchange of blacklists," so that it would make it read in this manner:

The exchange of blacklists by railroad companies or other corporations or associations is forever prohibited.

Mr. EVANS (Weber). That is the same thing.

Mr. MALONEY. Mr. Chairman, I would be in favor of something which would prevent corporations, after employes are discharged, from sending lists of them to other corporations, thereby pursuing these men and hunting them down. I would like to know where the justice is of any such proceedings in any corporation. I do not object to any corporation, if they cannot get along with their employes, simply discharging them, but I do protest that a corporation has no right to pursue a man after he has left the employ of the company, and follow him into other states and territories and prevent him from getting employment, and thus starve his wife and children.

Mr. GOODWIN. Mr. Chairman, I would like to support this if some gentleman can explain how it can be enforced. If the Rio Grande Western, for instance, has a blacklist, no one can prevent their keeping it, and they send it to the Central Pacific, outside of the jurisdiction of this State, how are they going to be punished? I think the thing is an outrage. I think it will be a dead letter in the Constitution, and that all the legislation that can be had upon it, will be equally ineffectual.

Mr. STREVELL. Mr. Chairman, in the arbitration bill prepared by Attorney General Olney, which was before Congress last year, he provides in this matter of blacklist, and it seemed to him to have been a matter of enough importance so that he has embodied in that bill an article which makes blacklisting a misdemeanor, and so on. I won't take the time to read it, but it seems to me it was of enough importance to receive consideration at his hands and possibly in that view, if no other, it should be inserted here.

Mr. EVANS (Weber). Mr. Chairman, I first offered a proposition to be inserted in the Constitution, and I think I can tell my friends from Salt Lake how the thing can be prohibited. It is simply a matter of legislation, nothing else. We cannot prohibit, as I understand it, a corporation from keeping a list of its discharged men, but we can prohibit those corporations from exchanging those lists with other corporations, and thereby forming a conspiracy by which these men may be perpetually kept out of work. That is the very thing that this provision is intended to reach.

Mr. GOODWIN. How will this strengthen the law that you proceed under against conspiracy?

Mr. EVANS (Weber). This reaches the exact evil which has grown up. It is designed to reach that particular evil and to stop that insidious practice of preventing men getting work when they have once made a mistake by a strike. That is the purpose. Now, I come from Ogden, right in a railroad center. Of course we pride ourselves upon the fact that we have the great

railroad center of this intermountain country, and we have seen some of the evils resulting from this very thing. We have seen there hundreds and hundreds of men, while I think they were in the first instance mistaken—thrown out of employment, men of families, good citizens in every other way, except the unfortunate thing of being connected with that strike, themselves and wives and families are nearly starving for bread. They leave their homes and leave their families at home and seek employment in other localities and as soon as they get in other localities, they are confronted there with a blacklist that the companies here have exchanged with other railroad companies and as soon as they are discovered they are discharged from their employment or not employed at all. The result has been that our citizens, many of them, have actually had to go under fictitious names in order to secure work. It is this very thing which we desire to prohibit in this Constitution. This is one of the cases where the evil has arisen—one of the cases where people ought to legislate. It does no corporation any good to keep these blacklists for their own purposes.

Mr. SQUIRES. I would like to ask the gentleman a question. How would you punish a corporation that violates this provision?

Mr. EVANS (Weber). Punish them just as you would an individual.

Mr. SQUIRES. In what way?

Mr. EVANS (Weber). By fine. You could not imprison a corporation, but you could fine the corporation or you might punish the individuals who are agents of the corporation. It is very easy to reach that matter; there is no trouble about that at all. It is just simply the question whether it is right or not that corporations should be permitted to do this thing. I believe that they ought not to do it. It is simply pursuing a man out of malice and ill-will, and nothing else. There are several of us gentlemen who live at Ogden, and who are now upon the floor of this Convention, who took a very bold and strong stand against the injustice of the sympathetic strike which occurred last fall. We believed then that it was not right that that should occur in that manner, but, gentlemen, that did not mean that we argued that men who are engaged in it and who have ceased their combinations against the running and operations of railroads or the mails, should be pursued and punished and that the sins which they once committed should be visited upon their heads from generation to generation. And that is just what this insidious arrangement has amounted to. To pursue these men from one locality to another with malice for the purpose of preventing them from securing bread for themselves and families, I say it is not right. It ought not to be permitted, and for one I shall vote to have this go into the Constitution.

Mr. THURMAN. Mr. Chairman, I presume I have just as much sympathy with men and women in distress, and just as much interest in their having bread to eat, as any gentleman on this floor. But it seems to me like appeals of that kind are foreign to the business of this Convention. We are here to make a Constitution and to make a Constitution that will be practical and can be carried out.

Now, I say it is not in the power of this Convention to make a provision by which any corporation cannot go and examine the list of discharged employes of another corporation and the causes of their discharge, and refuse to employ any one of them. It is a question that we cannot reach. We may possibly prohibit by law one corporation sending a paper with a list of names to another, and pursuing them in that way, but what does that amount to? What does the substitute cure or reach? That is the question. If you want to accomplish anything and you can accomplish anything, you must say in so many words that the Legisla-

ture shall not authorize the employment of a man by one corporation who has been discharged by another corporation, and when you do that you get down to an absolute absurdity. If the substitute does not mean that, then it is ineffectual; if it means that, it is wrong; it is an infringement on the right and liberty of the citizen or the corporation, as the case may be, to pursue his happiness in his own way—pursue its business in that way that is sacred to every other individual. That is why I object to it. I think if there is any section of this article that ought to go out it is the section under consideration, and I think that if there is any matter in the world that the Legislature can deal with it is the section under consideration. We say the exchange of blacklists is hereby prohibited. Of course if that means that when one company has discharged a lot of men it cannot notify other companies and give them their names and receive a list back similar from them—if it means that, and that only, it is ineffectual. Perhaps that may be made a misdemeanor, but what you want to do, if you can do it—and that is what I say you cannot do—is to provide that one company shall not be permitted to hire men or to reject men that have been discharged by another company.

Mr. EVANS (Weber). It does not mean that all.

Mr. THURMAN. Then, what does it mean?

Mr. EVANS (Weber). It simply prohibits an exchange of these lists for the purpose of preventing them from getting employment.

Mr. THURMAN. You cannot reach it by your substitute. It does not come within a thousand miles of it.

Mr. EVANS (Weber). There is exactly such a provision in North Dakota.

Mr. THURMAN. I cannot help that. I cannot help what North Dakota has done. I can point you to fifty provisions in constitutions of the states that have been declared absolute nullities. The fact that the constitution of another state may have a provision in it is not conclusive that it is practicable or that we ought to follow it Now, on principle, I am just as much opposed as my friend from Weber County or any other man to the matter he has pointed out to this Convention, but I say the real thing that he wants to reach by his substitute, his substitute does not reach, and it cannot be reached by any provision that we can put into this Constitution. We must concede the fact that there is a limit to even the power of this Constitutional Convention. We cannot infringe upon the inalienable rights of men, and we consider the right to acquire property in a legitimate way, to employ labor, to discharge laborers for cause, to be a legitimate operation of these inalienable rights, and any law that undertakes to say that I cannot go to my neighbor in business and find out from him the character of men that he has had in his employment, with their names, and if they have been discharged the reason for their discharge, with a view to informing me whether I want to employ those men or not—any law that is made by any legislature would be void and any constitutional provision that would be made by this Convention would not be worth the paper upon which it is written. I do not know what it is the attorney general has written about, nor how far reaching it is, but even he and his opinion will not make that law which cannot be the law. I do not think that we ought to have this in the Constitution for the reason, as I said, when I made the motion, it is utterly impracticable to carry out. It is wrong in principle. We are getting wild here, gentlemen, in this article on labor, and thinking that we are pleasing the laboring men. The laboring men have a wonderful vote in this country and we

want it. Now, I think we ought to get down to constitution making. Protect labor and capital equally by the laws of the land and see that one does not infringe upon the rights of the other. This article ought to all go out. That is the truth about it; at the risk of incurring the unfriendly feelings, if they cannot understand that my motives are right—I say the whole thing is wrong in principle and ought not to be in the Constitution in the shape that it is proposed.

Mr. SMITH. Mr. Chairman, I notice in our bill of rights, section 7, it is provided that no person shall be deprived of life, liberty, or property, or be outlawed or exiled without due process of law, and in section 11, that all courts shall be open and every person for injury done to him in his person, property, or reputation, shall have remedy by due course of law, and right and justice shall be administered without sale, denial, or delay. It seems to me that the position of Mr. Thurman upon this question is absolutely unanswerable, and that in every effort we make in the direction of seeking to legislate in this matter, we simply are tying our hands and putting ourselves in a position that we accomplish no good for the men that we would seek to benefit, but upon the contrary, we place trammels around the possibility of the Legislature in the future doing anything by which they could be protected. And with him, I agree upon the proposition that this ought to go out and will cast my vote against it.

Mr. KEARNS. Mr. Chairman, before that question is put, I want to give the committee my views on it. I think that that section should be retained, and I cannot see where it is going to create so much distress in the Constitution by leaving it there. It is very true that our jurisdiction is limited only by the bounds of this State. The very question that that is aiming at in this Territory and along the bordering states has been carried to a great excess through this strike last summer. I know of my own knowledge where the detectives of the Union Pacific road followed men and they tried to get them to let up. One man wrote to me and asked me to give him a letter that he was in my employ. I had a letter from another party explaining his age, his build, his description in full, and wanted to know if I had employed him. I very seldom lie, but I gave the man a clearance. When you discharge a man, because he does not fill your wish and he is not suitable to you, and you follow him somewhere else and deprive him of an honest day's work, you are depriving his wife and children of the hungry bite of bitter charity. They say, how are you going to prosecute them? If a man was to follow me and beat me out of my honest day's work, I would kill him, and I think the execution would not be any too great for a man that follows another from here to the city of Chicago to beat him out of an honest day's work. And I trust to the members of this Convention to retain that section and it will be a credit for them.

Mr. STREVELL. Mr. Chairman, it seems to me that section 7 of the bill of rights would be just exactly the opposite from what he says. It seems to me under the operations of this blacklisting scheme carried on by the railroad companies it would be just that very thing. It would deprive those men of life, liberty, and property, without due process of law. I think the scheme of blacklisting as it is carried on, or as I understand it, would deprive them of that very life and liberty.

Mr. CRANE. Mr. Chairman, I trust this section will remain. I believe that this was brought before the people of this Territory in 1894 and I am extremely pleased, Mr. Chairman, to see our friends in Weber County endorsing this section, because that was one of the planks of the republican platform presented to the people last November,

and it was upheld by the republican party. For the information of those who perhaps may have forgotten it, I desire to read the articles or part of the platform which the majority of the people of this Territory upheld and which I am free to say are now upheld and endorsed by several of our friends on the other side: "We oppose as cruel and unjust the blacklisting of the employes who are discharged from or leave the service of the employer." I believe that there is a section in this article on labor that should be endorsed by this Convention. Many of the gentlemen are working men and if not working men have been in years gone by. I believe that that is the very meat in the cocoanut of this article. I believe it is a measure of justice and right to the laboring men in the various industries in this State, and will be more so in the future. I trust that this article will remain and be endorsed by the majority of this committee.

Mr. RALEIGH. I shall ask the gentleman from Utah (Mr. Thurman) if it would not cure this section by making it a misdemeanor?

Mr. THURMAN. I do not think that would make any difference if you made it a felony, from my standpoint. I may be wrong. I think it ought to go out. By adding a penalty to it would not make any difference.

Mr. SMITH. Mr. Chairman, in regard to this platform proposition, so far as I am concerned, individually, in regard to this matter, it seems to me that the blacklisting proposition as contained in the platform is not reached in this proposition, because it will be ineffective in every way, shape, or form. You may put it there, you may seek to work it and it is impossible to work it. A party so far as it is concerned can exercise its influence against the men who might possibly blacklist laborers, but when it comes to an application of the law it is literally impossible for that thing to work in any way or shape or form that would bring about a change. It is true men fall into disgrace, do wrong things; they cannot wipe them out only by the acts of their lives afterwards, and so far as our trying to make them honest because they have been blacklisted, by an enactment in the Constitution, it is simply wild. It will never accomplish the purpose.

Mr. FARR. Mr. Chairman, I tried several times to get up and am not quite so young as some of the members. I have arranged my business at home to stop here all summer. I am in no hurry. I was in a hurry on the start, but I have got all over my hurry now. I want to know how we are going to make a law to make men honest. I do not know of any way. I would hold up both hands and support it if you could, and if there is a man goes to work for me and tells me that he has left a place or a half a dozen of them and I want to employ men, I can, with regard to whether they are competent men, right straight, and write to the men he has just left a short time before and find out their character. I would like to know what there is to prevent those men telling me what they know. I can tell you that all the talk this afternoon is all time thrown away and you will find it out. It does not amount to a hill of beans.

Mr. HOWARD. Mr. Chairman, I hope that the section will not be stricken out as reported by the committee. I would like Mr. Evans' section, provided it went as far as this, because this says blacklisting or similar practices. If the words, "similar practices," were added to Mr. Evans' substitute, I would vote for that, but I do not want to see it stricken out. We already have laws in our statute books that provide penalties for slander and for libel, and the penalties are more or less severe, according to the aggravation of the crime. Now, I think that this will go so far. I think that corporation that will give the name of a man that they disagree

with to another, for the purpose of prohibiting him from receiving work, is committing just as great a crime as the man that commits a libel or slander upon another. He is trying to keep him out of work. He is trying to keep him from earning an honest dollar for the support of his family. I think we ought to put it in the Constitution and keep it there. That will prevent parties exchanging these blacklists. They have to do it by writing one to the other. That is just as much a letter as it would be for me to write a letter and slander some member of this Convention, and I think we ought to retain it.

The motion of Mr. Thurman was rejected.

Mr. HOWARD. Mr. Chairman, I would move an amendment to Mr. Evans' substitute, that the words, "or similar practices," be inserted after the word blacklisting.

Mr. EVANS (Weber). I will accept that. I want to say, Mr. Strevell's amendment is in the right line, but I think it is wrong to say that blacklisting shall be unlawful or prohibited. I think a corporation has got the right to keep a list of its own discharged employes, but my amendment seeks to prevent an exchange of those lists; that is the only difference.

Mr. STREVELL. You leave out the word "railroad corporations," and one or two other things.

Mr. EVANS (Weber). Yes; I use the word corporation.

The amendment offered by Mr. Strevell was read.

Mr. THURMAN. Now, Mr. Chairman, "similar practices." That is a somewhat amusing thing to go into a state constitution. We prohibit a thing which in itself has no definite meaning, and not only that, but we go further and prohibit similar practices. I think we are reducing this whole thing to an absurdity.

Mr. SHARP. Mr. Chairman, I move to insert the word, "or persons," after the word "associations."

Mr. STREVELL. I will accept that amendment.

The amendment offered by Mr. Strevell was agreed to.

Mr. RALEIGH. Mr. Chairman, I have always been used to hearing some penalty attached to the violation of a criminal law. Now, I would like to get something in there that when they are discovered doing something that you say they shall not do, that there is a penalty. I move that it shall be declared a misdemeanor. No second.

Section 8 was read.

Mr. BOWDLE. I move to strike out section 8.

Mr. STREVELL. Mr. Chairman, I object to striking out section 8 for this reason, if no other, that it is taken word for word from the new constitution of the state of New York.

The motion was rejected.

Mr. ENGBERG. Mr. Chairman, I move a reconsideration of section 8. The action is ever too rapid. I rose to offer an amendment and was not recognised. I offer the following amendment to section 8, after the word "limitation," "the Legislature shall provide for the protection, in places of manufacturing, mining, and other industries, of the lives and persons of employes."

Mr. MALONEY. Mr. Chairman, I do not think it relates to the section at all.

The amendment was rejected.

Section 9 was read.

Mr. KERR. Mr. Chairman, I move to strike out section 9.

Mr. IVINS. Before that motion is put I want to ask Mr. Crane if it is in the republican platform.

Mr. KERR. I will state that my reason for moving to strike out section 9 is that we have already provided that the statistics shall be taken once in five years, and it seems to me that all the information required on this subject can be obtained at the time the

census is taken, so that it is unnecessary to provide for a separate board.

Mr. STREVELL. Mr. Chairman, before we vote on that, I would like to explain the idea of the committee in inserting that section. Three states have similar provisions, Idaho, Montana and Maryland. The idea was this, that the work could be done by one of the State officers, at very slight expense, and the collection of statistics in regard to immigration and the different industries in the State, would be of very great benefit to a great many persons in the State, and a great deal of information that would be collected there would be absolutely necessary for the governor in making his report to the Legislature, in order to provide for things which, in his judgment, would be proper.

Mr. CRANE. Mr. Chairman, I trust that that provision will not be stricken out. I think that this is a very important matter, and one that is of great good to the entire State. As I understand it, this commissioner who shall be appointed or elected by the people, will collect all the statistics—all the information regarding the capital invested, the number of men employed in the different industries in the State, the earnings of the laboring men in different districts, and the different employments. It not only does that, Mr. Chairman, but I believe that that section also was endorsed by the majority of the people last November, and for the information of the gentleman from Washington County, who asked me a question just now, I will say that this is part of the platform that was endorsed by 21,000 people in this Territory on the 6th of last November.

Mr. IVINS. Then. I withdraw my objection.

Mr. CRANE. For the information of the gentleman I want to read this plank in this platform, and I trust the gentleman will endorse it, as I believe will the gentleman from Weber County. (Reads.) And I trust, Mr. Chairman, that this section will not be stricken out, but remain as the voice of the people as expressed in 1894.

Mr. EVANS (Weber). To which section does the gentleman refer, the section in the platform or the one in the article we are now considering. [Laughter.]

Mr. KERR. Mr. Chairman, it does seem to me that this section is entirely unneccessary. We have provided that a census shall be taken in 1905, and every ten years thereafter, and the Legislature shall pass such laws as may be necessary to carry out this provision in the Constitution. Now, all the information that may be desired upon this or any other subject can be obtained at the time the census is taken in accordance with this provision in the Constitution. It does seem to me that the section is unnecessary.

Mr. SQUIRES. I want to call the gentleman's attention to the fact that the first census under that provision would not be until 1905. That is ten long years, hence information on these subjects may be needed in a great deal less time than that. For that reason, I think this provision should remain in the Constitution.

Mr. KERR. Are there not statistics being taken now?

Mr. SQUIRES. Not along this line at all.

Mr. HAMMOND. Mr. Chairman, I would like to inquire for information, if we, by striking out this section, prevent or prohibit the Legislature from gathering these statistics if they should feel it was necessary?

The CHAIRMAN. I should think not.

Mr. HAMMOND. If we do not, I should say let it go.

The motion to strike out was agreed to.

Mr. STREVELL. Mr. Chairman, I wish to introduce a new section:

The Legislature shall, by appropriate

legislation, provide for the enforcement of the provisions of this article.

I call attention to the fact that in the article on blacklisting and one or two others, it seems to be lacking in that respect.

Mr. SMITH. I would like to ask the chairman of this committee a question, and that is in regard to the number of officers that he thinks will be necessary to carry out this article—how many officers the State would have to employ in connection with it? It is a question of economy.

Mr. STREVELL. I will answer the question to the best of my knowledge. The committee as a whole, I think, did not go into that matter, but there were several remarks made upon the question. The idea is that if we establish this bureau for the collection of statistics and so on, that that gentleman might, in case the Legislature saw fit, be one of the committee or board of labor arbitration, and that in case there was anything to arbitrate, he would endeavor in the first place to place himself in connection with the people, and then, if it was necessary to call the board together, he would have the employes choose one man and the employers another; that would make a board, and there would not be a regular salaried board, and in that way, having a board called together only for the time they were needed, it would be very inexpensive, and I do not think now of any other place where we have provided that he shall be a salaried officer.

Mr. EVANS (Utah). I would like to ask Mr. Strevell a question. Did you think that if this section that you now propose were to be carried it would strengthen the Constitution at all?

Mr. STREVELL. Well, I introduced the section because it has been called to my attention that it would be better to do that. For instance, the matter of blacklisting, as I say, we simply prohibit it. We do not say that the Legislature shall enact legislation to carry that into effect. I introduced the section because several gentlemen told me that they thought it was entirely proper to do so, and that it should be done in order to carry out the provision.

Mr. EVANS (Utah). Mr. Chairman, I take it for granted that we have expressed and indicated in this Constitution, or will do before we get through, the will of this Convention, and that is supposed to be the will of the people, and that the Legislature will proceed to carry it into effect by making laws upon these subjects, and as I take it for granted, this could not strengthen that position one particle and it would have a tendency to cumber our Constitution and make it more voluminous. I am opposed to it and hope it will not prevail.

Mr. STREVELL. I would like to ask the gentleman a question. Is there anything to carry that into effect unless the Legislature does?

Mr. EVANS (Utah). No; but I say the answer to that is, this does not strengthen it. This does not compel the Legislature to do it, and upon that same theory if that be true, then we ought to put it at the end of every article.

Mr. STREVELL. I do not know whether I have covered the ground or not. I have tried to.

The question being taken on the section offered by Mr. Strevell, the committee divided and by a vote of 39 ayes to 31 noes, the section was adopted.

Mr. BUTTON. Mr. Chairman, I want to introduce a new section:

The first Monday in September shall be a legal holiday and known as labor day.

The section was rejected.

Mr. CANNON. Mr. Chairman, I move that when we do arise, we report this article as amended and request that it be placed upon the calendar for third reading.

Mr. SMITH. Mr. Chairman, I move that the whole article be stricken out.

The motion of Mr. Smith was rejected.

The motion of Mr. Cannon was agreed to.

The committee then proceeded to the consideration of the article on revenue and taxation.

Section 1 was read.

Section 2 was read.

Mr. CANNON. For the information of the committee I would state that this article is taken from Washington principally, with the exception of the definition of the word property as defined here is taken from the constitution of Montana.

Mr. VARIAN. Mr. Chairman, I see the provision concerning the taxation of stocks in lines 9, 10, 11, 12 and 13, is to the effect that where the property of the company or corporation has been taxed, the stocks are to be exempted. I would like to ask the chairman of the committee what objection there is to taxing stocks in foreign corporations? Suppose, for instance, the stock is held in this State of a company holding property in New York. If it is properly here, why should the person holding the stock here which may be equal to money—bankable any day, be exempted because the New York corporation pays a tax to the state of New York? Has that question been considered?

Mr. CANNON. Yes, sir; the question has been considered, I would answer, and in the minds of the committee, based partly upon an objection by Mr. Varian himself to a somewhat similar principle, we constructed the words, "is within the State." The committee considered it in this light, that if a corporation paid its taxes—for instance, if a man had a herd of cattle in Arizona and resided himself in Utah, and if the cattle were taxed in Arizona, we did not think it right that he should be taxed on his stock in that corporation, if he resided in Utah. We thought that the tax having been paid once was enough. It is a species of double taxation. We made no distinction, therefore, between whether the property was taxed here or taxed in adjacent states and territories.

Mr. VARIAN. Mr. Chairman, I think the gentleman is in error, if he attributes an objection of that kind to me. I had in mind all the time just the very point I am making now; I do not believe that you ought to yield the right of taxation in that way, nor do I believe that because certain species of property may occasionally be taxed twice, that that is any reason why this jurisdiction should refuse to exercise the right of taxation over again. I think that if a man owns stock for instance in a corporation like the New York Central Railway Company or Pensylvania Central, or any other dividend paying stock, that he ought to be compelled to pay taxes on it here. It is property. I will make the motion to insert after the word "taxed" "within this State," in line 13. Now, if that amendment shall prevail the property of stocks—corporations owing property in this State, where the property of the corporation is taxed, will be exempted, but stocks in foreign corporations in other states in the Union or brought where the property shall be taxed by the other sovereignty will not be exempt here, and I say on principle they ought not to be exempted.

A large proportion of the wealth of the country is in personalty. If I have my neighbor's note for five thousand dollars, and it is bankable, you will tax it for what it is worth. If it is worth five thousand dollars and I am an honest man and if the assessor is an honest man and does his duty, you compel me to pay a tax upon it, and yet my neighbor may have the five thousand dollars that I have loaned him, either in specie or in property to which he has interchanged it and is compelled to pay a tax on it. Property multiplies itself

and sometimes the real underlying property, such as money or goods and chattels, may find its representatives in different hands many times. Now, what is the difference between a note and stock that is worth a hundred cents on the dollar and you can go to any bank in the community and get the money on it? I do not think that this State need concern itself with the tax laws of other sovereignties, but if New York, in the instance I cite, is willing and cares to tax the property of the corpotion, that is the business of the state of New York. We are not taxing the corporate property here. We are taxing the value of this estate represented by the stock in the hands of the person within our borders, be he citizen or not, and we ought to tax it. And I will tell you, gentlemen, that you cannot afford to let any legitimate subject of taxation escape under this new State government. You will need it all. You cannot afford to make any of these discriminations or distinctions.

Mr. RALEIGH. Let me ask you a question. Suppose I lend you a thousand dollars and you put that into a farm. That farm is taxed to its full cash valuation. If you tax me for that mortgage, would not that be double taxation of necessity?

Mr. VARIAN. No, I think not. I think there is a great confusion about that.

Mr. RALEIGH. Perhaps I might not have made myself understood. I mean if you tax me one thousand dollars on that mortgage and tax the man that owns the farm the full valuation of the farm, and not exempt any portion of this one thousand dollars?

Mr. VARIAN. I understand the gentleman, I think. That is not this precise question, however, but in answer to that I say, no. I say the money and the farm represent property in the hands of the person owning it. I say the note or mortgage represents property just as much in the hands of the person owning that. You can readily see how the property may be taxed in one sense in three different forms. It is not the same property in reality, yet it is created; it has grown out of the same property. You can take a thousand dollars, pass it over to your neighbor and take his note for it, and both you and the neighbor may be taxed during the same taxing season. He on the thousand dollars that he has, or if he puts it into horses, or into cattle, or into sheep, or into any kind of property, real or personal, he is subject to taxation, if he has it during the period described by law for making the assessment. On the other hand, I have what is the equivalent of the thousand dollars. If I had retained the thousand dollars I would have been required to pay a tax on it. I have the representative of value which is under the protection of the law. Your courts are open, your officers are at my services to protect that species of property, which has come into existence by this species of barter and sale. But that is not precisely this question. The question is here whether a man whose fortune may be invested in stocks of foreign companies—they may be any kind of stocks, where the business is carried on in other countries or under other jurisdictions.

It does not alter the fact, Mr. Chairman, that the property that he has and for which he has exchanged his money—he has taken his money out of this Territory, sent it into the other states to invest it, and received back a representative of value, which takes the place of the money that ought to be here, and is not here for taxing purposes. It is just the same to him as if it were money and it ought to be taxed. It is a representative of value; it is just as much property as real estate is, and you all admit that if you take a note of your neighbor here in Utah and it is a solvent note, you are required under the law and always have been,

to pay a tax upon it, but a few years ago a discrimination was made in favor of notes secured by a mortgage and against notes that were unsecured. The unsecured notes to-day have to pay a tax, the secured notes do not have to pay a tax, and it has brought about a great deal of confusion, in my judgment. It is unjust and discriminating. The man who takes his neighbor's note without security, goes on the street and takes the note of any business man for a time or a call loan for any amount of money, is compelled under the law if he acts honestly with himself and with the people to pay a tax on it. If he secures it by a mortgage, whether it be on a fifty dollar lot or a five hundred thousand dollar lot, he is exempted from taxation. I do not desire to go into this discussion. I simply want to state my views and reasons for offering this amendment.

Mr. CANNON. Mr. Chairman, I trust this motion will not prevail, to insert the words that have been offered, for the following reasons—in the first place the question of taxation of notes will come up later under another section. I will not discuss it here, but I desire to call attention particularly to the effect that this proposed amendment would have. As the section is now, it provides that this shall not be construed so as to authorize the taxation of the stocks of any company or corporation when the property has been taxed, etc. As amended, it would read, "represented by such stocks is within the State and has been taxed." I call your attention to the fact that if a man invests his money in a herd of cattle, over in Nevada, or in any adjacent state, he would be taxed there for his property, and no tax would be levied upon him in Utah. If a man, for instance, had a herd of cattle of one thousand head in Nevada, he would have to pay his tax there, but you could not in Utah, because he resides in Nevada, tax him for his cattle, which are in Nevada. What is the difference between that man and a lot of poorer men who get together and form a co-operative herd of any kind, either cattle or sheep, or anything of this character? If the man who is poor unites with several of his neighbors and they put their money together and buy the same number of cattle in Nevada, and incorporate, if it is a thousand head of cattle, there, under this amendment, they would be taxed in Nevada, and their stock would be taxed in Utah, because there is no tax paid on the property in Utah. Why should it discriminate in this manner? I claim that there should not be a discrimination.

Mr, VARIAN. Did you ever know of instances where a herd of cattle were started in the spring and driven through several states and where they were taxed in every state?

Mr. CANNON. No.

Mr. VARIAN. Because I can tell you it happens nearly every year.

Mr. CANNON. Well, is that just?

Mr. VARIAN. In one sense, it is just, yes. He gets the benefit of the state laws where he is for the time. At all events, I would answer that by saying that you cannot make a tax law that is absolutely and perfectly in the abstract just in its operation.

Mr. CANNON. We may not be able to make it perfectly just, but we want to make it just as just as possible.

Mr. THURMAN. Will the gentlemen yield for one question? Suppose the man has his stock in Nevada or his cattle and owns them in an incorporated company, he has the certificate of stock in his pocket. Is that property?

Mr. CANNON. The certificate of stock represents that which is property.

Mr. THURMAN. Suppose that he puts that certificate up as collateral and he gets more stock here in Utah—I mean more cattle, would those cattle be taxed?

Mr. CANNON. Yes, they would be taxed here.

Mr. THURMAN. And yet it is the same thing; it is simply changing the property, is it not, from one shape into another?

Mr. CANNON. No, sir. In the second case, he has borrowed money and with that money he has procured cattle. I will call your attention to the fact that merely calling it by the name of stock does not change it. The man who has the bill of sale of cattle in his pocket might borrow money on that bill of sale, and if he did so, you would not tax his cattle in Nevada that he originally had and tax the same cattle in Utah, and then again tax the cattle which he bought; it would be absurd to do such a thing. I do not think any one here will claim that it will be possible so to do. I claim that we should encourage the citizens of Utah to be enterprising. I claim that they should, if they see fit, go out into a dozen states and territories, and if they should combine in co-operative herds or in any other way, they should only be taxed as individuals. The fact that they are a corporation should not militate against them. We will take the New England states, and men who have lived there have gone into all parts of the world, and it is what has made New England what she is, because her men have been enterprising and gone out. Now, shall we say to the men in Utah—"You cannot go outside of our borders and transact business without being taxed, not only where you do your business, but here at home. You shall pay a double tax, you shall pay a tax where you have your cattle or your enterprise of any kind and we will require you to pay it again at home." I claim that that would be an unwise discrimination to do anything in that way.

Mr. VARIAN. Mr. Chairman, just one word now as to this question of corporations. I think the purpose for which corporations were originally designed has become very much abused. I do not think that anything particularly encouraging ought to be held out in constitutional legislation in that direction. As it is now, even in this Territory, private individuals no longer are willing to carry on the ordinary business of the community as individuals. If a man wants to open a store, he proceeds to gather in one or two individuals in order to get the requisite number to form a corporation, and he carries on his business in a corporate name. He evades all the just responsibilities of business life. If he fails, there is no personal liability attached to him. That has been going on here on the Pacific coast until it has reached almost a state of perfection in Utah. And I am not willing for one that any further encouragement should be lent to them.

The design of corporations in the first instance was to enable individuals to carry on gigantic undertakings, or at least undertakings too great for individual enterprises; it has been prostituted to base purposes. Now, if they want to form corporations to carry on a cattle ranch or a sheep herd, and want to take the property out in another state and make the investments there and live here under our law, I say that their stock representing their interests in the corporation in so far as it is of a money value and marketable ought to be subjected to our taxing laws, and I say it is just in principle and it is right under any system of taxation. In most of the states—I have in mind Ohio, they have public officers appointed whose duty it is to investigate the records of other states and territories with a view to ascertaining the investments made by the citizens of Ohio in those states and territories so that they may be brought within the operation of the taxing law. A man in Ohio goes out to Colorado or Utah and puts his money in a mortgage on real estate; if he does not give it to the taxing officer there and it shall be discovered—there is no limitation of time, I believe—by the

officer appointed for that purpose, by the state, he is retaxed for years with penalties.

It is a recognized right of sovereignty. You cannot look at it in this little way—looking at it from the standpoint of two citizens making a barter and sale. It is a great principle of taxation, the right of sovereignty is involved, and you must look down on it in that way. If it is property, it ought to be taxed and no discrimination ought to be made for or against the citizens of this State.

Mr. CANNON. Do you admit that there is in this case a distinction between individuals and corporations having property outside under your proposed amendment?

Mr. VARIAN. No; I do not think that question properly arises. I would simply tax individuals upon stock in corporations, whose property and place of business are out of the State.

Mr. CANNON. In the case I cite would it not be true that you could not tax me for cattle in Nevada?

Mr. VARIAN. I do not remember just exactly what you refer to.

Mr. CANNON. If I own cattle in Nevada could you tax me with those cattle here as an individual?

Mr. VARIAN. No.

Mr. CANNON. If I incorporate a company and own the same cattle in Nevada and hold the stock here, you would under this provision tax me here?

Mr. VARIAN. I would tax you on the stock if it was worth anything, because by the fact of the launching of the enterprise you have produced new wealth in the world. By the creation of the stock you add to the wealth of the world. The major portion of it is in that kind of shape.

Mr. CANNON. Mr. Chairman, I believe the people of Utah have had a great many corporations for the purpose of owning and handling cattle and stock. I believe that the vast majority of those corporations have been formed with honest intentions and that they have never defrauded people more than persons. I believe that there should not be a distinction made between a private citizen who is wealthy and owns cattle and sheep and who can live exempt from taxation with his cattle and stock in adjacent states and territories, and a number of men—a community who combine together and form a stock company and own cattle and sheep in the same way; and the same principle will apply to all other articles.

Mr. MACKINTOSH. I would like to ask Mr. Varian, suppose that you purchase a mine across the borders for a hundred thousand dollars and incorporate it here and pay your taxes over there, would you have to pay them here again on the stock?

Mr. VARIAN. It would reach that case, if the stock was a valuable stock. It would depend upon its value. I will answer the gentleman by saying that if his stock was lost—like there used to be many mining stocks put upon the market, turned from hand to hand, and worth money, they are just as much property in my view under the taxing law as if it were a promissory note.

Mr. MACKINTOSH. Would you think it a fair and just plan?

Mr. VARIAN. I do, most assuredly.

Mr. MACKINTOSH. After paying them over there and then paying them here?

Mr. VARIAN. Because I take the view that it makes new property. When a man's note comes on the market, while it is there it is additional property of the commonwealth and remains such until its extinguishment. Like a bank note, it has a value until it is extinguished and called in.

Mr. MACKINTOSH. Wouldn't you check a great deal of enterprise in that way, by taxing them so as to tax them here again?

Mr. VARIAN. I do not consider you are taxing them here again.

Mr. MACKINTOSH. Well, it is a double taxation.

Mr. VARIAN. I do not consider it so. The improvements in Nevada on a mine are all that are taxed, and the gross product. If the mine is a dividend payer the stock is valuable, if it is not, the stock is worthless.

Mr. MACKINTOSH. It might be valuable in my estimation.

Mr. VARIAN. I am speaking of value in the marketable sense.

Mr. MACKINTOSH. Supposing he sells it for twenty dollars a share?

Mr. VARIAN. Well, tax it on twenty dollars a share.

The question being taken on the amendment of Mr. Varian, the committee divided, and by a vote of 29 ayes to 33 noes, the amendment was rejected.

Section 3 was read.

Mr. ANDERSON. Mr. Chairman, I move that section 3 be amended by striking out the words "either religious worship or," in the 14th line. I think that by retaining that it will discriminate against certain citizens of the State. We are making this Constitution for all future time, and there may come a time when probably half of the citizens won't believe in any church.

Mr. THURMAN. There won't be any religious worship then.

Mr. ANDERSON. If the property belonging to a church is exempt why they will have to assess it to pay the taxes.

The amendment was rejected.

Section 4 was read.

Mr. VARIAN. Mr. Chairman, I move to strike out all of the section down to the word all, in line 13. Now, I want to direct attention to the fact that whatever opinion may exist as to the justice of taxation provided for in the clause that I move to strike out, that is to tax mining claims arbitrarily in a fixed sum, that it is in violation of all principles of taxing laws. By this section you arbitrarily fix a sum or value by which for all time you are going to tax a certain species of property. The underlying principle of all taxing laws, as clearly declared in the section just passed, is that the property shall be taxed at its just valuation. This means that you must provide means and methods for ascertaining what the just valuation is, but you are going to say here by a provision in your organic law that every mining claim, no matter where situated, in what section of the country, is to be declared to be worth five dollars an acre, because the government price was five dollars an acre. Now, you will observe that that eliminates entirely from the problem the question as to its valuation. I contend further that it is impossible to reach a just valuation of mining claims in that way. The only fair, the only equitable adjustment of that question is found in the subsequent clause of the section. You tax the net proceeds. When you get proceeds out of a mining claim, then, for the first time, you know what you have got. After you take your expenses and the cost of production, get that product into bars or bullion, or at least into personal property on the top of the ground, and it becomes added to the wealth of the country, you know then what you have got and you can tax upon some actual basis. I do not know why this committee want to impose additional arbitrary tax, which, as I have indicated, is in violation of the principle of taxing laws, upon mining claims, and I trust that the motion will receive consideration.

Mr. EVANS (Weber). Mr. Chairman, I am opposed to the motion of Mr. Varian to strike out the words indicated in section 4, and I desire to remind him of some statements which he has made with respect to other matters, on the question of taxing stock of foreign corporations. He stated there that the question of taxation was a question of sovereignty, that is, we must tax, he says, all property in sight for the support of the new State. He was asked respecting some stocks of certain

value, whether they should be taxed, although the property representing those stocks was outside of the State. He says, yes, now, tax them at their full value. Well, now, that is not what we have proposed to do in this section. So far as mining is concerned, I am probably more favorable to that than any other industry in this commonwealth, because it is the very life of the Territory, always has been, and always will be, so long as it exists. Because mining and agriculture go hand in hand, and we cannot develop one very well without the other. But just entering upon the new State, as we are, we find that it will be absolutely and indispensably necessary to create revenues to carry on the legitimate expenses of the government. Mining, in the past, has been greatly favored so far as the question of taxation is concerned. The only thing which has ever been taxed yet in Utah is the improvement upon mines; not even the net products have been taxed. None of the surface ground has been taxed, and with the great benefit which mining has given us, yet at the same time we all know that some men have amassed great wealth from the products of mines and yet have paid nothing whatever toward the support of the Territory. I do not say that in disparagement of any gentleman who has been in the business of mining, but now we have come to that point where it is necessary to raise some revenue. It is going to be burdensome enough upon the poor farmer, the shopkeeper, and the man who is engaged in the various avocations of life in this Territory, to have to pay taxes to support the government.

The gentleman from Salt Lake asserts that it is not right in principle that surface grounds of mines should be taxed, because the net product represents the only thing of value taken from it. Why, suppose, Mr. Chairman and gentlemen of the committee, that we were to apply that principle in this Territory to the farmer? What are his net profits? Does he have any at all? Doesn't he simply eke out an existence from day to day upon his farm, raising his cows, and calves, chickens, pigs, taking his eggs to market, and as suggested by the bishop on my right that even the babies that are produced sometimes have to go to market. I happen to be fortunate or unfortunate enough to own some mining property in connection with others, and so far as I am individually concerned I make no objection to levying a tax to the amount of the government price upon the surface—upon the actual acreage that is included within the mining claim. This section which is proposed to be stricken out will strike out "the government price on mining claims," which I believe is five dollars an acre.

Mr. SQUIRES. Two dollars and fifty cents on placer and $20 on coal land.

Mr. EVANS (Weber). Now, if that land be worth the government price when it is patented, why not permit the State to tax that surface ground at the government price? It is undoubtedly worth that or the person that applies for patent would not pay it and take his patent. It is a very light tax, indeed, but still in this aggregate, the whole surface ground which is occupied and patented in the Territory will amount to a considerable sum in the aggregate. Another question is coal land. They are taxed at $20 an acre. That is the governmental price. If they are worth that, and they undoubtedly are, or corporations would not secure the patenting of the ground, then why not tax them at twenty dollars, if they are worth it, upon the theory which my friend from Salt Lake bases his argument? And then, the other question is, which is proposed to be stricken out, that if the surface ground be used for any other purpose then it shall be taxed at the value of the purposes for which it is used. Is there anything unjust about that?

Mr. VARIAN. What could it be used for, I will ask you?

Mr. EVANS (Weber). Why, there may be such a thing as cultivating it. It could be used for stock yards. It may be that surface ground would be used and in almost every mining camp in Utah, it is used for little homes.

Mr. VARIAN. Will the gentleman permit me a question? What is to prevent them from taxing the little home or the possessory right for the use to which it is put?

Mr. EVANS (Weber). It is taxed. If I own a mining claim and I let out the surface of the claim to the men in the mine, and they build little houses on it, their little houses and their improvement are taxed. I am their landlord, exacting from them monthly rents, because they are using the surface of my mining claim, and I am not taxed at all. It is only the tenant.

Mr. SHARP. May I ask a question? Would not this section 5 for taxing school lands at twenty dollars an acre apply after the coal was exhausted?

Mr. EVANS (Weber). It would.

Mr. SHARP. Forever.

Mr. EVANS (Weber). No, I doubt that. I think that when the coal is extracted from the land, it is not coal any longer. I do not think it would come within the spirit and meaning of the section. But if your coal were exhausted and you were to use that land for other purposes, such as building upon it and renting the houses, then it ought to be taxed for its actual value. I do not believe that any court would hold that where coal has been taken out of the land—stripped of all the coal—that a court would hold that that was coal land under the meaning of the Constitution, but it would be only such coal land as has not been exhausted. Montana has a provision exactly similar. Indeed I know of but few mining men who have complained at this section, as it is reported by this committee. I believe that our friend, Mr. Mackintosh, who represents more mining ground than any other gentleman, probably, upon the floor of the Convention, stated in his committee that he was satisfied with the provision, that the committee was dealing fairly with the mining interests of this Territory. There is nothing in the section which will discourage the industry. If there were, I should vote against it. In the first place, the only thing that a man would have to pay would be for the surface ground alone at the government price. Think of it, only five dollars an acre until his mine commences to produce, and when it does, then he is to pay the tax on the annual net profits.

Mr. VARIAN. In addition—he pays both taxes?

Mr. EVANS (Weber). He pays both.

Mr. VARIAN. Yes, double taxation.

Mr. EVANS (Weber). Now, the reason why that is done—Mr. Varian, I think understands that is because it is impossible for the assessor to determine the value of a mining claim. It might be speculative, it might contain large deposits of mineral or it might contain none at all; but the presumption is that it is worth the government price, because the person that has taken it up and entered it pays that price for it. And it is only a nominal price anyway.

Mr. MORRIS. What about claims that have been abandoned for years—purchased from the government and the mining fail, still it is in their name, but it is of no use whatever—in the mountains, not available for agriculture, but the company have bought that land and paid for it and spent perhaps fifty thousand dollars on it and it proved a failure, and that is the end of it, would that be taxed to them?

Mr. EVANS (Weber). You mean the land itself—the surface ground?

Mr. MORRIS. The mine.

Mr. EVANS (Weber). The ground would be taxed at five dollars an acre. It would be a mining claim just as your

arm would be taxed if you were to abandon it.

Mr. MORRIS. Suppose they have left t entirely?

Mr. EVANS (Weber). If they have eft it entirely, I suppose it would be sold under the hammer of the collector. It simply would be worthless to him or anybody else. But I will remind the gentleman from Salt Lake of the fact that it is only that ground which is patented that is taxed—it is not that which is held as a possessory right. I am in favor of retaining the section just as it is.

Mr. EICHNOR. Mr. Chairman, I move that the committee rise and report progress.

Mr. VARIAN. Mr. Chairman, I hope they will dispose of this matter. One thing more I desire to say. I want to call attention to the fact that by putting this in the law here, you are liable to burden the State with a great deal of trouble. There are hundreds of claims lying through the Territory and hundreds of them will be sold every year because the owners do not deem them valuable enough to pay the taxes. Any gentleman familiar with the present system of selling property for taxes can figure up if that system is perpetuated, what the cost is going to be to the State or county to sell these claims year after year and the fees and expenses of making the sale. That is a question of expediency. The other question is the utter injustice of this tax. It is double taxation in the most pronounced sense. What is the value of a mining claim? It is not the surface ground. It is not the rock and the dirt and the grass and the trees and the shrubs that grow there. It is its capacity for producing the precious or other metals and it can only be determined when they shall have been extracted. The price of mining claims has been fixed by the government with due regard to the expense of keeping up the land system and keeping open for the exploration and exploitation by the citizen the mineral domain of the country. It has no relevancy whatever to the value of the ground. You are doing violation to every principle of taxation, by including this in this section, and if, as was suggested, your claim becomes a producer and you arrive at the value of the property and lay the taxing hand upon it, then you have accomplished all that you justly have a right to do. But you would still go further and tax the barren, bare surface ground which has no value whatever. It has not a value simply because you choose arbitrarily to say it is worth five dollars an acre. That is not it. It has no value by its situation, its location, its reference to other property. It has no value other than that as may be developed by its exploration and the money and wealth taken from it. For all these reasons it seems to me it is unwise and unjust and unnecessary. It is admitted that it will accomplish little. The revenue that it produces will be almost imperceptible. It will be eaten up entirely by the expenses of the collector in making the sales of property upon which the citizen will not pay. It will have an effect upon hundreds of poor prospectors, scattered throughout the country, who are clinging to their ewe lamb of a mining claim waiting, hoping against hope that something will turn up to the property near them or something in some way that will enable them to accomplish the ambitions of their lives. Hundreds of them to-day have not enough money to pay for the recording of a mining claim and I do not care how small the tax is, it is a burden upon men who ought to be fostered and encouraged and relieved as much as you can relieve them from such a burden.

Mr. EVANS (Weber). Is not that true of many farmers of this Territory?

Mr. VARIAN. I think there is no connection at all. That is an argument that is brought up on all occasions. It

will take too long to go into that discussion.

Mr. ALLEN. I would like to ask Mr. Evans—take it away from the railroad where men are holding coal claims, expecting that in the future the railroad will come, and at present they receive nothing from those mines, yet they are holding them, would not this work a hardship on them?

Mr. EVANS (Weber). They simply have to pay a tax at the rate of five dollars an acre.

Mr. ALLEN. Twenty dollars an acre.

Mr. EVANS (Weber). After those lands have been patented, yes. They pay nothing before they are patented.

Mr. ALLEN. I understand that, after they are patented they are still holding them, would not it work a hardship upon them. The railroad has not got there yet?

Mr. EVANS (Weber). Can the gentleman tell me of any poor men who are developing a coal mine? It is a well known fact that corporations simply monopolize those things, and they are the people who pay this tax.

Mr. ALLEN. But the justness of it—whether it is a poor man or rich man?

Mr. ELDREDGE. Mr. Chairman, while we are on the coal land proposition, suppose a man made an entry of 160 acres, the land is so situated that the coal dips into perhaps very likely every legal subdivision. In order to cut the vein of coal proper, he has to take the 160 acres, but at the same time there is quite a body of that that don't carry coal. Under this provision he would have to pay on the entire mine, what he paid the government, would he not?

Mr. EVANS (Weber). I think he would.

Mr. KEARNS. Mr. Chairman, I favor the amendment of Mr. Varian, and I have talked with my mining friends about it. This amendment of Mr. Varian refers to the proposition for the taxation of all improvements, of all machinery and of all net proceeds; I think that covers all; by going in and putting that taxation on the mining claims, it kills the industry in its infancy for the prospector. The gentleman asks where is there a poor man that is opening a coal bank. I can point one out to him here in the house, but I can point out a thousand that are improving mining claims of precious metals that from one end of the year to the other have never handled a dollar. They come into the city every day where I am and ask for a little prospecting stake, bacon and beans; he compares them to the people on a ranche, raising chickens and eggs, etc. The prospector never sees any of those luxuries. He would have to feed his chickens on mountain scenery and sun burnt weather. Are you going to put a tax on that man and sell out what he has put his life to accomplish—a claim that he has patented? If you do, gentlemen, you will strike down one of the grandest industries ever started in our new State, and I leave it to your generosity to relieve the poor prospector. Go into the cities and ask capital to go there and invest before the shaft is sunk, it will laugh at you.

Mr. CANNON. Mr. Chairman, in the first place, the committee having this matter in charge desired to do all they could to encourage mining. They did not have a hostile feeling toward mining. They believed in doing all they could to develop the enterprise and industry and at the same time they believed that mining should bear its just proportion of taxation and of the burdens of the State. I believe that the article as reported is more favorable to mining and miners than that which exists in all surrounding states. I will read the article in Colorado. (Reads.)

This you will see exempts them for ten years, except on the net product, and after that time it is subject to the will of the Legislature and may be changed from time to time. I have not found one mining man—and I have sub-

mitted this to quite a number of very prominent miners—who was favorable to this section as against the one reported by Utah.

Mr. KEARNS. Might I ask you a question? Have you met any of those prospectors out here that are not prominent miners and had their opinion on it?

Mr. CANNON. I will state that I met Mr. Kearns and Mr. Mackintosh of the committee on mining, and quite a number of other gentlemen; but the point about the prospector to my mind has not any effect for this reason, this does not provide for taxing mines when a man is prospecting. It only provides for taxing them after the ground has been patented, and certainly if it is worth patenting, because the price paid the government is probably only about one-fifth of that that is largely expended in developing mines before they are patented—if it is worth spending that on it, it is certainly worth paying the State a little to retain it. I would call your attention to Nevada, the state from which the gentleman comes who introduced this motion to strike out. (Reads.) That is, the gross proceeds are provided for in this state. I will call attention to that later.

Mr. VARIAN. Mr. Chairman, I want to call attention of the gentleman to the fact that the net proceeds have been taxed and those alone under the laws of Nevada.

Mr. CANNON. The constitution is as I stated, is it not?

Mr. VARIAN. They may have authorized it, but the net proceeds are what are taxed.

Mr. CANNON. The net proceeds are taxed quarterly, which is not so favorable as the way we propose to tax them. They may three-fourths of the year work it at a disadvantage and in the fourth quarter they may make a profit, and the way we provide is an annual tax, that is, they take the whole year and work it the entire year and if there is a profit it is taxed, but in Nevada, it is taxed on each quarter. Montana is the one from which we copied ours, consequently it is practically the same. When we come to Wyoming we find the following provision. (Reads.) Now, if they paid twenty dollars an acre for coal land to the government, it stands to reason that it should be assessed at least twenty dollars per acre. Gentlemen, you will see from this that they tax in Wyoming on the gross product, while we tax on the net product. In Nevada, assuming what the gentleman says is true, they tax it quarterly instead of annually. So that there is a discrimination there in favor of Utah. I have in my hand a statement of the ore product of Utah, estimated by Wells, Fargo and Company. The gross product for 1890 was $11,344,532. I will read the millions; 1891, twelve millions; 1892, eleven millions; 1893, seven millions; 1894, six millions; a total during the five years of $48,992,226. If we were to tax this, gentlemen, it would amount to about three times that which we propose to tax. It is the way of taxing in Wyoming, and if we would follow their rule we would get a tax amounting to the amount that I have named. I think that under all the circumstances the provision in the Constitution as proposed is eminently just.

I would state that the objection was made by a prominent coal miner here that he thought $20 an acre would be too much and also on the net revenue. I asked him this question, whether he would like to have the law made as it is in Wyoming, which is especially a coal producing state, and I do not think that he was willing to receive it in that form. If Mr. Sharp, who represents large coal interests, would be willing to receive it in that form, so far as I am concerned, I would vote to modify the section so far as coal land is concerned, and make it a tax on the gross product.

Mr. SHARP. Does not the Constitu-

tion of Wyoming provide that the acreage shall be taxed or in lieu thereof, that the gross product? You do not tax both. I think if you turn to that part of it you will find that it says that in lieu of a tax on the land there should be a tax paid on the gross product, and the fact is that the gross product is not taxed in Wyoming. It is only the land.

Mr. CANNON. I only know what the constitution is. I know not what the law is. If they can modify their law there we can do so here.

Mr. EVANS (Weber). Mr. Sharp, do you know what the tax is in Wyoming?

Mr. SHARP. No, I do not.

Mr. SQUIRES. I only want to call the attention of the committee to one point. An ordinary mining claim as located under recent laws is 1,500 feet by 600 feet; that would contain in the neighborhood of twenty-two and a half acres. Five dollars an acre of valuation would be $112.50, and the tax on that at twelve mills would be $1.35. Now, the gentleman from Salt Lake, when he was speaking to the question, pointed out to you how mining claims through the country would be sold for taxes because they could not afford to pay the taxes. Well, if there is a mining claim in this country that cannot afford to pay $1.35 a year, I think it ought to be sold for taxes or for something else.

Mr. VARIAN. How much will it cost the State to collect that $1.35?

Mr. SQUIRES. That I could not say.

Mr. EVANS (Weber). The State will have to tax improvements anyway, won't it?

Mr. SQUIRES. Yes.

Mr. EVANS (Weber). And they tax the net profits. They might just as well tax the surface.

Mr. SQUIRES. I call attention to another thing. There are a large number of patented claims in this Territory only 300 feet by 1,500, which would be only about one-third, and of course would only pay about a half a dollar per year.

Mr. EVANS (Weber). Isn't it also true, Mr. Squires, that school lands would only be taxed at about twenty-four cents an acre?

Mr. SQUIRES. That is all.

Mr. THURMAN. Mr. Chairman, if a mining claim is property, particularly after it has become the property of the miner, I cannot see any just reason why it should not be taxed. If it is not valuable enough for him to hold it, he will abandon it. But while he holds it, he owns it, and I cannot see how gentlemen can stand upon the floor of this Convention and insist that the farmer, who probably is a poor man and has a lot of waste land that he has not any way to irrigate and which is bound to lie idle, and he is waiting, hoping year after year that something will turn up, that he may get the benefit of that and derive some profit from it, he is compelled to pay taxes on it. There is not any question about that, is there, gentlemen? And if that be true, in the case of the farmer, why should there be any discrimination in the case of the miner? Now, the gentleman from Salt Lake, awhile ago, in an able speeech, which convinced me (I voted with him although his proposed amendment failed) said nothing should escape taxation; that we should look to, it the sovereign power of the State, we should find all the property in the State that should be taxed, except such as is generally, by the policy of the State, made exempt from taxation, such as the property of the State, the property of municipal corporations, of all kinds, and property used exclusively for religious worship. Now, is it any hardship on the part of the miner to contribute his little mite to the taxes? I recognize mining as the chief industry of our Territory. I say it ought to be encouraged. It has been the policy to encourage it, but the time has come that every species of property within the State ought to bear its portion of the State burdens, and if that is not true—

if that is not done, the result will be that the property of some other man or some other class of the community will have to pay the expense of the State, the government incurred in protecting the property of that class which is not made taxable. There are strikes in the mining camps; there are riots by the very nature of the business in which the men are engaged; these things are likely to occur at any time, and the power of the State is demanded by the executive, to go forth at great expense and protect every man in the camp in his proper rights. Why should not they bear the little pitiful portion of the burden that has been suggested here by Mr. Squires, inasmuch as they do not have to pay it until it becomes absolutely their own property, and as long as they hold it as their own property, they ought to pay it just like any other man has to pay, otherwise we are making a discrimination here in favor of one class of the people as against another. I am in favor of the section as it stands.

Mr. HEYBOURNE. Mr. Chairman, I shall oppose the gentleman's amendment on my right. My aim and object, Mr. Chairman and gentlemen of this Convention, is to have the burden of taxation divided properly and equally among every class and upon all property that is liable for taxation. I think that it is proper and just and what we should labor to accomplish, as a body of delegates. I have had to meet some of the difficulties that have been referred to with regard to the exemption of a certain class of property that is now being spoken of within the last few years. And I find, Mr. Chairman and gentlemen, that there is an extended feeling and opinion in regard to this matter, that partiality has been exercised to a very considerable extent. I have in my mind at the present time, sir, a company who own coal lands that reach into the thousands of acres, and I believe, sir, that last year was the first year that they were ever required to pay a tax. This same company when they had secured their patents—their government titles, were good enough to place notices around upon the surface of these claims, prohibiting even the grazing of cattle upon them. Now, in answer to the gentleman who has referred to the price of these lands and their value, I would say, as I understand it, that the assessed value of these coal lands after they are a certain distance from the railroad centers is but ten dollars an acre, and I think, sir, that these valuations should be retained and that the revenue officers of the coming State should see that they are taxed reasonably and properly in comparison with other properties that may be eligible. I have been asked frequently why it was that the farmer that would come out here and take up 160 acres of ground, secure a fence around it, perhaps not a drop of water within the vicinity, but expecting that in the future through the system of reservoirs or something of this kind he might be able to cultivate an acre or two of this ground—why it was that this property was taxable, when hundreds of thousands of acres of coal land and other similar claims were exempt, and I think that the gentleman who has been taking up this 160 acres of ground or 40 acres, as the case may be, with a view to make himself a little home, and a comfortable place to live in—a farm, should have just reasons of complaint. I have in mind, sir, now a company that purchased some coal lands in the county that I have the honor to represent, and I believe the figures are from about twenty to twenty-five dollars an acre. They had not secured the titles very long and I considered they got a very handsome interest for the funds they invested. Go and try and purchase some of them and they are almost beyond the reach of ordinary persons in wealth. Therefore, Mr. Chairman, I shall vote for the taxation of all classes

of property that are liable to taxation, in order that the burdens of government may be equally and fairly felt in the State.

Mr. SQUIRES. Mr. Chairman, I want to call attention to one other thing, which I presume is unnecessary, however; the prospector, the man who is looking for mineral, makes a location and as long as he holds that ground unpatented he is compelled to do a hundred dollars' worth of work every year, except that for the last two years Congress has relieved him of that obligation; but under the law of Congress they are expected to work every year and do a hundred dollars' worth of work. Now, the rich man comes in and gets possession of the property and he immediately patents it and as soon as it is patented he is exempt from doing any assessment work on that ground; he locks it up; if there is anything in it the prospector cannot find it, because it does not belong to him; he cannot go into it to search; and these lands are bought up in blocks like that by rich corporations, represented by gentlemen of wealth, in order to prevent the prospector from finding anything within them. They are held for speculative purposes, and it is no burden I believe to the poor man to assess this tax upon the value of the patented property as indicated. The question was asked what it would cost the State to collect $1.35 for one of those claims. I have been thinking that over since. It occurs to me that even if we assess the surface improvements it will be necessary for the assessor to visit the ground. And when he is there it won't take him long to ascertain the size of the claim and be able to fix the rate of taxation.

Mr. VARIAN. How about ground on which there are no improvements—on the tops of the mountains?

Mr. SQUIRES. They can be found right here in the land office without going anywhere else. An examination of the records here right in the land office will furnish all that information, and I do not believe that it is going to cost so much as the gentleman thinks to collect this tax.

Mr. ELDREDGE. Mr. Chairman, I favor the motion of the gentleman from Salt Lake, not wholly upon the ground that has been set forth here, but upon this ground, as I believe it is fully covered in the former section. (Reads). Now, it appears to me that that covers the entire ground just as fully as though we went on and continued to enumerate what we have attempted to do here. We have gone on to state that mines and mining claims, both placer and rock in place, containing and bearing gold, copper, coal, lead, and other valuable mineral deposits, after purchase thereof from the United States, shall be taxed at the price paid. Now, why should not we go on and say that all horses and mules that are capable of performing work, that cows that will give milk, and so on, and enumerate all this class of property, shall be taxed at the price paid?

Mr. SQUIRES. Shall I answer the gentleman the question? I judge from the deliberations of the committee that it is because the mines and mining interests of the Territory have heretofore been exempt from taxation, while the horses and the cattle have not.

Mr. ELDREDGE. Because what has been done—this provides simply what it does provide for, and it says, all classes of property.

Mr. EVANS (Weber). Mr. Eldredge, I think perhaps my friend, Mr. Squires, may have misapprehended the purpose of the committee; the purpose is to prevent the assessor from fixing a value on the Ontario mine, or the Daly mine, or the Silver King, or the Bullion Beck; without such a provision as that, all the assessor would have to do would be to go to the mining claim and say that the mine was worth so much money and assess it just as he would a horse or any other property. Of

course that would be wholly speculative, and the purpose of the committee was to fix some value on the surface improvements and then tax the net profits as well as the improvements.

Mr. ELDREDGE. You might just as well say then, because he paid five hundred dollars for a horse a year ago or five years ago that to-day he should be assessed for five hundred dollars.

Mr. EVANS (Weber). Would you have the assessor go and value these mines at their actual value and assess them in that way?

Mr. ELDREDGE. Then you would have to change section 3.

Mr. EVANS (Weber). If you would, you could cripple the mining industry so that it would not be worth engaging in.

Mr. ELDREDGE. No exceptions are made, except one thing, it says provided a reduction of debts from credits may be authorized.

Mr. SQUIRES. This section creates an exception.

Mr. ELDREDGE. Then it would be in conflict with the former one. So that after reviewing the whole measures of the article over, I shall support the proposition to strike out down to the word as indicated, "all."

Mr. HAMMOND. Mr. Chairman, I have listened with a good deal of attention to all of the arguments and discussion bearing upon this question and I have not discovered anything that affects a case at San Juan.

Mr. SQUIRES. Got some mines down there?

Mr. HAMMOND. Yes, sir; two years ago this past winter, as you all remember, we had a gold craze, a book down there—and miners came in from all sections and took up and located claims for eighty miles up and down the river from where I live. They did not stop at our farms and our orchards and our houses and lands, but located every foot of ground on the borders of the river. Did not take in the sand rock bluffs above the town there, but otherwise than that, they located every inch and foot—my house where I lived, my little orchard;. my lucern patch, corn patch, is all under placer claims, and I am assessed or supposed to be assessed; I am part owner in those claims, too; and I am assessed on my lucern patch and on everything that is on top of the ground. Now, this looks to me like double taxation.

The question being taken on the motion of Mr. Varian, the committee divided and by a vote of 18 ayes (noes not counted) the motion was rejected.

The committee then rose and reported as follows:

The committee of the whole has had under consideration the article on labor and arbitration, has completed the same, and reported it for third reading. They also have proceeded with the article on taxation and revenue to and including section 4.

The committee on accounts and expenses reported as follows:

Mr. President and gentlemen of the Convention:

We, your committee on accounts and expenses, beg leave to report the following:

There has been expended up to and including this date as per accounts on file, the sum of twenty-five thousand, eight hundred and eleven and seventy-two hundredths dollars ($25,811.72), leaving a balance of four thousand, one hundred and eighty-eight and twenty-eight hundredths dollars ($4,188.28). The foregoing includes the salaries of members and officers and all expenses up to date.

We recommend that the members be paid up to and including Tuesday, the forty-fourth day, and that the balance be held for the payment of the officers of the Convention in full, the printing of the minutes, the printing of 1,000 copies of the Constitution of the State of Utah, and any other contingent expenses. The remainder should be divided pro rata among the members of the Convention.

A. C. LUND,
Chairman.

Report was adopted.

The Convention, then, at 5:55 o'clock p. m., adjourned.

FORTY-FIFTH DAY.

WEDNESDAY, April 17, 1895.

Prayer was offered by Delegate Maughan, of Cache.

Journal of the forty-fourth day's session was read and approved.

The following petitions were presented asking that the question of woman's suffrage be submitted as a separate article to a vote of the people:

File No. 319, signed by John H. Hougaard and 250 others, from Manti, by C. P. Larsen, of Sanpete, by request.

File No. 320, signed by D. Hirschi and 50 others, from Rockville, by Snow, of Washington.

File No. 321, signed by W. T. Kyte and 65 others, from Bingham, by Squires, of Salt Lake.

File No. 322, signed by J. H. Ball and 70 others, from Coalville, by Kearns, of Summit.

File No. 323, signed by R. A. Deal and 370 others, from Springville, by Boyer, of Utah.

File No. 324, signed by J. L. Holgreen and 50 others, from Richmond, by Kerr, of Cache.

File No. 325, signed by Robert C. Kneil and 11 others, from Pinto, by Ivins, of Washington.

File No. 326, signed by Francis Prince and 53 others, from New Harmony, by Ivins, of Washington.

Ordered filed.

The following petitions were presented asking that an equal suffrage clause be placed in the Constitution:

File No. 327, signed by Geo. R. Hill and 250 others, from Springville, by Boyer, of Utah.

File No. 328, signed by A. D. Bower and 66 others, from Summit, by Chidester, of Garfield.

Ordered filed.

Mr. SQUIRES. I received a communication with that petition (File No. 321) which I would like to read, if I may.

(Read as follows):

Bingham Canyon, Utah,
April 15, 1895.

Col. G. P. Squires, Salt Lake City:

Dear Sir: Enclosed some more names. Hope you will be able to convince those fellows that the insertion of that clause will damn either or both parties.

(Signed) B. B. QUINN.

Mr. IVINS. I would like to ask Colonel Squires if he offers this as part of his remarks?

Mr. SQUIRES. I offer it, sir, as a part of that petition.

Mr. EVANS (Weber). Mr. President, I move that that petition be returned to Mr. Squires as being an insult to this Convention.

The motion was agreed to.

The committee on mines and mining reported as follows:

MR. PRESIDENT:

Your committee on mines and mining herewith respectfully present a proposed article for insertion in the Constitution.

KEARNS, Chairman.

Mr. EVANS (Utah). Mr. President, I desire to ask unanimous consent to offer a motion that we reconsider the question upon which we passed last night, in regard to the disposition of the balance of the money on hand, first asking unanimous consent to offer that motion.

The PRESIDENT. Gentlemen, are there any objections?

Mr. EVANS (Utah). I offer that as a motion, to reconsider that matter.

The motion was agreed to.

Mr. EVANS (Utah). Mr. President, I now move you that the report of the committee be received, placed on file, and that the recommendations be not adopted.

Mr. CANNON. Mr. President, I notice that the chairman of the committee is absent, and I think it would be better to postpone it until he is present. For

that reason I move to lay this motion on the table.

The motion of Mr. Cannon was agreed to.

The Convention then resolved itself into committee of the whole with Mr. Evans of Utah in the chair, and proceeded to the consideration of the article on revenue and taxation.

COMMITTEE OF THE WHOLE.

Section 5 was read.

Mr. CHIDESTER. Mr. Chairman, I move to strike out section 5.

Mr. IVINS. Mr. Chairman, had a motion to strike out section 5 not been made by some other member of the committee I should have made that motion myself, believing that this section is a very dangerous and improper one to be incorporated in this Constitution, and I desire to ask the indulgence of the committee for a few moments while I shall discuss it, because it seems to me that no question has yet come before this committee or the Convention at large which is fraught, or will be with results of more importance, either for good or for evil, as will be the incorporation of a section similar to this in the Constitution. It seems to be a very innocent provision superficially, but I am pursuaded, gentlemen, that there is underlying the principle that is involved in this proposition one that is just as important to the people of this Territory and the coming State, one which, if it shall be realized, will result in just as great disaster to this State as did the demonetization of silver to the whole nation, when that was insidiously passed through Congress at the time the act was approved. In discussing the question that you may understand fully my position upon it, it will be necessary for me to review briefly the theory of taxation as it has existed in this Territory and in this nation, and in other states and nations. The claim is that this provision is designed to prevent unjust taxation. That it is designed to prevent double taxation, and that by its incorporation, it will not be possible in the future for the State to twice tax the same property or the values which are represented by the same property.

Now, gentlemen, I wish in the first place to say that there is no just system of taxation. Many different systems have been tried in this and other nations, and there is not one among them all that is not subject to criticism and to serious objection. Four methods of producing revenue have been tried at different epochs in the world's history. First, voluntary contribution; second, tax upon capital or the accumulation of labor; third, a tax upon revenue, and fourth, a tax upon expenditures. In the first place, we take it for granted that properly it is the duty of every citizen to contribute to the support of the State and its revenue in proportion to the ability that he has to do so. That being the case, we all recognize the fact that all men receive equal protection under the law. The law is not greater for the protection of the rich, than it is for the protection of the poor. Upon the contrary, the more of this world's goods a man accumulates, the better able he is to take care of himself. Wealth is better able to protect itself than poverty is, and so it becomes just as necessary for the poor man to contribute for the expense of government as it does for the rich man, in proportion to that which he has. The system adopted in this Territory in the past has been to provide revenues by a taxation upon capital or the accumulation of labor. This seems to be a very just system of taxation, and yet when we come to consider it, this question must naturally present itself to our minds, if a man who is possessed of a large revenue shall spend it all in the gratification of his own desires, his own pleasures, his own wants, and he accumu-

lates nothing and saves no surplus, he is required under our law to pay no taxes. So it occurs to us if you have a right to use all of your income for your own gratification, why should you, if you save and accumulate a part of that income, lose your right to any portion of it, because of this? and yet that is precisely the conditions which our present system of taxation imposes upon us. On the other hand, if we tax revenue, the question arises, why should a tax be placed upon industry, and idleness go scot free, for a man may labor early and late and through his industry, his energy, and his ability, he may create a large income, while another——

Mr. CANNON. Mr. Chairman, I arise to a point of order.

The CHAIRMAN. The gentleman will take his seat.

Mr. CANNON. My point of order is that there is nothing in this provision which provides that mortgages are not to be taxed; the gentleman is not speaking to the question.

Mr. IVINS. If the gentleman will just let me alone I will get around to the question, and I will try and satisfy him fully before I am through.

The CHAIRMAN. The gentleman may proceed.

Mr. IVINS. I am coming to the gentleman a little later on. The idea, gentlemen, is that an unjust system of taxation is designed by this article. I have been in the committee, was a member of the committee where it was adopted and protested against it there, just as I protest against it here, and gave notice that I should fight it, and that is what I now propose to do. Now, then, this system of taxation of revenues is subject to just as many objections as the other system of taxation. That revenue may be accumulated by voluntary contributions, we do not for a moment suppose could be successfully done, and yet in many of the older states that system has prevailed and prevailed successfully. Men were allowed to assess themselves and contribute voluntarily to the support of government. In our Territory in the past—and probably the same will exist in the future, we expect to derive from the accumulations or savings of labor, from capital, from property accumulations. If this is the case, I take it that no one will dispute with me the fact that all the accumulations of labor should be alike subject to taxation, that there should be no exemption, that all property which is used for the benefit of man, all property which is productive, particularly all property except that which is devoted to charitable uses, should be subject to taxation, in order to provide revenue for the State.

The revenue of this State, if it shall be admitted into the Union, cannot be expected to be less than double that which the revenue of the Territory has been. I have been engaged for years of my life in the assessment and collection of taxes and therefore believe I have a right to speak intelligently upon this question. Previous to 1892 the laws of Utah provided that all property should be subject to taxation. They provided distinctly that money loaned, on hand, or on deposit should be taxed as other property.

At the session of the Legislature which was held in 1892, an addition was made to the exemption law, by which it was provided that all notes secured by mortgages upon real or personal property should be exempt from taxation. That was the first onslaught made by the moneyed interests of this Territory, by which they thought to free themselves from any part in the burdens of taxation which the people bore. Following out the lines upon which this battle has been fought, ever since the republican party was founded there has been, gentlemen, a steady and determined effort made by money brokers, by bondholders, by bankers,

not only in the nation but in this Territory as well, to shift the burdens of taxation off from their shoulders and place them upon the backs of the people, and so I say in 1892 this law was passed exempting money from taxation, for that is what it means. Men will dispute me in this and say it refers only to mortgages. We use the word mortgages in section 5 here. Do you know what it means? It means that all money shall be exempt from taxation, for if money thus secured by mortgage on real or personal property is exempt, money loaners will see to it that all of their loans are secured by mortgages. Now, let me come to the practical workings of this law. In the county in which I was assessor and collector at this time, I had thousands and thousands of dollars of money upon the assessment roll. Men were paying taxes on it just as they should have done. But what was the result? As soon as this law, in 1892 went into operation, those men immediately secured their loans by mortgages; it did not matter, perhaps, the value of the property mortgaged was not one-tenth of the loan negotiated, but from the very fact of its having been secured by a mortgage on a corner lot or upon a few head of horses or cattle, the man claimed an exemption under the law and I was of necessity obliged to strike off from the assessment roll that money, and those men have never paid a dollar of taxes from that day to this.

Gentlemen, there are instances in my county where men have accumulated sufficient means with which to retire from active life and live upon the interest of their money. It is all loaned, it is all secured by mortgages. The laws under which the mortgage is loaned give the broker the greatest security and protection. He cannot possibly be subject to loss, because his mortgages are sufficient. He demands about three dollars to one security; he is protected under the law; he invariably collects his interest; he enjoys every protection that any other class of citizens does and still he is not paying a dollar of taxes. In one county of this Territory alone, under the operations of this law, more than one hundred thousand dollars were stricken off from the assessment roll, and that was not one of these central counties either; it was an outlying county; more than a $100,000 of money secured exemption from taxation under the operations of this law. Well, we came up here in 1894 and tried to change it—have it repealed, but we did not succeed. We did not succeed and so now that this Constitutional Convention is in session, gentlemen propose to incorporate in the Constitution a section providing that a tax upon mortgages secured on either real or personal property shall never be levied, unless a reduction equal to the amount of such mortgage shall be made in the assessed value of the property covered thereby. Why, the gentleman says, this does not provide that money secured by mortgages shall not be taxed. It simply provides that if it is taxed, you shall deduct the value from the property, or vice versa. It means simply this, that if that section is incorporated in the Constitution, the present law under which money is exempt from taxation will never be changed, because there would be no purpose in changing it. The State could possibly gain nothing by changing it, from the fact that if it should pass a law providing for the taxation of the money, the exemption would be made from the property and consequently there could possibly be no increase in the revenue. Now, in the first place, this law is a discrimination. If you have money on deposit, if you have money loaned on a plain promissory note, the law requires that you shall pay a tax on it. But if that same note is secured by a mortgage, you are exempt from taxation. Is there any justice in the proposition? I have never been able to see it. In our committee,

where this question has been under discussion, men have been called in representing these loan and trust companies here in Salt Lake City. They have told us what a hardship it would work to their companies if there should be any change in this law. They have threatened that if we shall change the law they will increase the interest and they will make the borrower pay for it in the long run anyhow.

What are the actual facts in regard to these loan and trust companies? Why, in cross questioning them, we found that their investments are very profitable ones; that they are paying dividends, ranging all the way from eight to twelve per cent per annum, compounded semi-annually, so that they are not suffering. They send their agents out into every county in this Territory; they have been away down in Dixie, telling the people of the good investments these loan and trust companies were and soliciting us to put our money into them, not because of any beneficent results, but because they told us they would bring bigger returns than any other investment we could make. Those are the facts. I am a witness of it. They have been to me and solicited that I should invest in these things. There are, gentlemen, in this city alone, six or eight loan and trust companies. They have now loaned and secured by mortgages two million dollars in round numbers. Those loan and trust companies are not paying one dollar of taxes on that money, notwithstanding the fact that they are making a profit, as I have said, of from eight to twelve per cent on their loans. I have investigated this question somewhat carefully. Now, calculate for a moment, and you will find that the State in this one instance alone is deprived of twenty thousand dollars in revenue. I ask you what justice there is in it? And I want to call your attention to the fact that upon every dollar of that money that you exempt from taxation you simply increase the taxes of those who do pay to that extent, because the revenue must be raised. We must have just so much money to meet the demands of government, and if you exempt money from taxation, you must add additional taxation to other classes of property, in order to procure that revenue. This does not refer to loans made by individuals and by local banks in this city and in this Territory, but only to the loans that have been negotiated by these loan and trust companies.

But the gentleman says, Zion's Loan and Trust Company lends all of its money to build homes in this city, and if you tax the home and tax the money, that is double taxation. I want to ask you if both the home and the money is not productive property? The man borrows from Zion's Loan and Trust Company five thousand dollars with which to build a home. He pays them an interest upon that five thousand dollars. It is certainly productive property, to Zion's Loan and Trust Company, from the fact that they are paying good round dividends on it and have been. Now, what about the man that builds the home? He may either rent it to some one else or occupy it himself. In either case it also becomes productive property for if he lives in it himself, he is exempt from paying the rent that he would necessarily pay should he take a house that belonged to another man, and if he rent it to another, it immediately becomes productive property and ought to be subject to taxation. The only difference between that man who borrows the money to build a house to live in and me is that I have, through years of toil, saved up enough money to build a house and put it into that residence. I receive no more benefit or profit from it than does the man that borrows the money to do it, and I should no more be subject to taxation. If it is just to

exempt him from taxation because he borrows money to build his house, why should he be taxed who has been more prudent and saves sufficient money to build a house? Both classes of property are productive. Both ought to be subject to taxation.

Now, let me call your attention to something that will transpire if this clause is left in the Constitution. Men have property, they want money, they want it for speculative purposes. The majority of money borrowers do not borrow from necessity, some do. The majority borrow for speculative purposes. Now, he wants money to invest outside of this State. He borrows it and gives a mortgage upon his property. The result is that you must either exempt that property from taxation because it is mortgaged, or else you must exempt the money of the broker from taxation, and thus the revenues of the State are depleted and the money was not used to build that house at all. I have in mind now an instance in my own county that will illustrate this matter. A man there with one of the most productive and best pieces of real estate in our county for speculative purposes borrows five thousand dollars upon it. The man who loans him the money is a resident in our county. He is getting one per cent. on that money. The money was not borrowed to either improve or build up that piece of real estate. It was there before. And because this man wishes to take off into Arizona five thousand dollars and use it there for speculative purposes and places a mortgage upon that piece of property which is in Utah, are you going to exempt it from taxation? I can tell you that the revenues of the State will be depleted—the burdens of taxation upon the few who cannot escape it will become grievous to be borne, if that section shall be left as it now stands in the Constitution. Another thing, men are prompted to withdraw from all other industries. They are prompted to withdraw from the investment of capital in legitimate enterprises and loan it and the result is a multiplicity of money lenders, the disadvantage of all other investments, from the fact that their money loaned brings them just about as good interest and it is exempt from taxation, and that will be quite an item in the State which is to come—quite an item, and I believe that in order that the resources of the country may be properly developed, it would be better if that section should be stricken out. I am not so extreme that I would desire to see placed in this Constitution a law providing that money should be taxed. I am not so extreme as to ask that a law similar to the California mortgage law be incorporated here, and yet I think it would be a good thing. I want to leave this to future legislation at least, and I submit, gentlemen, that if you will hunt all of the constitutions that have ever been framed and examine them all you cannot find a parallel provision upon the part of the money power to compare with this thing here. Now, let me call your attention to another fact, in the campaign of 1892 this was made a living, burning issue. Men went over this Territory from one end to the other and denounced in the strongest kind of terms the democratic Legislature which exempted money from taxation. Don't you men from Sanpete know that it was used there and don't you know that it was largely on account of that that Mr. Johnson was sent to the last Legislature. And I want to say to Mr. Johnson's credit that after he got there he worked like a man to have that law repealed and to keep the pledge that he had made to his constituents. I wish I could say as much of the chairman of this committee on revenue and taxation. He stumped Salt Lake County from end to end, no man was stronger in his denunciation of this law—no man was more ready——

Mr. CANNON. Mr. Chairman, I would ask the gentleman whether he heard me deliver a speech?

Mr. IVINS. I will answer that, gentlemen, by saying that I was a member of the last Legislature, and one of the first men to come to me and ask that I should use my influence to have that law repealed and to say that it was an unjust and discriminating law, and to tell me that he had stumped this county, was the gentleman himself. [Laughter and applause.]

Mr. CANNON. I would ask the gentleman—I only want to state my position now fully.

Mr. IVINS. I object to his stating his position at all. He can do it after I get through; he can have plenty of time. If he wants to ask me a question, I will try and answer it. Now, these, gentlemen, are the facts. I want to call your attention to it, because I believe there is a design in this thing that ought to be uncovered and that the mask ought to be torn off. Another thing I want to call your attention to is that when this committee on revenue and taxation first met—the very day of their session; the chairman gave notice that he should propose to incorporate in this Constitution the California law, which provides for the taxation of mortgages. I thought it was because of the fear that I would anticipate him and make such a motion, because that is what I intended to do, but it passed along. The chamber of commerce met. These boomers met and they sent a protest down there and said, "If you tax money, we will raise our interest and make the people pay it." And they appeared before our committee, and I want to say that every one of them that appeared in his cross-examination made my position stronger and stronger, and I do not believe there is any other design in it, except that taxation may be evaded. So imagine my surprise when instead of the California law which provides for the taxation of mortgages, that this section which proposes to everlastingly exempt them from taxation, was inserted instead. Those are the conditions that have existed, gentlemen, in regard to this matter. I do not believe that it will result in any increase of interest to the people who are borrowers. I want to tell you that the credit and reputation of the people of Utah is good in the world. All that capital is waiting for is that Utah shall be admitted to statehood and give evidence of her good intentions and capital will flow in here to a degree that any effort that might be made upon the part of the local money lenders to increase the rate of interest will be futile, and now is the time, if ever in the history of the Territory we intend to do it, to establish this one ruling that money in connection with other classes of property shall bear its proportion of the burdens of the expense of this new State. I am opposed to this section. I hope that it will not be retained here. There are many other things that might be said in opposition to it, many other sophistries that might be exploded in discussing it. It is wrong in principle; as I have said, it has no parallel in all the constitutions of the land—not one; let us strike it out. It ought to be stricken out. This question of the taxation of money and other property ought to be left to future Legislatures, who may deliberately and carefully consider this matter, and I am perfectly willing to trust to the good judgment of the people of this Territory, with the assurance that another Legislature will not meet and adjourn until money will be made to bear its equal part of the burdens of this government, just as it ought to bear them. You cannot call this a political question, gentlemen. You cannot say that I am standing up here advocating democratic doctrine, because it was a democratic Legislature that passed the law exempting money from taxation, and I placed myself in antagonism to my own place when I

fought for its repeal. I stand upon the very same ground to-day. The theory is wrong. There can be but one theory of taxation that will be in any degree just and that is of all available productive property, real estate, money, stocks, bonds, all that is produced by the citizen, shall bear its equal proportion of taxation in this new State. That is all I ask. I do not ask any exemption for myself. Neither do I propose to consent to the exemption of these loan and trust companies. This brokerage system that is making itself fat at the expense of the people now ask us to provide means by which it may continue to do so.

Mr. SQUIRES. I would like to ask Mr. Ivins a question. You favor, as I understand, the striking out of section 5?

Mr. IVINS. I do.

Mr. SQUIRES. I would ask you then if under the provision of section 2 it would not be obligatory upon the State to tax mortgages? If we strike this out so as to leave the matter as you suggest, to the Legislature, we do not leave it to the Legislature, but we provide that mortgages shall be taxed under the Constitution, is that what you wish?

Mr. IVINS. The gentleman has asked the question and answered it himself. I sincerely trust, gentlemen, that the interpretation that he gives to this section is correct. That is all I can say. If there is any doubt about it, I hope the Legislature will confirm it and provide that mortgages shall be taxed, and I hope that he construes that properly, and that if we strike this out they will be taxed.

Mr. SQUIRES. That is what I wanted to know.

Mr. IVINS. I do not think it is as plain as it might be, but I trust that his interpretation of that section is correct, because that is the way I think it ought to be.

Mr. GOODWIN. Mr. Chairman, these are queer times that we are in. I thought when the salary stopped, members would simply make a statement.

Mr. THURMAN. We reconsidered that.

Mr. GOODWIN. Oh, I beg your pardon, I am liable to take all the forenoon now. Yesterday we had an entertainment here, in the interests of the poor working man. We heard gentlemen assert that it would be a fearful thing to make convicts work in the penitentiary because it would create competition with the poor. They did not seem to think that if these men in the penitentiary did not work the poor would have to feed and clothe them all the same. That is, the trend of the argument was that while the ordinary man must rustle for a living, if he was only bright enough to steal something or rob somebody or commit a murder, then he is exempt from labor and it was the duty of the State to clothe him well and feed him, even if it did establish a school of crime out at the penitentiary where a young man sent there for his first offense would by three years' schooling graduate a hardened criminal through association with those more accomplished in the profession which he had thus chosen than he was when he went there.

Again, we had many a dissertation on the wrong of permitting railroad companies, for instance, to keep or send to other railroad companies a blacklist. That was to keep poor men out of employment. The fact that if a poor man, able to employ four or five men, at last found that all the receipts of his industry did not pay the men at the rate they demanded and he had to make a reduction and they struck and boycotted him, advertised it through the press and through the telegraph that whatever he produced should be boycotted, that was not mentioned. It was all right. This morning, we have a dissertation on the wrongs that money does in the world. I endorse

that heartily personally, but there are certain principles that are at stake. There are very few homes in this town that are not mortgaged. The mortgages are secured at a little lower rate of interest than they would be except that the law protects the matter and says no property shall be twice taxed. Now, if a man has a lot worth five thousand dollars and he borrows three thousand dollars and puts it in a house on that lot, it makes the assessment roll at the next spring show eight thousand dollars that he has to pay taxes on. He only owns five. He has to pay taxes on eight. Now, if we go back to the man who loaned that money and tax that three thousand dollars over again, it makes double taxation, does it not? A dozen supreme courts have decided that it does. There can be no escape from it. But according to the argument of the gentleman who just addressed the committee, the man who pays the tax on that extra three thousand is served right for not owning it himself. Why, he would have to pay it if he owned it. That is all there is to this article. It is double taxation to tax the man who borrows money and then tax the loaner, and the hardship does not come on the trust company or on the capitalist. If they loan money at seven per cent on the mortgage and they have to pay taxes on that mortgage themselves, they charge eight per cent. That is all there is to it, and the man that borrows the money pays it all. Now, I would vote to have the personal property in this stricken out, because that gives chance for fraud. It is like taking a promissory note. Where that has been tried the man that holds those promissory notes simply transfers them to his clerk, and when the assessor comes around he holds up his hand and swears he hasn't any. But a mortgage is a thing of record. Of course there can be now and then a condition, as was stated by the gentleman. A man can mortgage property that is fully paid for, and that he does not wish to make improvements on, save the money and speculate in another state and thus evade taxation in this State. That money would be subject to taxation in the state he goes to in whatever form he puts it. The article is exactly right, and to incorporate it into the Constitution will save no end of just such oratory as we have been having this morning through every Legislature for years to come. One year they tax mortgages and the next year they will throw it off, until, by final adjudication it is decided as courts have in plenty of other states, that it is double taxation and therefore illegal. I would vote for striking out personal property. The rest of the section I would leave just as it is and for the manifest reason that unless such a provision is in the Constitution or in the laws it leaves money to be taxed twice, which is contrary to the spirit of our government, contrary to justice, and while I have very little respect for men that have money to loan, at the same time, under our benign laws they are not criminals. They are entitled to as much protection as though they wanted to borrow. I speak of this particularly because I have seen it tried over and over and through California and Nevada, until public opinion and the sentiment of the state and the laws of the state finally harmonized. Just try it as it is, except I think personal property ought to be stricken out.

Mr. CHIDESTER. Mr. Chairman, some of the reasons that have been assigned by the gentleman who last spoke for opposing the motion to strike out is the reason why I want this article stricken out. Now, in the first place, according to the terms of this section itself, it concedes to a certain extent that mortgages should be taxed. That is a proposition that the friends of this section will make, and that the price of the mortgage should be taken out of

the property that is mortgaged by the mortgagee. Now, I believe that all property in the district should be taxed. I believe that because a homestead secures a mortgage is no reason why that homestead should not be taxed. Now, I live most to the Arizona line, and men borrow money and invest in stock and take it over into Arizona. That is a speculative scheme. They give a mortgage on their homesteads and according to this, value of that mortgage would be deducted out of the homestead. Now, they claim that the man who loaned the money would be taxed and for that reason that the homestead should not be taxed, and that the man who borrows the money gets the advantage of a lower rate of interest. Now, I want to say to you, gentlemen, that that is not the fact. I have made out hundreds of trust deeds in the last few years for men who have been loaning money, and the argument is this every time, and has been from the beginning, that the demand for money is what governs the rate of interest. It does it every time, and when money is plenty, interest is low, and when money is hard to get hold of, and lots of men are after money to borrow it, they take advantage of that and they raise the interest. That is my experience in regard to that. And there is another point that weighs considerably with me, and that is, that this section proposes to settle a question that ought not to be settled by this Convention. In my opinion it should be left open and we can fully trust the Legislature to handle this matter. Suppose that we were to incorporate this section as it stands, it would make it binding from time to time on to deduct the price of the mortgage out of the valuation of the real estate. Suppose that we should find that to be impracticable and we should find that it should not exist, we could not change it. The Legislature's hands would be tied and they would have to pass it by. We know now that the Legislature has been handling this matter or endeavoring to handle it and it has been a question that they themselves could not settle satisfactorily to the people, and for us, with the limited time that we have had here to study this matter, to undertake to settle it, in my opinion would be a grand mistake. I see no reason why this should be considered double taxation. As has already been stated, if a man borrows money to build a house and he rents that house out he is receiving an income from that house. Why should not he pay a tax upon it? Why should not the man who loans money at five per cent. a month interest—that is done in this Territory, that is done in my county, and that man today, under the present system, is not paying as much taxes as I do, and I have no money to loan. Now, it is conceded that the man that loans the money, he receives interest and should be taxed according to this section, but it seeks to excuse the man from paying taxes who has built a house and is renting it out and receiving the interest on the money that he has invested from paying the tax. I say that it should all be taxed and it should be made equal.

Mr. PIERCE. Mr. Chairman, I am in favor of the motion made by the gentleman from Washington County. I think that the argument made by the gentleman is one of the strongest arguments that has been made in this Convention, and that the strictures placed upon him by other gentlemen upon this floor are without foundation.

Mr. GOODWIN. Mr. Chairman, I arise to a question of personal privilege. What about the strictures? What strictures do you refer to?

Mr. PIERCE. The matters that have been said that the Convention all know.

Mr. GOODWIN. If I said anything disrespectful of the gentleman or——

Mr. PIERCE. I withdraw that expression then. I will say the answer to it——

Mr. IVINS. I wish to say that I take

no exception at all to anything that has been said. I am here to be hit just as hard as I hit others.

Mr. GOODWIN. Perhaps the gentleman from Salt Lake is more used to strictures than others. [Laughter.]

Mr. PIERCE. Mr. Chairman, I would like to call the attention of the Convention to section 2. If this section 5 goes out of the Constitution, then we have only section 2 to fall back upon in defining what property shall be taxed. That will make it absolutely necessary under the Constitution to tax mortgages. While I for one do not say that we should at all times tax mortgages, I do say it should be left open to the Legislature to tax mortgages if they desire to do so, and if it seems wise and best that it should be done. My own idea is to strike out section 5 and amend section 2 so as read as follows: "All property in the State not exempt under the laws of the United States or of this State," and leave it that way so that the Legislature can legislate as to whether mortgages shall be taxed or not. Now, upon the main question. I was in the Legislature that passed the law of 1892 exempting mortgages from taxation. I am in favor of exempting mortgages from taxation and was at that time, in so far as it brings money from abroad into the Territory, but as the gentleman from Washington County has well argued, that its not what the law is accomplishing. Why, if it brings into this Territory say one hundred thousand dollars of foreign capital to develop the resources of this Territory, it retires and places beyond taxation, as he has demonstrated, more than twice that amount that cannot be reached by the assessors of the various counties.

I say to you, gentlemen, that it is a matter that ought to be left entirely to the Legislature. There may be a time, for instance now, when you should not tax mortgages, but should do everything to induce capital to come into the Territory, but when we build up a wealthy rich State in the future, then, sir, we should tax all property that is within the Territory. I believe that taxation should be uniform. If a man owns his house, let him pay taxes on it. If another man owns property in money, and bonds, let him pay taxes upon the money and bonds that he owns. I am in favor of striking this section out provided that section 2 be amended by striking out the words, "under this Constitution," and inserting the words, "of this State."

Mr. EVANS (Weber). Mr. Chairman, as I was a member of the committee on taxation and revenue, and also unfortunate enough to be a member of the Legislature of 1892, I desire to make a few remarks on this question. I was somewhat astonished at my colleague, Mr. Cannon, who asked to close this debate. It would seem that having the affirmative, he ought to open it so that the members of the Convention would know what his position is, and assuming that he will not open and that he will close the debate, I shall undertake in the course of my remarks briefly to apprehend the position which he shall take. I want to explain to this Convention, gentlemen, just how the law of 1892 was passed, and it is only a short story. At that time we found the condition of the law such that foreign mortgages were not taxed but domestic mortgages were. We had a report of the board of equalization, of which the Honorable Frank J. Cannon was a member, in which report it was suggested that the amount of money which was paid to the various county recorders for the abstracts of titles and mortgages amounted to as much as the revenue actually received from domestic mortgages, which were taxed, or very nearly so, there was only a few dollars difference. We found that as the law then stood it was a discrimination between foreign money and domestic money.

People who owned money in the Ter-

ritory had a tendency to leave the Territory and go outside and loan it in order that their mortgages might be exempt from taxation, and in view of these considerations, the Legislature largely upon that report voted to place mortgages upon the exemption list. The Legislature then was democratic. There were no republicans in it at all. There were some liberals who are now republicans. But, however that may be, gentlemen—and even if I thought I were wrong in the position which I took then, but I shall not say that I was, because I think I would do the same thing again—but if I were wrong, I would not be afraid or ashamed to correct the mistake. But here is a different proposition. Right in the organic law of our new State we are confronted with a proposition that mortgages shall never be taxed except when the value of the mortgage is deducted from the amount of the property. Gentlemen, let me remind you that if this matter go into the organic law of the new State, we will never be able to repeal it, we never can do it. The money power which will seek to retain it there will be sufficient to engraft it upon our organic law for all time to come. But gentlemen may say that the Legislature might tax mortgages with the provision as it now stands. It is true. But if mortgages be taxed with the provision as it now stands, there must be a like value deducted from the value of the property. Suppose that condition of things came about and suppose the mortgage is taxed and the property owner relieved of a like amount, what will be the result? Is it not as plain as the handwriting upon the wall that thousands of spurious mortgages will be placed upon the property of the citizen for the purpose of evading taxation or reducing the amount of taxes upon the property of the owner. What is there to prevent it? Suppose we take the mortgage; if we do that, we must deduct the amount from the value of the property. What is there then to prevent any individual from securing a mortgage and placing it upon record for the purpose of evading taxation? Do not we know that men are prone to evade taxation whenever an opportunity affords itself? It seems to be a legitimate thing among some people to do that by which taxation might be evaded. And this is throwing the door wide open to relieve pretty much all the real estate in the new State from the burdens of taxation. There is another evil that will come from it, and gentlemen it is the most serious evil that can be suggested, and that is this: Suppose the section goes into the organic law as it is proposed, is there any one who would deceive himself upon the proposition that mortgages would not be taxed? It is inevitable that the property will always be taxed and the mortgage never will be. Then, assuming that to be true, the incentive of the law will be for men to convert their property into cash, take their money and loan it and take securities upon real and personal estate, and the man who is fortunate enough to accumulate money can live in the community, exact his quarterly interest from the people who are compelled to borrow his money, and not contribute one dollar to the public treasury. Will not men do it? Men are naturally selfish with respect to financial matters. What is there to prevent it? Suppose I were fortunate enough to accumulate all that I may have in this world in money and loan it, collect my interest daily and contribute nothing at all to the support of the State, when the State is protecting me, when the State elects and maintains its officers to foreclose my mortgage, lends the process of the law to secure me witnesses, protects my loans, and yet I stand aloof and above the State, so far as the power of taxation is concerned.

Mr. GOODWIN. May I interupt you a moment for a question?

Mr. EVANS (Weber). Certainly.

Mr. GOODWIN. If that was your business and you had to pay tax on your money that you loaned, would not you charge just as much more interest as the tax would amount to?

Mr. EVANS (Weber). I never yet knew a Shylock who was a patriot. I never knew the man who was fortunate enough to own and accumulate money who would loan it to the individual as a mere patriotic duty. He does it for selfish purposes, the interest goes according to the law of supply and demand and not according to patriotic purposes. Think of our bankers—our Shylocks being patriots in this country. I will tell you, sir, in answer to the gentleman's question, that no man has ever lived who has charged a less rate of interest to the person who is compelled to borrow it because of the fact that he had no taxes whatever to pay upon his money or mortgages.

That is the specious argument that is used by the money power. They tell us, "Tax mortgages and we will tax the consumer, we will tax the borrower. If you tax mortgages, we will withdraw our loans from the Territory. If you tax mortgages, it will retard enterprises and progress." Why, if I had my way as I now view it, having gone through a disastrous boom, such as we have experienced in this country, I would tax them so that people would not borrow their money at all. I would relieve the people from this insidious indebtedness, which ultimately results in the loss of the homes and roofs that cover their heads. I would have a people free from indebtedness. I would have a State free from indebtedness. I would not do that which would encourage the borrowing of money and the giving of mortgages so that the ultimate and inevitable result would be disaster and suffering. And now, having said as I have in that respect, I would like to ask the gentleman from Salt Lake, who asked me the question whether when mortgages were exempt from taxation the interest was decreased—in 1892.

Mr. GOODWIN. Loans were made lower?

Mr. EVANS (Weber). By reason of that?

Mr. GOODWIN. Yes, sir.

Mr. EVANS (Weber). During the year they were exempt? And indeed I am informed that to-day interest is as high as it was then. It has been boldly asserted by the money power of this city—those whose Italian hand is at the back of this section, that they control the chamber of commerce, and that they control each newspaper in this city by reason of the obligations that those papers are under. It is boldly asserted by this money power that they can control all these agencies——

Mr. GOODWIN. Mr. Chairman, I arise to a question of personal privilege. There is one newspaper that no moneyed institution in this country has the slightest grip in the world on.

Mr. EVANS (Weber). I did not charge they were.

Mr. GOODWIN. You charged a street rumor, and it is easy to get those things up. There is one newspaper here that does not do what moneyed men want it to, or it would have been a good deal richer.

Mr. EVANS (Weber). Oh, I have no doubt about the virtue of the Tribune. It has always so far as its own utterances are concerned, at least had a very high opinion of itself. [Laughter.] I did not say that these papers were under obligation and could be controlled by this power, but I do say that it was boldly asserted by the money power that they could control them, and I find that every one of them advocates the exemption from taxation of mortgages.

Mr. CANNON. May I interrupt the gentleman to ask a question? It is in reference to your question concerning the rate of money. I understood you to ask Mr. Goodwin whether the rate of money was lower since the law was

changed. I will state that a loan was made in this city the other day for six per cent.—a loan of eighty-five thousand dollars, and would ask you if you know of a loan ever made in Utah prior to the time at which mortgages were exempted at an equally low rate?

Mr. EVANS (Weber). Oh, well, Mr. Cannon, you know well enough that everything has been reduced in price. You know well enough that wheat is reduced nearly one-half, all other commodities in proportion, and we know well enough too, gentlemen, that money can be secured pretty cheaply now, providing the right kind of security is put up, but it must be a gold dollar almost in order to secure a dollar in currency. Gentlemen, it is an indisputable fact that so far as the committee on taxation and revenue is concerned, every man who appeared before that committee, so far as I am informed, for the purpose of securing this clause in this Constitution was a man controlling money, a man controlling corporations, a man who was making his living by loaning money to people. Not a single borrower, so far as I know, ever appeared before that committee and asked that the money power be exempt from taxation. Now, gentlemen, let us put this question a little plainer upon another proposition and that is this: It has been already suggested and I only suggest it again so that we may understand it—and gentlemen may argue all they please and use all the statements they desire with respect to the fact that it is double taxation. One fact remains and that is this, that a note is taxed, money is taxed if it is in the bank, not drawing any interest at all. It is taxed there, is it not? We all agree that it is. Now, when you take that money out of the bank and loan it to the individual and secure it by a mortgage and receive interest upon it, then it is exempt from taxation. Is there anything right about that? Why should you tax money in a form where it is not productive and then exempt it from taxation because it is amply secured and interest being quarterly derived from it? The principle itself is wrong. It ought not to go into this Constitution. The thing is original with the banker. No such provision was ever inserted in any constitution that was ever written upon the globe. Search your constitutions, search your acts of the legislature; you will find nothing as insidious and as mischievous as this section is designed to be and which practical operations will show it to be. We have agreed practically with our friend, Mr. Cannon, the chairman of this committee, upon all other propositions and have complimented him upon his intelligent work. We hoped to pursuade him to leave this matter out of the Constitution and leave it to the Legislature where future Legislatures might deal with it wisely, but we failed to secure his assent. We simply said to him firmly that it would be our intention to move to strike out this matter and hoped that it would not be made political, and I am very glad that it has not been, because the gentleman from Garfield, I believe, moved to strike it out. But we make war upon it, and gentlemen, we will make a mistake—not a party mistake perhaps, but will make a serious blunder if we permit this section to go into the Constitution. We will simply permit the moneyed power of the State to take the individual citizen by the throat and strangle out his financial life. It will be one of those instruments in the hands of capital and money which will leave capitalists under the protection of the law and still, so far as the payment of taxes are concerned, above the law. It will work serious injustice to the State. It will be of no benefit to the individual. It will be an innovation of the most dangerous character. It ought to go out, gentlemen, by unanimous vote, and I

believe that that will be practically the result when the vote shall have been called for.

Mr. GOODWIN. I desire to ask a question. You make one splendid point, Mr. Evans, that money in the bank was taxed, but when it was loaned out, it was not taxed. Now, suppose a man takes it out of the bank himself and puts it in a house, would you still tax it in the bank?

Mr. EVANS (Weber). Why, no; then you tax the house; wherever the money was found it would be taxed.

Mr. GOODWIN. But if he loans it to another man and he builds a house, you tax the house and the money both?

Mr. EVANS (Weber). No, no. I did not answer you on that at all. As I understand that, if a man owns money and puts it into the house, he does not own the money any longer; he simply exchanges it for a house and then the house is taxed, but the money goes into other hands and wherever that is found that should be taxed.

Mr. GOODWIN. You have five thousand dollars in the bank. It is taxed. You loan it to me, I put it in a house and I am taxed for that, is it right to go back and tax you too?

Mr. EVANS (Weber). Certainly, that is just the point I make.

Mr. GOODWIN. Is not that double taxation?

Mr. EVANS (Weber). I am very glad that the gentleman has raised that point. That is true, I will make an illustration. I am a money loaner, I have twenty thousand dollars in cash in the bank; it is taxed while it is in the bank, but Judge Goodwin desires to build him a house; I loan him the twenty thousand dollars and take security upon his lot and on his house in the form of a mortgage. He pays me ten per cent interest, which would be two thousand dollars per annum that I am receiving. He has to pay the tax on his house and his improvements. He pays me two thousand dollars per annum for the money which I have loaned him, and I stand exempt from taxation. There is the illustration which he gives.

Mr. SNOW. Isn't that mortgage which you have subject to assignment or sale? Couldn't you sell it? Is it not of real value?

Mr. EVANS (Weber). Certainly, it is of the utmost value. It is one of the best securities where it is secured by real estate.

Mr. ELDREDGE. Mr. Chairman and gentlemen, I will be brief upon this proposition, but at the same time I would like to express my views wherein I differ with the gentleman who has just taken the floor. Section 3 of this article under consideration provides for an assessment of all property. Still further down in that section it says, "provided that a deduction of debts from credits may be authorized." The same question that is involved in section 5 is also involved in that proviso, and in my mind is clearly a correct principle. I do not view a mortgage as property. I view it as the evidence of property and if that evidence is followed to its logical conclusion, you will find where the property lies that the mortgage represents. Now, the gentleman from Garfield, speaking concerning a circumstance of this kind that a man owned a piece of real estate and that he borrowed on that we will say ten thousand dollars and invested it in cattle and took the cattle into Arizona, that when the assessor under the provisions of this act came around, if the mortgage was exempt that property did not contribute towards the support of the government. If it does not contribute to it in this State it certainly is taxed in the state where the cattle have been taken and thus the value of the money that has been borrowed is represented in the property in which he puts it. And if that money should be taxed in Utah and the property taxed

in Arizona, there is a double taxation upon that amount of property.

Mr. THURMAN. Suppose you would work it so that all the property owned by people in Utah would be held in some way in Arizona, so that they would only have here the evidence of it, how would you keep up a State government?

Mr. ELDREDGE. Well, suppositions may be made that are very foreign to any possibilities. We will draw this matter perhaps a little bit closer. Supposing a man that borrowed the money upon his farm placed it in cattle and kept the cattle within our own Territory. The cattle then are taxed within our own Territory, and thus that money is taxed in the investment where the property lies and as I said, in the first place, the mortgage is not property. It is only the evidence of property. Now, we will suppose that a man has got a farm and that farm is worth five thousand dollars; he goes and borrows of some man here five thousand dollars to put in improvements upon that farm. The assessor comes along and assesses that farm with the improvements for a sum of ten thousand dollars, and then he would assess the man that had loaned the money five thousand dollars, making an assessment upon that property of fifteen thousand dollars, we will say in the year 1895. In the year 1896, the man is not able to pay the five thousand dollars that he borrowed, and hence the man takes the farm in the transaction and pays the individual five thousand dollars for his interest in the farm. A man comes along then and assesses the farm. He assesses it for ten thousand dollars. The amount then that the man has loaned is absorbed in the farm and only represents just the same as it did when he held the mortgage, and hence the State loses five thousand dollars under the transaction, according to the theory of the gentleman from Weber County. Now, he is speaking concerning spurious mortgages. I cannot see where that question possibly takes place. The section here simply provides that if mortgages are taxed the amount must be deducted from the property upon which the mortgage is given.

Mr. SNOW. Isn't that a virtual exception or exemption from taxation?

Mr. ELDREDGE. I understand that to mean this, that if I had a house and lot no which I had borrowed five thousand dollars and that property was worth we will say fifteen thousand dollars, the assessor comes along and says, "How much is this property worth?" "Is it worth fifteen thousand dollars?" He lists it for fifteen thousand, but I say, "By the way, I have got a mortgage on it for five thousand dollars." Then it is fifteen thousand dollars less the five thousand dollars that I borrowed. "Whom did you borrow this money from?" "I borrowed it from John Jones." He then lists the amount of the mortgage to John Jones, and thus between myself and John Jones we pay the fifteen thousand dollars which is invested and is manifested there in that real property. That is the way I view that. Now, in regard to the question that was before the Legislature last winter, I have this to say, in defense of the gentleman from Sanpete County—and should there be any question I can produce the article—that that gentleman's idea of taxing mortgages was just exactly as set forth in this proposition. That if a mortgage should be made subject to taxation, it should be deducted from the value of the property that was given in security, and that was the Honorable Jacob Johnson's position to my knowledge upon the proposition, and I would like to have the gentleman properly represented before this Convention.

Mr. CORAY. Do you consider that proposition is set forth in the article?

Mr. ELDREDGE. Yes, sir.

Mr. EVANS (Weber). Mr. Chairman, I understood Mr. Jacob Johnson's position to be that the mortgage should be

taxed but the amount should be deducted from the value of the property, that is not this proposition. It says mortgages never shall be taxed unless——

Mr. ELDREDGE. Yes; his proposition was this, that mortgages should be taxed provided that the amount should be deducted from the assessed value of the property securing the mortgage.

Mr. EVANS (Weber). He had the California provision, didn't he?

Mr. ELDREDGE. I do not know; so far as the California provision, I have the bill that he introduced on file.

Mr. JAMES. Mr. Chairman, I will not impose upon your time very long, but I do feel as if I would like to make a few remarks upon this question. I cannot see the situation from the same standpoint that some gentlemen have that have argued the question this morning. I have had some little experience in my life in business and I have learned what it was to borrow money. I have in the last two years, Mr. Chairman, borrowed in this town large sums of money which I have paid out to the laboring classes and for supplies and other operations of mining. Now, I know that gentlemen do not intend to be unjust when they speak of the Shylock banker. There is some good in all things I believe in this world, and in instances the banker of Salt Lake City has been of great benefit, not only to himself and the rich, but to the poor as well. When I go to the bank and draw out money month after month as I have done in the past two years, without one single dollar of income from the industry which I was operating, and which I am doing to-day, and that banker allows me an overdraft, as I have got it unfortunately to-day, he is doing as much good with his money as it is possible for any individual to do with his money in a business proposition. Now, gentlemen, that is the condition in a great many instances, here in Utah Territory and in Salt Lake City, and for that reason I want to say that I do not want this Convention to be too severe upon our bankers and our business men in this community. Now, as to the gentleman saying spurious mortgages would be put on record if this section was adopted, it seems to me that that is absurd, because under the mortgage the mortgage would either have to be taxed or the property. It is embodied in one. As I understand it, it is simply to prevent the double taxation. I do not think that that needs much argument to understand. The strongest point the gentleman makes is that there is such a thing as money loaned on mortgages that does not pay a tax.

Now, all things equalize themselves. Water finds its level; nature created things in this world so that they worked for one general object, and that is the equalization of all things. Now, if the mortgage can go without taxation, capital will seek mortgages, consequently the man that is borrowing money upon his land will get it for less than the man who has to borrow it on other collateral where he will pay a tax. Now, that is the natural result and it cannot be gotten away from, Mr. Chairman. That rule will hold good; but here is a point now I want to call the gentleman's attention to. I said to the gentlemen a little while ago that I had been overdrawing in this city. Now, did I pay any tax on that overdraft? No, sir. Now, there is the condition of things, that a man that is fortunate enough to have a credit can go to a bank and borrow money and pay no tax on it, but the poor man that works at the forge, that works at the bench as a carpenter, that has his little farm out here, that does not happen to be known or does not happen to have a credit at the bank, so that he can borrow money if he needs a little money for improvement or some enterprises, what does he have do to? He has to tie up his prop-

erty and mortgage it to get this money and the result is the mortgage is taxed and the land is taxed. Consequently that business is double taxation. Where the business men, Mr. Auerbach, or any other merchant of standing in this community, wants to borrow fifty thousand dollars, he goes to a bank and overdrafts it, and the tax collector never thinks of going around and assessing that overdraft, consequently he gets that money without paying a tax. Now, do you not see, gentlemen, in order to equalize this thing you have got to pursue the very course that the committee has pursued in adopting this section, and I want to say to you, gentlemen, there was some question raised here—that any other constitution ever had anything that was anything like this? That is, if I understood the language correctly, there was a statement of that kind made. Now, take the state of California, what does it say? A mortgage, deed of trust, contract or other obligation, by which debt is secured, shall for the purpose of assessment and taxation be deemed and treated as an interest in the property affected thereby. Now, they have done the same thing in California, as gentlemen have attempted to do it in this section, as I understand it.

Mr. EVANS (Weber). Beg your pardon, Mr. James, but you certainly do not understand the California provision if you understand it to be the same as this. The California provision requires a tax upon mortgages, but the amount shall be deducted from the value of the property.

Mr. JAMES. Is not that what this section proposes to do?

Mr. EVANS (Weber.) No. That says there shall never be a tax upon a mortgage unless the amount is deducted from it. The Legislature might put a tax upon mortgages, but the California provision simply taxes the mortgage outright, and I would like also to remind my friend, Mr. James, that I think two-thirds of the members of the Legislature have already passed a law repealing that very provision which you are now reading—that is, in submitting it to the people for a vote, two-thirds of the members of the Legislature, as I understand, have passed an act which would repeal that if the people approve it.

Mr. CANNON. I want to ask the gentleman whether or not under this provision of this section the California statute could not be enacted by our Legislature?

Mr. EVANS (Weber). It could be. It could be enacted but the constitutional provision in California compels a tax upon mortgages. Ours relieves the mortgage from taxation so far as the the Constitution is concerned, and it would require an act of the Legislature, and whenever an act of the Legislature was passed to tax mortgages, then there would be no tax upon the property owner equal to the value of the mortgage.

Mr. JAMES. Now, I understand, Mr. Chairman, that there are other ways of taking advantage of this system of taxing mortgages. I know that during the time that the statute in Utah imposed a tax upon mortgages that a system of business of this kind was done, because I know the very transaction. I know of one instance where a property was mortgaged in this town in Omaha. It went to a bank. The business was transacted in that bank, the money was loaned there, but it was money of Salt Lake. The arrangements were made through an agent and in that way they avoided this tax, and what was the result? Why, they accomplished in it only this, that it put that poor widow woman to the expense of fifty or sixty dollars to send down to Omaha and get her home mortgaged, to get some money—extra—that is all it accomplished; and when you gentlemen that were in the Legislature that repealed that act did what you did, I be-

lieve that you did this Territory a great benefit. I felt it at the time. I understood it from my business relations here and I have so believed ever since, and I haven't had anything to convince me to the contrary, but what it was a great advantage to this Territory to allow people that happened to own real estate to be placed on the same basis as the man that owned the municipal bonds. The man that owns municipal bonds or the bank bonds or other collateral that are good can go to the bank and deposit them and get the money and he is not taxed, but the poor man that happens to own a little home somewhere has got to go and mortgage it, then the mortgage is taxed and his home is taxed on that; I say that is double taxation.

Mr. BOYER. May I ask the gentleman a question? Your statement in relation to the poor woman being required to pay fifty dollars—whether that additional expense was an addition of interest upon the money or whether it was attorney's fees—a middleman that charged her attorney's fees?

Mr. JAMES. That is what it was.

Mr. CANNON. Mr. Chairman and gentlemen of the committee, I was in hopes that when this question came up it would be discussed entirely upon its merits and that we would discuss it dispassionately with an intention but to arrive at a correct conclusion. I trust gentlemen, you will look at this matter in a fair and dispassionate way. If it is not right to retain the section, I want it stricken out. If it is right, I claim that it should stand there and that you should be open to conviction and listen to that which is to be said. In the first place I was astonished that my friend from Washington County should make a personal attack upon me and state what he did state concerning this matter. I was equally astonished to hear my friend from Weber County claim that the Italian hand of the money power was behind this section. I have been astonished at the position taken by different gentlemen because, while we differ with respect to different sections that may be presented, I will claim, and without fear of contradiction, that in the committee which has reported this article and of which these two gentlemen are members, that every consideration has been afforded them to express their views, and to bring in their friends, to bring any matter before that committee, and I claim, gentlemen and Mr. Chairman, that a full investigation was made as far as possible of this question by the committee with the intention to receive all the light possible. I took the position that the speaker from Washington County takes when the committee first met. I was in favor of taxing mortgages. I so announced myself, and in order that it might be spread, in order that the people might know it, it was published in the public prints and everybody who saw fit to meet and come before our committee had an opportunity of doing so, for about three weeks. On this bulletin board here the time that that committee met was placed in plain view, and any one could learn what was done in the matter.

I believe that there is something in favor of the position taken by the gentleman from Washington County. I believe that where a tax is not placed on mortgages, I believe that it places a sort of premium upon the money lender and to that extent I am very sorry that it is not wise at this time, in my opinion, to place a provision in the Constitution taxing mortgages. At the same time, the committee had good reasons, as I view it, for not placing such a provision in this, but I desire to call your attention to that which existed here a few years ago. Under the old law a provision was had which provided that from taxable credits, debts due and owing might be deducted. How was that interpreted?

My friend from Washington County interpreted it, so he informs me, that if a man had a mortgage on his home and would give him the name of the party who held that mortgage, that he would except the value of the mortgage from the assessed value of the property and go and assess the money to the other man. In Salt Lake County an entirely different procedure obtained. Here the full value of the property was assessed. And in addition to that the amount held by the mortgagee was assessed to him. There is a case, gentlemen, where there was a discrimination. It was not right for the people of Washington County to allow it and the people of Salt Lake County to refuse to allow it. Taxes should be equitable, should be equal in all parts of the State. The fact that this has existed in that way convinces me among other things that the provision of the law was a bad one.

In the next place I take the position held by Judge Goodwin, that there is not a single case where a tax assessed upon a mortgage and assessed at the full value of the real estate also is not double taxation. To illustrate what I mean, I will take a case of two men who have a thousand dollars each, and desire to buy a farm. Putting it together, they buy a farm worth two thousand dollars. The assessor assessed that farm to its full value, two thousand dollars. That would be the only assessment that there would be. Now, suppose one of those two men did not want to buy a farm, but was willing to loan his money to his friend; the friend borrows the thousand dollars from his companion, takes the same two thousand dollars, to which I referred first, and buys the farm. How will it then be assessed, if we do not put this prohibition in the law? Under the old law, as it was applied in Salt Lake County and in other counties in the central part of Utah, it would be assessed this way, the farm would be assessed to the man who purchased it at the full amount, two thousand dollars. The mortgage would be assessed at one thousand dollars to the man who loaned his friend the one thousand dollars. The total assessment would be three thousand dollars.

Now, my friends, is not that a clear case of double taxation? What is the difference? The two men use the same money, they put it into the same farm; the only difference is that one owns a half interest in the form of a mortgage, in the latter case and in the former case, he owned an undivided half interest in the land itself. There you would be assessing three thousand dollars in one case simply because of the difference in name. Now, another case. Take the case of a man who builds a home for another. If under the law he provided that he would sell it to him on the installment plan, how would it be assessed? Assume that it was valued at two thousand dollars, on the installment plan it would be assessed to the man who was selling it, because the title stands in him. It would remain in him and it would be assessed simply two thousand dollars. The man who has agreed to purchase it and who is living in it and making monthly payments on it would not be assessed at all, because the property still stands in the name of the original vendor. Now, suppose that instead of doing that, he has confidence in the purchaser and he says, "Well if you would prefer a deed and would like to give me a mortgage in return I will take a mortgage for the full amount, believing in your integrity and knowing you can pay it eventually." What would then be the provision? Under the old rule which is designed to be prohibited by this section, they would first assess to the man purchasing the house and lot two thousand dollars. Then, because he has executed a mortgage they assess two thousand dollars to the man who holds it, total assessment four thousand dollars, whereas the same property, the

same interest identically, only covered by another name, exists in both cases.

We will take another case. A man who already has a home of two thousand dollars thinks that it would be to his interest to buy a herd of sheep. Formerly he has been assessed with his home at two thousand dollars. He borrows a thousand dollars and buys sheep with it. What is his assessment under the old plan? Two thousand dollars would be the amount he would be assessed on his home and one thousand dollars he would be assessed on his sheep. Well, you say the sheep were in existence; yes, they are in existence, but that man's interest in his home has decreased the amount he borrowed and he should be allowed that amount of exemption. He should be allowed to deduct from the value of his home one thousand dollars, because he only has in real property, so far as actual value is concerned, one thousand dollars, now in the shape of a one thousand dollar equity in his homestead. I defy any one to present a single case to me where it is not double taxation, where under the operation of the old law, under this provision it did not provide for taxing double.

Mr. EVANS (Weber). What would become of the man who loaned this two thousand dollars on this home? He would not be taxed at all, would he?

Mr. CANNON. In which case are you alluding to—the last?

Mr. EVANS (Weber). I am alluding to the last illustration you made.

Mr. CANNON. That was one thousand dollars.

Mr. EVANS (Weber). Well, one thousand dollars, whatever the amount is, if he loaned it under your provision, he would not be assessed at all, would he?

Mr. CANNON. Under the law which you have passed, my friends, he would not. I did not help pass it. Under the law which you helped to pass, he would not, but under this section——

Mr. EVANS (Weber). I mean under this law which you now propose to pursue by enactment.

Mr. CANNON. He would not be assessed unless the Legislature saw fit to tax mortgages.

Mr. EVANS (Weber). Please answer me. Under the constitutional provision which you have written, would he be assessed at all?

Mr. CANNON. He would not until the Legislature assessed him.

Mr. EVANS (Weber). Under this law, he could not be assessed, could he?

Mr. CANNON. No sir; under the law which you passed, and under this law which I am helping to perpetuate, he would not be taxed until the Legislature should see fit to tax him. I do not believe that a case can be cited in which it is not double taxation, in one form or another. The only attempt I have ever heard made to cite such a case was where the man borrowed the money and spent it in mining and lost it. The gentleman said the property was not there to tax, and consequently in that case it would not be double taxation, but would be double taxation so far as the poor fellow was concerned who had borrowed the money. If he had spent it in mining, he would only have that which was left and having his homestead which was worth two and only had an equity of one thousand dollars. The section proposed here does not provide that you shall not tax mortgages, but that is left to the Legislature.

Mr. EVANS (Weber). The Legislature under this constitutional provision could not, under any emergency or circumstances, tax both, could it?

Mr. CANNON. No, sir; they could not have double taxation.

Mr. EVANS (Weber). That is to say, if an emergency should arise, so that revenue was imperatively necessary, the Legislature could not tax the mortgage and the property both?

Mr. CANNON. No more than they

could double tax your land that did not have a house on it.

Mr. EVANS (Weber). That is true, is it not?

Mr. CANNON. That is the purpose of it exactly, so that it shall never under any case permit double taxation in this instance. I desire to call attention to the way that this old law operated. I have in mind a case which actually occurred where a man in Salt Lake County has eighteen thousand dollars' worth of mortgages upon the books of the recorder's office of this county. That man had an overdraft at the bank to the amount of thirteen thousand dollars; when the assessor came around, he said, pointing to this provision of law, "from taxable credits, debts due and owing are allowed to be deducted." Yes, said the assessor, "what have you got to deduct?" He took his book and showed that on the first day of January, which was the date at that time when they were assessing, he owed one banker so much and another banker so much and the total was thirteen thousand dollars, and the assessor deducted from his taxable credits of eighteen thousand dollars' worth of mortgages which he held the thirteen thousand dollars and only assessed him five thousand dollars of it.

Now, at the same time, I know a man who had property, in the form of bonds worth ten thousand dollars, and that was the valuation of it, who owed a mortgage of six thousand dollars, and he went to the assessor and said, here is a provision in the law which says that from taxable credits, debts due and owing may be deducted, and asked the assessor to deduct the six thousand dollar mortgage which he had. Here the assessor says, "No, that is not correct." He says, "I cannot take in your debts, because yours is real estate and that is not a taxable credit, as interpreted by the law," and he refused to make any deduction. Now, my friends, I claim that interpretation was an interpretation which discriminates against every farmer, against every householder, against every man who borrows in the form of a mortgage, and I claim it would be no more right to exempt a man who happened to have a big credit at the bank, the amount that he owed there, than it was to exempt the man who had a farm and who had his six thousand dollars, and the provision provided by this section would prohibit any such unjust discrimination. Under the present law a man who is a broker on Main street is allowed to deduct from his taxable credits the amounts that he may owe to his depositors, the amounts that he may owe upon his notes. A man may have ten thousand dollars in taxable credits; they might be under the old law in the form of mortgages, and if he could show that he owed nine thousand dollars, he could be allowed to deduct it, but if a farmer having a farm that was mortgaged nearly up to the highest notch, worth, we will say, two thousand dollars and mortgaged for fifteen hundred dollars (and there have been a good many of that kind) that farmer would be required to pay taxes upon the full amount under the old law and the mortgage be assessed too. I claim that that is unjust and I claim that it is in the interest of equity that it should not be done. Now, one minute with reference to the objection offered by Mr. Pierce, although it is not before the committee. Mr. Pierce stated that he would like to amend if this were stricken out, part of the other which provided that all property shall be taxed, not exempt under the laws of the United States or of this State. Why, gentlemen, how many of you would consent to that? How many would consent to providing that any property which the Legislature might hereafter exempt would be exempt from taxation?

Mr. EVANS (Weber). Very few, possibly.

Mr. SNOW. All of us.

Mr. CANNON. Mr. Evans says he would not, Mr. Snow says he would. I do not think there are fifteen members on this floor that would agree to leave that provision in there, which would leave it so that the Legislature might exempt a particular man's property or any class of property if they saw fit so to do. The reason they limit the exemptions is because they want it confined in the Constitution, so that it shall be only certain classes of property. Now, the gentleman made a criticism of the fact or claimed that I had stumped this county and adjacent counties and criticised the democratic Legislature that passed that law. That is a fact, I did that. I believe there are men present who heard me and I am not ashamed of it. What criticism did I utter? I believe in stating an adversary's position, and never giving only part of it. I say that it would be only right if they saw fit to do so, to exempt the homes upon which those mortgages existed. I favored in my speeches, at different places, taxing the mortgages and exempting the property of the man who had been compelled by circumstances over which he had no control in many cases to give the mortgages, and give the poor man the exemption and not hold it out in that form.

Mr. EVANS (Weber). Mr. Chairman, I would like to ask a question. I would like to know whether you criticised your nephew the honorable Frank J. Cannon for recommending that the Legislature passed that law?

Mr. CANNON. My nephew is not the Honorable Frank J. Cannon, but I do not know why the gentleman singles out Mr. Frank J. Cannon. I would like to ask him if Mr. Frank J. Cannon was chairman of that committee.

Mr. EVANS (Weber). I believe not.

Mr. CANNON. Was Mr. Frank J. Cannon's signature attached to that report?

Mr. EVANS (Weber). It was, according to my recollection.

Mr. CANNON. Have you a distinct recollection?

Mr. EVANS (Weber.) I have a very distinct recollection.

Mr. CANNON. You think it was attached, do you?

Mr. EVANS (Weber). I do.

Mr. CANNON. But you are not sure of it?

Mr. EVANS (Weber). No, I can produce the report.

Mr. CANNON. He was not chairman, however. I do not know why you single it out. I am afraid the gentleman is trying to attribute a little political tinge to this discussion?

Mr. EVANS (Weber). No, not at all.

Mr. CANNON. The gentleman who first spoke and several who have spoken claim it is not a political question. I believe it is not either. I think politics have nothing to do with it. It is a question of simple business and not politics and I hope the vote will be accordingly. I desire to call your attention to this fact. I favored the provision as provided in the California constitution. The gentleman from Washington County quoted me particularly when he says I took that position, but it is said a wise man may sometimes change his opinion but a fool never. We wrote to California, and we got letters from different classes there, one or two of which I desire to read. One from Mr. J. D. Siebe, assessor. (Reads.)

I have here a copy of the revenue laws of California. We found under that, gentlemen, it was in the form, that they exempted the national banks practically from taxation; that they did not have anything like the taxation which we have in Utah, and if we would exempt that we would exempt more than the amount loaned on mortgages. And under the old California law, this was the purpose. I have a letter dated Sacramento, March 25, 1895, in reference to this. (Reads.)

And there is a provision in the California law exempting free public libraries and free public museums, growing crops, mortgages, trust deeds, property used exclusively for public schools, and such as may belong to the United States, the state, or to any county or municipal corporation within the state.

Mr. EVANS (Weber). That has not yet been voted upon by the people.

Mr. CANNON. No, sir; this was passed by two-thirds majority of the Legislature. I call attention to this fact that after this law had been in operation in California since about 1876, I think it was, after they had tried it there for nineteen years, there is such a division of opinion that the representatives of the people elected to the legislature, by a two-thirds vote, vote to repeal that old law. Now, gentlemen, with that staring them in the face, with that kind of a record from a state that has tried it for nineteen years, was it unwise for this committee to come in here and say we favor leaving it to the Legislature instead of putting that old law in here? The minority of those men, who are making the fight upon this clause, that they would report a substitute—not to strike this out, but they would report a substitute, inserting that California provision. Why have they not done it? Why do not they, if they favor taxing mortgages, provide here a substitute by which we can come right to the root of the matter and tax them as they propose to do. If they want to put that in and there are enough here to make out on the balance, and my vote is the casting vote, I will vote to tax mortgages, because my position is the same as before; but I claim, gentlemen, with this instance of California's experience after a trial of nineteen years, we can afford to leave it to the Legislature, and the only thing I insist shall be put in is this, a provision by which you must exempt from taxation, if you tax mortgages, the property which is covered by it, and which belongs to a poor unfortunate man who has been compelled to borrow. That is the question, and that is the position upon which I stand. I do not care for the arguments which were used casting reflections upon my character. I do not care for reflections which are used here in which bankers are referred to as Shylocks, because I am too poor to feel that I am in that class of bankers. I do not care for that which is used simply for throwing dust in your eyes and not by way of convincing your intellects. But I ask you, gentlemen, to dispassionately look at the facts in this case and then provide that, if they ever do tax mortgages, which the Legislature has full power under this section to do, that they shall grant justice to the man whose property is mortgaged and shall exempt it to that extent that they get it from the other.

Mr. IVINS. Is it true that two-thirds of the members of the California legislature voted to repeal the law taxing mortgages, or is it true that two-thirds of them voted to refer that section to the people to get an expression of their views in regard to it? I want to state that this is an amendment to the California constitution and that the members simply voted by a two-thirds vote to submit it to the people.

Mr. CANNON. The fact in the matter is as follows, the secretary of the state board of equalization says a constitutional amendment has been adopted by the recent legislature and will be submitted to the people for ratification at the next general election, exempting such property from taxation. They have adopted and the people simply have to ratify it. It was the opinion of the legislature that it should be adopted or they would not have passed it in that form.

Mr. IVINS. Another thing, the gentleman said that while I was assessor and collector of Washington County, if there was a mortgage on a man's home, that I deducted the amount from his

home and assessed the money to the person making the loan; I want to say that during the six years I was assessor and collector of Washington County there was not a single instance came under my observation, where a home was mortgaged in that county, and I do not think to-day that after a good many years have elapsed since I was assessor, there are a dozen real estate mortgages recorded in Washington County, and there was never one that I know of.

Mr. CANNON. Did you state in our committee that you made the deduction I stated?

Mr. IVINS. Yes, but not in homes—not from real estate. The idea was all right. I simply just wanted you to understand that, thank the Lord, Washington County is not mortgaged now and never has been.

Mr. EVANS (Weber). I would like to know how it is in San Juan. [Laughter.]

Mr. LUND. I want to ask Mr. Cannon a question. Is this the first attempt by the people of California to repeal that law?

Mr. CANNON. I am not conscious of that; I did not ask.

Mr. LUND. I understand that it is; it might work well in Utah for twenty years.

Mr. CANNON. I will tell Mr. Lund that the question has been agitated for a great many years, but I have not gone into the history of California to investigate it. I simply wrote there at the time favoring this proposition and expecting to incorporate it, and this was the result.

The question being taken on the motion to strike out, the committee divided, and by a vote of 57 ayes to 24 noes, the motion was agreed to.

The committee then took a recess until 2 o'clock p. m.

AFTERNOON SESSION.

The committee met pursuant to adjournment and resumed consideration of the article on revenue and taxation.

Section 6 was read.

Section 7 was read.

Mr. EICHNOR. Mr. Chairman, before we pass on to the next section, I desire to ask the chairman of the committee on revenue and taxation whether under this section the moneys in the various counties are comprehended—the expense of State, counties, cities, or whether it is simply to apply to the State?

Mr. CANNON. I thought the gentleman would understand this because it was taken in body from Washington.

Mr. EICHNOR. It is all right.

Section 8 was read.

Mr. KIMBALL (Weber). Mr. Chairman, I move to strike out that section entirely. I do that for this reason, that there may contingencies arise in which the Legislature ought to be entitled to act in this matter. We cannot tell now in advance of legislation what the contingencies may be. I move for that reason to strike out that whole section and leave it to the Legislature to fix the rate of taxation. It will be absolutely necessary in some instances that the Legislature shall fix the limitation.

Mr. CANNON. Mr. Chairman, it has been stated here in the Convention a number of times that one objection to the Constitution would be the increased taxation. By limiting the rate as herein provided the people are insured that no Legislature shall ever increase their present tax which is now five mills, more than three mills, if the property be less than two hundred millions in value. And that when it reaches two hundred millions that the rate shall be dropped to five mills. I think that the amount here given as the maximum amount is sufficiently large to cover any expense that will be incurred. It will yield a revenue on the present valuation of very nearly eight hundred thousand dollars per annum, and the estimated expenses fall very much below that

amount. I do not think that it will be necessary for State purposes with the economy that is being provided for by the Constitution to assess more than six or seven mills, and I certainly favor keeping it in, as I believe it will aid in the adoption of the Constitution.

Mr. KIMBALL (Weber). Mr. Chairman, I do not think that the gentleman answered the question. There are many instances that I have in mind when the Legislature should be left at liberty to increase the taxation or decrease it. If we put this proposition in the Constitution it would forever forbid the Legislature from going beyond a certain amount. I do not think that is proper. I think it should be left to legislation to fix the amount of taxation.

Mr. SNOW. I would like to ask the chairman a question, whether section 8 harmonizes with the latter part of section 2, beginning on line 16. (Reads.)

Would this provision in section 8 be ample to cover this under all circumstances?

Mr. CANNON. It would by proper economy, because we limit the amount of debt that can be created. It would be sufficient to pay our present indebtedness and the amount that is provided for by our Constitution.

Mr. HAMMOND. I second this motion with an eye to San Juan. There may occasions arise in that undeveloped country as it now is when we want to enter into large expenditures in the interest of irrigation and to construct large reservoirs, and I would like the Legislature to have power, as I believe they will have the will, to assist San Juan in those enterprises, and with that view, I am in favor of the motion to strike out, that the Legislature shall have power to assess at any rate from one mill to twenty-five, if they think it is necessary.

Mr. THORESON. Mr. Chairman, I do not think we are able to legislate for San Juan County. If they want to bond that county there is a provision for that purpose, if the majority of the people vote for it. I am opposed to the striking out of this section. The question of the rate of taxation is the important question connected with statehood for this Territory. That is a question that people ask, "is it not going to increase our rate of taxation?" And I say unless we have a provision in here guarding that point, there will be more doubt about the people assuming a Constitution, than any other point. The committee has duly considered this. The eight per cent. will cover the ordinary emergencies and if there is more revenue wanted, if you will notice the section provides that the people of the Territory can vote to increase this rate and raise the revennes desired, but the vote of the people with a higher rate of taxation than eight mills is something that shall cause people to vote against this Constitution. I think we should guard our people against any higher rate and I think the section should be retained.

The motion to strike out was rejected.

Sections 9, 10, 11, and 12 were read.

Mr. Allen offered the following substitute for section 12:

State and county boards for equalization of taxes shall be provided by law.

Mr. ALLEN. Mr. Chairman, my reasons for offering a substitute here are these: in the first place, I do not believe that the board as here named would give satisfaction for the reason that they are most apt to be citizens of the city where the capital of the State is, and they will not be acquainted with the values in the different parts of the Territory, and for them to travel and inform themselves would be expensive. I think the Legislatnre would be able to provide a board that will come nearer understanding the different values throughout the Territory than these named here. In addition to that it appears to me to be unnecessary to go

on and state that these boards shall equalize the tax on real estate and personal property, etc. I think that is legislation and of course it could be for no other purpose only that. Therefore, I think this should be left to the Legislature, with the exception of those few words.

Mr. THORESON. Let me ask the gentleman a question. The boards we provide for here—the State boards at least will serve without pay according to the other parts of the article. Would their mileage and expenses outside amount to as much as the expenses of an outside board and their mileage?

Mr. ALLEN. I think that they would be obliged to travel in order to obtain the information themselves, and their expenses would be more than——

Mr. THORESON. Will it increase the expenses?

Mr. ALLEN. I do not think it would increase the expense, but they would not have the knowledge the other board would have.

Mr. EVANS (Weber). Mr. Chairman, I offer the following amendment to the original section:

"Until otherwise provided by law," to be inserted at the beginning of the section. I am informed that the board of equalization at present costs the Territory about seven thousand dollars. This board would serve without compensation, and if it is found in the future to be inadvisable that this board should continue for that purpose, the Legislature can change it, and I am in favor of leaving the section as it is with that amendment.

Mr. SQUIRES. I want to ask Mr. Evans a question. I understand that we have provided in the executive article so that this State board would not cost the State anything for serving?

Mr. EVANS (Weber). That is exactly what I want.

Mr. SQUIRES. Have we provided that the board of county commissioners would serve without extra compensation?

Mr. EVANS (Weber). I think not.

Mr. SQUIRES. Then, would it not be wise to add after the word county, "who shall receive no extra compensation, for that service?"

Mr. EVANS (Weber). I think it would.

Mr. SQUIRES. I move to insert that then.

The CHAIRMAN. I would hold that the amendment has gone as far as it can go. I do not care to have ourselves tangled up any farther.

Mr. CREER. Mr. Chairman, I simply want to endorse the sentiment expressed by Mr. Evans of Weber County on this proposition. I think that the qualifications of those men are more to be considered than the matter of the saving of the expense. The State treasurer and auditor may have qualifications suitable for that purpose, they may be able accountants, possibly assistant cashier, clerk, or something of that kind, but as to estimating various kinds of property in the Territory, I think that certainly they would not be proper subjects for that position and I am opposed upon this idea anyway, all the way through. I am opposed to it in the way of the executive, that we have passed. The idea of making a treasurer—he is the man that has to handle the funds, and it would give him the power to discriminate for or against in many instances, as it would in regard to making the governor one of the members of the board of the other public institutions. He would have one-third of the office in endorsing appropriations for those institutions and he may be prejudiced in their favor or in favor of some other. I am opposed to this principle except to the qualification that I am willing it should be tried as an experiment, but to put it in there permanently I think that it would be a great mistake. Therefore, I am going to vote for it as proposed by the gentle-

man from Weber County—until otherwise provided by law.

Mr. FARR. Mr. Chairman, I have been opposed all the way through to legislating, excepting where it is absolutely necessary. I think this section, with Mr. Evans's amendment, should be in by all means, "unless otherwise provided by law," and if the next Legislature sees it necessary to make a change, they can change it, consequently I am in favor of this section with that amendment.

Mr. KIMBALL (Weber). Mr. Chairman, I am certainly in favor of the section as it stands. As now provided the State board shall consist of governor, state auditor, state treasurer, secretary of state, and attorney general. Those gentlemen are all salaried officers. They have no interest whatever in increasing or decreasing of taxation, and they are the proper men to go into this board. The county commissioners are likewise elected to a certain office, they get certain pay, and they have no interest in increasing or decreasing taxation, so I am in favor of the section as it now stands, because I think it is the most equitable thing that we could insert in the Constitution, for the reason that neither of the officers is a salaried officer neither of them get anything for increasing or decreasing the taxation. I submit that is the proper thing to stand.

Mr. HEYBOURNE. I object, Mr. Chairman, to the section as it now reads and am of the opinion that I shall support the amendment offered by the gentleman from Weber County. This matter of taxation is quite important. The equalising of taxes is a very important matter, and while I have the greatest respect for the ability of the gentlemen that are named here in this section, I am of the opinion that in order to do justice to all parts of this Territory, there should be a representation on the board, so that they might take into consideration the different valuations as they exist throughout the length and breadth of the coming State. We have a county board provided for here, whose duty it is to equalize the taxes of individuals, in the various counties. That seems to work reasonably well and the board of equalization that is provided for at the present time for territorial labors have had a representation in that body from various parts of the Territory, and I think that it has worked first rate. It has given general satisfaction. When we come to concentrate the members of this board here in this city, I believe it would be an injustice to the outlying counties. Therefore, I shall support the gentleman's amendment that provides until otherwise provided by law, leaving the matter then in the hands of the Legislature to look after the varied interests of the coming State.

Mr. SQUIRES. I would like to ask the gentleman a question. I judge from his remarks that he does not expect any officers are going to be elected to State offices, except gentlemen from Salt Lake County.

Mr. HEYBOURNE. Well, I should judge from this section here that provisions are made for certain gentlemen from the officers of the State.

Mr. SQUIRES. But they are liable to be elected from the outlying counties of the State and will come here with a knowledge of the values of the outlying counties.

Mr. HEYBOURNE. Judging from the past, I think they will be elected from here.

Mr. THORESON. Inasmuch as you are willing and want to leave it to the Legislature, why not leave it to the Legislature entirely and not go on and put a section in here?

Mr. HEYBOURNE. I understand the gentleman's amendment has that object in view; "Until otherwise provided by law."

When the Legislature meets they can attend to that matter.

Mr. THORESON. Why not leave it then entirely without putting this in if that will suit you?

Mr. IVINS. Mr. Chairman, my objection to leaving it to the Legislature is that I prefer that these officers who are named should act as a territorial board of equalization. Now, if, after trying this experiment, it should prove to be not proper or not a successful experiment, I would be willing then to empower the Legislature to make a change as provided in Mr. Evans' amendment. I want to say that we appropriated about seven thousand dollars for the territorial board of equalization at the last sitting of the Legislature, and I do not believe that the Territory has got value received for it. I think that these public officers can execute this law and fill all the necessities of the case, and if it shall prove that they cannot, then the Legislature will be empowered to make a change. I think that is as far as we ought to go anyhow. If this had been proposed in the committee, I think I should have approved it there, but it was not and we were in favor of the section as it is. I am willing to make that concession, but I do not want to leave it to the Legislature entirely.

Mr. CANNON. Mr. Chairman, the section as reported by the committee is not an unusual one. It is found in a great many of the constitutions of the surrounding states and in other states. I, however, agree with the last speaker, and I believe had this proposal been made in the committee, it would have been adopted by the committee. I favor the amendment offered by the gentleman from Weber, Mr. Evans, and with that amendment I think the section should stand as it is.

Mr. PARTRIDGE. Mr. Chairman, I would like to ask the chairman of the committee where there is any provision made for a board of county commissioners? I have not been able to see where they are provided for?

Mr. THURMAN. That is the selectmen.

Mr. CANNON. I believe they are named in the article on municipal corporations.

Mr. IVINS. It is meant to apply to the county selectmen, they are called commissioners, it means the selectmen.

Mr. JOLLEY. Mr. Chairman, I certainly am in favor of the amendment of Mr. Allen. I remember that this expensive board has been made mention of in the past. It did not give entire satisfaction, and they were selected outside of the capital, but I cannot altogether agree with my friends in Salt Lake that they are apt to be from San Juan or Washington County, or somewhere else that is to be. These officers made mention of—they are more apt to be men that are living here in Salt Lake City or near about, and they would not be capable of judging in relation to the prices and valuations of the property in the more remote parts of the Territory, and for that reason I am in favor of leaving this matter to the Legislature and shall vote for the amendment of Mr. Evans.

Mr. SQUIRES. Mr. Chairman, I am not in favor of the amendment offered by the gentleman from Piute, and I favor the section as it stands, with the amendment offered by the gentleman from Weber, and I want to say here that the amendment which I proposed I shall not now make and for this reason: that the board of county commissioners as I understand it will be paid a per diem and mileage for all their services. Now, it would be unwise and unjust and unfair to require them to serve certain days as a board of equalization without that per diem and mileage and for that reason I shall not put in the amendment, but shall vote for the section as it stands, with the amendment by the gentleman from Weber.

Mr. CORAY. Mr. Chairman, I am in favor of the amendment made by the

gentleman, Mr. Allen. I have observed the methods of these boards of equalization for sometime, and it appears to me the way they equalize the taxes is the county board ascertains who is taxed the highest—whose property is assessed the highest, and they equalize all the rest with it, and their work is done very easily and very simply. That is the method pursued in Juab County at least, and I think it is the same with the territorial board. When they went down through the Territory, they simply raised the taxes in all the rest of the counties to the standard of the county that was taxed the highest. They raised our taxes down there forty per cent—real estate and merchandise, and that is the method they have pursued heretofore, and I am opposed to all such boards. I think the question should be settled in the Legislature.

Mr. EVANS (Weber). Let me ask Mr. Coray a question. That board of equalization of whom you make mention was composed of men living out in the country as well as those living in Salt Lake, was it not?

Mr. CORAY. I do not know where they lived; I could not tell you. I just say that this was the method pursued by boards of equalization.

Mr. EVANS (Weber). That is the fact, that the men that composed that board were selected from all over the Territory—from a number of counties?

Mr. CORAY. I remember two of the gentlemen, one was Charlie Richards and another was Elias Smith, Jr. They were not from the country.

The amendment offered by Mr. Evans, of Weber, was agreed to.

The motion of Mr. Allen was rejected.

Mr. PETERS. Mr. Chairman, I desire now to offer an amendment to section 12. I move to strike out all after the word "county," in line 7, down to the word "each," in line 14, and also to strike out the word "also," and the word "other," in line 14.

Mr. CANNON. Mr. Chairman, I have no particular objection to this being stricken out, but at the same time, I see no advantage. It would simply be provided for immediately by the Legislature. And this is in this identical language in several of the states. For that reason, I am opposed to striking it out. It may just as well be left as it is.

Mr. SMITH. Mr. Chairman, it seems to me that there is no necessity for it whatever. It is just simply legislation pure and simple. The taking of it out does not detract from the section a particle; I am in favor of striking it out.

Mr. CANNON. What objection is there?

Mr. SMITH. Because it is just simply legislation; it can be just as well done in a Legislature as here.

Mr. CANNON. Would it cost any more than it would in the Legislature?

Mr. EVANS (Weber). Mr. Chairman, I hope that motion to strike those words out will not prevail. We have defined the duties of the governor, the secretary, the treasurer, school instructor, and all the other officers. This simply defines what their duties shall be. The State board shall equalize the taxes of the State, the county board shall equalize the taxes of the county; that is all there is to it. It is very brief. It is not much legislation, and if it be termed legislation, we might go back and strike out all the duties for the other officers in this Constitution, which we have passed upon. It leaves it fixed and certain just as it should be and just as it always will be. There is no occasion for a change in that at all.

Mr. FARR. Mr. Chairman, I suggest that we elect men to these offices that have got sense enough to know their duties, without telling them what they are. I move to strike out on that ground.

The motion was rejected.

Section 13 was read.

Mr. SHARP. Mr. Chairman, I move to strike out the word "used," in line 5 of section 11.

Mr. CANNON. I would like to hear the gentleman's reasons for such a motion.

Mr. SHARP. My reason for asking to have it stricken out is that I see no good reason for leaving it in, and I made this motion to bring out the reason for leaving it in.

Mr. CANNON. Mr. Chairman, I would state that the committee had in view more particularly those two words than any of the rest of the section. Our previous sections provide that any property now in the Territory should be taxed, but this "or used" in the Territory was to provide that corporations coming in here, using capital in addition to that which they ordinarily had there should pay a tax on it. It was more especially providing that foreign corporations should pay taxes the same as local. For instance, if a corporation of any kind doing business here with a capital we will say of ten thousand dollars should claim that the balance of the money it had belonged to a corporation in the east and in that way escaped taxation on a hundred thousand dollars, we provide by this the means by which they should pay taxes on the amount they used here, just the same as the local man would pay taxes on the amount he used.

Mr. EVANS (Weber). Is it not also intended that railroad companies using the stock of other corporations in this Territory may be taxed?

Mr. CANNON. Yes, sir.

Mr. EVANS (Weber). Such as Pullman cars and engines and equipment in the Territory used by a railroad company although owned by some foreign company?

Mr. CANNON. Yes, sir; it would cover all property in the Territory. It was taken from Colorado.

Mr. SHARP. Is it not a fact that railroad companies are assessed so much a mile for the railroad and the equipment?

Mr. CANNON. I am not aware of the method of assessing railroads, but I think in addition to that they are assessed on their equipment, so much for the number of cars they have. It would be evidently unjust in my mind to assess a company which had a hundred cars the same as a company which had two hundred, even if the mileage was the same.

The motion was rejected.

Mr. SHARP. Mr. Chairman, I now offer another amendment, that we insert the words "or persons" after corporations, in the first line of section 11.

Mr. SQUIRES. Mr. Chairman, in view of the fact that section 5 was stricken out of this article in order that the matter of taxing mortgages should be left to the discretion of the Legislature and not made mandatory, I move that section 2 of this article be amended by striking out in lines two and three the words "under the Constitution," and insert in the place of those words, "of this State."

Mr. THURMAN. Mr. Chairman, I do not see any necessity for that amendment. In relation to the taxation of mortgages, which was discussed this morning—and I understand the gentleman makes the striking out of that section the basis of this motion—I take this position, that if to tax a mortgage is double taxation, it is illegal, anyhow, because it is not uniform. If it is not double taxation, it ought to be taxed. This section, as it now stands, provides that all property in the State not exempt under the laws of the United States is subject to taxation. That ought to be so. I say that we cannot indulge in double taxation, as a matter of law, unless we can do away with the principle which provides for uniform taxation. In other words, we cannot say that a man's horse or his cow shall be taxed twice, while some other man's

property shall only be taxed once. So I say the matter is right just as it stands. If to tax a mortgage is double taxation, the courts will settle that. If it is not double taxation, then they ought to be taxed. The sections, as they now stand with that struck out, as it was struck out this morning, it seems to me are exactly right and there can be no question about it.

The motion of Mr. Squires was rejected.

Mr. CANNON. Mr. Chairman, I move to amend section 13, line 3, by adding at the end of the line the word "occupation." At the time this was before the committee the word occupation was at one time considered, and at that time one of the members of the committee, who was an attorney, thought that it would be covered by the other provision. Since that time, in consultation with the same gentleman, he stated that he thought no harm would come from inserting the word anyway, and I believe it should be in there. I believe the State should have the right, if it sees fit, to tax lawyers, carpenters, bankers, and everybody else.

Mr. THURMAN. And preachers.

The motion of Mr. Cannon was agreed to.

Mr. THORESON. Mr. Chairman, in section 3, line 12, I move to strike out the words "municipal corporations."

The motion was agreed to.

Mr. EVANS (Weber). Mr. Chairman, I desire to offer an amendment to section 3, by inserting after the word "benefit," in line 16, the words "or other like property." This section is designed for exempting certain properties from taxation. There might be some property of a similar nature which ought to be exempt and it is not provided for in the section—something that we have omitted.

Mr. PAGE. What other property do you have in mind?

Mr. EVANS (Weber). I have not any.

Mr. PAGE. That would be likely to come under that head?

Mr. EVANS (Weber). I think all is enumerated there that should be, but there may be property of a like nature which the Legislature might want to exempt, but I would make it of a like nature.

Mr. PETERS. Do you not think this amendment will be more appropriate if inserted after the word "burial?"

Mr. EVANS (Weber). Well, it probably would. That has already been suggested to me. Then, with the permission of the house, I will add it right after the word burial, in line 15.

Mr. CANNON. I think that would be entirely appropriate.

Mr. EVANS (Weber). Oh, yes, that would not be right, come to look at it. I will recede from that and place it as I had it first, because it would be inappropriate after the word burial.

Mr. CANNON. If I might be permitted to suggest, I suggest to the gentleman if he interline it at all that it be after the word "purposes." I do not think there are many other like purposes for burial. If you are going to have "other like purposes," at all, I think it should come after the charitable purposes, in line fifteen.

Mr. GOODWIN. Mr. Chairman, I think after "burial" would be the right place and it would apply to a crematory. I wanted to ask why burial places are exempt from taxation? They are the only ones that do not growl at taxes.

Mr. KERR. Mr. Chairman, while I do not know of any very great reason why this should not be inserted, yet I can see no reason why it should be. That being true, I am opposed to the motion to amend. It seems to me that the proposed section here certainly covered all that ought to be exempt under that section. I can conceive no other kind of property that should be exempt. That being true, I am opposed to the amendment. If the amendment should

prevail, it seems to me the word "and" instead of "or" should be put in. I can see no good that would come from inserting these words.

Mr. EVANS (Weber.) With the consent of my second I will withdraw the amendment.

Mr. CANNON. Mr. Chairman, I move that when we do rise that we report this article and recommend it be placed upon the calendar for third reading.

The motion was agreed to.

The committee of the whole then proceeded to the consideration of the article entitled public debt.

Section 1 was read.

Mr. EVANS (Weber). Mr. Chairman, I desire to offer an amendment to section 1, by adding after the figures one million dollars the following, "including existing indebtedness of the Territory."

Mr. THORESON. I would like to ask a question. What is the amount of the present territorial indebtedness?

Mr. EVANS (Weber). Seven hundred and sixty-seven thousand dollars, I am informed, is the accurate amount. It would leave us a little less than a quarter of a million that we could borrow in the future.

Mr. CANNON. Mr. Chairman, I am opposed to the amendment. I do not think it is necessary at all. The provision is that such debt direct and contingent in the aggregate shall not exceed one million dollars. That necessarily involves the present indebtedness. It could not be construed in any other way as I view it. If it never exceeds a million dollars the debt that we now have is provided for by the ordinance and cannot be repudiated, consequently the section as it stands would mean the same thing as the amendment proposed.

Mr. EVANS (Weber). Then your idea is to limit the Territory, is it, to one million dollars in the aggregate including the indebtedness of the Territory?

Mr. CANNON. Yes, sir.

Mr. EVANS (Weber). Well, then, let us have that certain, because this is left so uncertain that I fear the new State would incur a million dollars in addition to what it already has. It can do no harm and may result in much benefit.

Mr. KIESEL. Mr. Chairman, I move to strike out section 1.

(No second.)

Mr. SMITH. Mr. Chairman, it seems to me that the section is sufficient without those words. It seems to me it is amply broad. I should vote for the section to remain just as it is.

Mr. CANNON. Mr. Chairman, one reason why I am in favor of leaving it just as it is, we for all time include in there existing indebtedness. I do not think it is capable of a double construction. I would appeal to the attorneys and ask them if there is any one here who feels that this language would not limit it to one million, including the present indebtedness?

Mr. ROBERTS. Mr. Chairman, I wish to say that that is just my doubt—I understood Mr. Cannon to ask if there was any gentleman on the floor who had any doubt in regard to this section, as it now stands, including the present indebtedness of the Territory. I wish to say that I am one of those that doubt and in order that we may be thoroughly and altogether secure from a greater indebtedness than one million dollars in the State, I think that safety requires the adoption of the amendment of the gentleman from Weber. The State may, to meet casual deficits or failures in revenue or for expenses not provided for, contract debts. It does not provide for the assumption of the debt of the Territory as a part of that indebtedness, that it may incur.

Mr. KIESEL. Mr. Chairman, if it was found necessary to incur a debt of seven hundred and fifty thousand dollars with our present population, if we have a population of a million, why it may be found necessary to create a

larger indebtedness. I move to make it three dollars per capita.

Mr. RYAN. Does that include present indebtedness?

Mr. KIESEL. Yes, sir.

The CHAIRMAN. The gentleman will please get it into shape. Get it in writing and send it up to the secretary.

Mr. THURMAN. Mr. Chairman, I favor the amendment of the gentleman from Weber. I cannot construe this language in any other way than to mean that the State in the future may, to meet casual deficits or a failure in revenues or other expenses, not provided for, contract debts to any amount not exceeding a million dollars. That the State we are about to create is given the power to do that, and it seems to me that it is altogether independent of the existing indebtedness. If we want to include existing indebtedness it only requires about two words to get it in there and it is placed beyond all dispute and I favor putting it in.

Mr. CANNON. That is the object of the committee and I therefore favor it also.

Mr. HART. Mr. Chairman, I was going to make the same suggestion that the gentleman from Utah County (Mr. Thurman) made. The use of the word State there makes it uncertain as to whether it shall include the territorial indebtedness.

Mr. KIESEL. Mr. Chairman, I offer the following amendment. Insert after "exceed," in line 5, "shall not at any time exceed four dollars per capita." And strike out one million dollars. Now, Mr. Chairman, if it is found necessary—and evidently it was found necessary to incur a debt of seven hundred and fifty thousand dollars for some 250,000 people, it may be found necessary in the course of time to increase our indebtedness and have corresponding results. I do not wish to see the Territory or the future State handicapped in case they require certain improvements.

Mr. ROBERTS. Mr. Chairman, I cannot support this amendment that is offered by the gentleman from Weber who just took his seat. I believe, sir, that his argument in support of it is based upon wrong premises also. I notice that in the article on revenue and taxation, I think that as the wealth of the Territory increases you provide for a reduction of the percentage of taxation, because the increase of property would yield a larger revenue, at a less percentage, and instead of thinking that we want to increase our indebtedness or make provisions for increasing the State's indebtedness, with the increase of its population, I think the result should be that with the increase of our population there would come an increase of taxes, increase of the State's revenue, and hence a still less and less necessity for providing for the increase of State indebtedness. It seems to me, sir, that the provision made in the article as we now have it, is much better than upon the basis of a per capita indebtedness of four dollars, and therefore I shall sustain the article as now proposed and amended here in the committee as against the proposition offered by the gentleman from Weber. And Mr. Chairman, I make this point also, that we ought to reduce the indebtedness rather than to increase it, and I think, sir, that the true policy for the new State would be to aim at that object; that as soon as we assume statehood in this Territory, in consequence of meeting the first demands upon the public treasury, that the indebtedness that we then incur ought to be the very highest indebtedness that the State will ever look forward to and that from thenceforward we ought to look constantly to a decrease rather than an increase of the State's indebtedness.

Mr. THORESON. Mr. Chairman, we find also, in section 8, the proviso for

the emergency that the gentleman from Weber referred to. If that should occur that for a specific work or single object it may be increased if the people vote for increasing the indebtedness. And I think that the section the way it reads is plainer. Everybody knows the amount of the indebtedness—one million dollars, but if you say four dollars per capita, why some people will be afraid to increase the indebtedness to that extent and they may vote against the Constitution. If there is a special object that the State wishes to accomplish—some emergency, it is provided for there and it provides for an election by the people on that subject. I think section 1 should be left as it is.

Mr. EICHNOR. Mr. Chairman, I hope the substitute as offered by my friend from Weber, Mr. Kiesel, will not prevail. I do not confess to be much of a financier, but I can learn a little from the surrounding states. I think our debt limit is too high. I think it should be less, nine hundred thousand dollars or possibly eight hundred thousand. If you take our neighbors of which my friend, Mr. Farr, has several times spoken—he stated that some of the surrounding states were in debt. It is a mistake. Utah is more in debt than the surrounding states. The debt limit of Montana is two hundred thousand; the debt limit of North Dakota two hundred thousand; of South Dakota one hundred thousand; of Washington four hundred thousand.

Mr. SQUIRES. Mr. Chairman, speaking about the debt of Utah Territory at present, I understand that there is a bonded indebtedness of seven hundred thousand dollars. There is also a deficiency of one hundred and thirty-three thousand dollars, which will make eight hundred and thirty-three thousand dollars, leaving only a margin for the future State to go into debt of one hundred and sixty-seven thousand dollars; and in view of the fact that we are just starting in as a new State, I do not believe we have got the limit too high. But I am opposed to the motion of the gentleman from Weber, because I do not think that the rate of public debt should be based upon population. I do not think it is any fair way to look at it.

Mr. KIESEL. Mr. Chairman, I have been convinced by argument that my motion was wrong, and I withdraw it with consent of the second.

Mr. GOODWIN. Mr. Chairman, I only asked for a provision against a possible great calamity. We had a dissertation the other day that because of high taxation the state of Kansas had been and was in so bad a state that people were abandoning their farms; that taxation has been so terrible that the state this year, I believe, is making a debt of one hundred fifty thousand dollars to provide seed for the farmers and to support them until something can be raised out of the ground. Now, suppose such a calamity as that should come to Utah. Suppose by the recklessness of our State officers this new State should find itself fixed with a taxation so high that the crops could not grow, for a couple of years, and there had to be a provision to buy seed and to buy food for the people even by running in debt. Is there anything in this article that will permit anything of that kind? It seems to me a better plan would be to rate the indebtedness at a percentage of the taxable property in the Territory. If it is a hundred millions this year and two hundred millions fifty years from now or twenty years from now, the people might need for some great public improvement for public purposes—a loan of money—wouldn't it be better to put it where every man would say that it was reasonable and let it rest at that? We owe now, as I understand, about eight hundred fifty or sixty thousand dollars. That is, that leaves about one hundred forty thousand dollars to go on, which is plenty under ordinary circumstances,

but we live in a land of cloud bursts, in a land of grasshoppers, a land of drouth, sometimes they come and shut off the water supply; there might come a time when all our lands are under cultivation, when for a series of years such an accident might happen as has happened among these old irrigated communities. I will support the section if that is the best that can be done. I think it ought to be in proportion to the assessed valuation of the property, and I believe there ought to be a provision in there that in the event of a great calamity the people might have the means to extricate themselves. I understand it is a good deal like trying to serenade a deaf and dumb asylum to talk to any such proposition in this house, but at the same time there is a certain pleasure to the musician, even if those in the house do not hear him.

Mr. SPENCER. Mr. Chairman, I move the following amendment to section 1:

After the word "exceed," in line 4, "not to at any time exceed two per cent. of the assessed value of the property in this State." I move to strike out all after "exceed," in line 5, and insert in lieu thereof, "two per cent. of the assessed value of the property in this State." I do not think we should place too many restrictions on the Legislature. I have more confidence in the Legislature of the future than what many members have. I think they can better afford to leave that to the Legislature. In the past there has been an intimation that they were not too good. There is no reason why they should run in debt, unless they are compelled to do so.

Mr. IVINS. Has the gentleman made an estimate to know what the indebtedness might reach under this proposition?

Mr. SPENCER. I understand the assessed value of the property of the State to-day is about one hundred million dollars.

Mr. EVANS (Weber). That would enable us to go in debt about two million dollars.

Mr. SPENCER. That would be the extreme.

Mr. IVINS. Does the gentleman think that we ought to authorize the creation of a two million dollar debt now?

Mr. SPENCER. I do not, and I do not consider this would be authorizing it.

The CHAIRMAN. I beg pardon, but I think it would be in direct opposition to section 8 of revenue and taxation, which provides that the rate of taxation for State purposes shall never exceed eight mills on a dollar.

Mr. SPENCER. Mr. Chairman, that would mean that the tax should not exceed that for one year.

Mr. BOWDLE. Mr. Chairman, I give notice that I want to present a substitute.

Mr. CANNON. Mr. Chairman, I am opposed to the last amendment—that offered by the gentleman on my left. In the first place, I believe that the indebtedness of the State will be quite great enough. The maximum if we reach one million dollars, will give us quite a margin, and you will perceive, gentlemen, that this is only for occasions of failures in revenue. If you turn to section 3, you will find that you provide in that that other debts may be created, if authorized by law, for some single work or object to be definitely specified therein, which law shall provide ways and means for the payment. If we desire to build a capitol, or if we desire to do anything of this character, or if a great calamity should come as referred to by Judge Goodwin, it could be provided for under section 3.

I desire to call attention to the experience of Salt Lake City and her indebtedness, not for the purpose of frightening any one, or any thing of that character, but just to show what the effect was. Salt Lake City at the present time has an indebtedness, ex-

clusive of her school indebtedness, of about two million and a half dollars. I am informed by the city recorder that to show for that she has only a little in excess of one million and a half of actual assets. The balance of that two million and a half has been used mainly in her operating expenses, and I think it should serve as a warning to us. I think we should limit this indebtedness of the State. I desire to call attention simply to one piece of work that she has on hand. Mr. James the other day called your attention to the fact and he said it came under his personal observation; the time this building was originally designed, it provided for $375,000 or thereabouts. I have in my hand the statement of the cost of the building and it is itemized as follows:

Total cost of main building,	$777,908.68
Boiler house, including boiler plant,	48,482.22
Total amount expended to January 31, 1895, on the ground surrounding the building,	66,142.80
Approximate amount as yet unpaid on contract,	8,000.00
Total,	$900,523.70

I believe that most of that money was well spent in this building. I am not finding fault with that, but I am calling attention to the fact that when any city, municipality, or state incurs indebtedness, there is not always that care that should be used in the expenditure of the funds, and I am in favor of the section as it originally stands, with the amendment of the gentlemen from Weber.

Mr. SPENCER. Mr. Chairman, with the consent of my second, I move that "two per cent of all taxable property in the State," be inserted in lieu of my motion.

The motion was rejected.

The motion of Mr. Evans of Weber was agreed to.

Mr. Bowdle offered the following as a substitute for section 1:

The State of Utah shall not in any manner create any indebtedness including the present territorial indebtedness exceeding one per centum of the assessed value of the taxable property in the State as shown by the last general assessment for taxation, except to suppress insurrection or to provide for the public defense.

Mr. BOWDLE. Mr. Chairman, I am aware that you have just voted down the amendment presented by Mr. Spencer, which provides that the rate should not exceed two per cent. As I understand it the taxable property to-day of this Territory is about one hundred million dollars. The limit under that would be one million dollars. But suppose that we go on as we hope to, prospering from year to year and growing and the time should come that our taxable property would be ten hundred million dollars. With that increased taxation there will come increased necessities for the expenditure of public moneys, and you then would have the means under that section of providing for these contingencies. I still have a little faith (although I confess that they have not been absolutely right at all times) in the coming Legislature and in their doing what would be right in the matter. I do not see why they would be any more willing to run into debt than we are. Their interests will be identical with ours at present, and I cannot see why we should so tie them up and bind them that if the emergency occurs they cannot exercise the powers that might be vested in them for the good of the people, and therefore I am in favor of this section. I may say that this is pretty nearly identical with the section from Wyoming. There is only one or two small unimportant changes in the section.

Mr. EICHNOR. Mr. Chairman, I move to amend line 5 of the section by striking out the words "one million" and inserting the words "nine hundred thousand."

Mr. CANNON. Mr. Chairman, it looks

to me as if this would be making two bites of a cherry. We are very nearly up to that limit now and within the next two or three years it may be absolutely necessary, under State administration, to increase our indebtedness a little. I think it would be unwise to limit it to nine hundred thousand. It seems to me we are splitting hairs. I favor the report as it is.

Mr. ROBERTS. Mr. Chairman, I wanted to speak of the substitute and to express the hope that it will not prevail, because I am of the opinion that the arguments in favor of that, too, are also based upon false premises. The present taxable property of the Territory, which, of course, will be the taxable property of the new State, is about one hundred million dollars. And revenue derived from that amount of property, I am informed, is about two hundred fifty thousand dollars; the revenue for the Territory, which would also be the revenue for the State, at the present rate of taxation. The gentleman offering the substitute suggests that the time might come when our taxable property might be increased probably ten times. Well, if that shall be the case, Mr. Chairman, the revenue of the State will also have increased ten times and hence, less and still less the need of running in debt, and for that reason, I see no necessity for providing for the increase of the indebtedness of the State, since the increased revenue derived from the increase of property in the State will always be sufficient, as I take it, to meet the expenses of the State.

Mr. HART. Mr. Chairman, I am in favor of fixing this by naming some definite sum for the reason that if you have it based upon a fluctuating basis or amount there is never any certainty as to what amount of indebtedness will be created. You will notice the history of the different cities, some of our own in fact in this Territory in particular. I will name Salt Lake and Logan and there are perhaps some others, who will incur indebtedness and claim at the time that they did not know it was exceeding the amount fixed by the statute for the reason that they did not seem to bear in mind the taxable value of the property at the last assessment, but it seems to me if we fix the debt limit at either nine hundred thousand or one million or any other definite amount, we will have no excuse for passing that limit. I therefore will vote against the substitute and in favor of the original proposition. I believe that it would leave too narrow a margin to work upon if we cut it down to nine hundred thousand, for the reason that we have an indebtedness close onto eight hundred thousand dollars and there would be a large deficiency when the next Legislative Assembly meets, it would be certainly not less than one hundred twenty thousand dollars. I am therefore in favor of putting the limit at an amount that would be reasonable under the circumstances.

Mr. EVANS (Weber). Mr. Chairman, I do not think it is splitting hairs to knock a hundred thousand dollars out of this article. A hundred thousand dollars is not a bagatelle. It is considerable money, and I am in favor of Mr. Elchnor's motion to make it nine hundred thousand dollars, because I believe that will cover the present deficiency. And if I had my way about it, I would not permit the new State to go in debt one dollar in addition to what has already been incurred.

Mr. KERR. Mr. Chairman, I am not in favor of the amendment offered by the gentleman from Salt Lake, or the substitute. The first two years after our admission into the Union will be the most critical period in our history. While it is true that Congress has granted a great deal of land to the State which shall constitute a fund, the income of which shall be used for the maintenance of the public schools and State institutions, etc., it will require

several years to select and locate the lands and sell them and invest the means so that the State will realize anything on the fund. The indebtedness I understand is already in excess of eight hundred thousand dollars. And we are certain that some of the institutions are exceeding the appropriations made by the last Legislature for the maintenance of those institutions. It does seem to me that with the present indebtedness of the Territory there will be a small enough margin even if we place it at one million dollars. I will state, however, that I personally am in favor of keeping the debt at the lowest taxable point, but I do not think it practicable, I do not think it wise for us to place the limit lower than one million dollars. We must remember that the additional burden of maintaining the State government — the public schools, State institutions, the people of the State will have all they can bear without having to be taxed for all buildings that may be required, and it seems to me that a margin of a hundred thousand dollars would be certainly small enough.

Mr. EICHNOR. If you fix this limit at one million five hundred thousand dollars, you will find that in a few years we have reached the limit of indebtedness. The more credit a man has the more he can run in debt.

Mr. CANNON. Will the gentleman permit me a question?

Mr. EICHNOR. I will try and answer; I am not a Napoleon of finance, like you are, but I will try.

Mr. CANNON. I do not understand that there was any proposition for a million five hundred thousand before the committee.

Mr. EICHNOR. No, but I say if you were to fix the limit at one million five hundred thousand, in a few years we would have exceeded the limit. Now, gentlemen of the committee, going from a Territory into a State will not be as expensive as some expect or as some think it will be. We have reduced the grand jury, in fact we have almost abolished it. That has been a great saving to the Territory. We have reduced the number of jurors, that will be a great saving. The State officers, as the salaries were fixed the other day, will almost be paid out of the fees that will be turned into the office of the secretary of state. Now, I believe in a good old homely maxim, "live within your income." I believe in cutting this down to the lowest notch. I believe and I hope that Salt Lake will see the capitol. But I state frankly here that I hope never a pick will be driven for the capitol grounds again until we are out of debt and can afford to build a capitol. [Applause].

Mr. BOWDLE. What rate of interest is the indebtedness drawing at present?

Mr. EICHNOR. I do not know.

Mr. EVANS (Weber). Five per cent.

Mr. BOWDLE. Seven, isn't it.

Mr. IVINS. I would like to tell the gentlemen that we appropriated seventy thousand dollars for interest on bonds at the last session of the Legislature.

Mr. EICHNOR. This may be a strange position for a lawyer to occupy, to speak about cutting down debts, but if there is misery in private life, gentlemen, it is when a man runs into debt. As my friend Snow says, a man is in hell. You just put the limit high enough on the State of Utah, and instead of attracting people, you detract people. These other states I have cited here—Montana, one hundred thousand dollars; North Dakota, two hundred thousand dollars; South Dakota, one hundred thousand dollars; Washington, four hundred thousand dollars—Idaho has the system that my friend, Mr. Spencer proposed. Their limit is one and one-half per cent of the valuation. I believe in coming down to a mathematical certainty and I believe in fixing it nine hundred thousand

dollars, with all due respect to the financiers on this floor.

Mr. CANNON. Mr. Chairman, if the gentleman is going to have a mathematical certainty, when we have run in debt as much as we have, the bonded indebtedness being seven hundred thousand dollars, and the rest of the indebtedness amounting to about one hundred and thirty thousand, how in a mathematical certainty is he going to limit that indebtedness to sixty-six thousand and add increased expenses here in the office of the United States marshal of one hundred and fifteen thousand dollars, in the secretary of the Territory's office of thirty-three thousand dollars in a year?

Mr. EVANS (Weber). I would like to inform Mr. Cannon that under a State government, we will have no United States marshal at all.

Mr. CANNON. I will call the gentleman's attention to the fact that the Utah penitentiary will have to be maintained by the State. The expense of that, including guards, food, clothing, medical attendance, etc., is forty thousand dollars.

Mr. THURMAN. Mr. Chairman, are we going to start this State government right from the beginning on the theory that we are going to borrow money and incur a bonded indebtedness to pay current expenses from year to year?

Mr. CANNON. No, sir.

Mr. THURMAN. We are discussing here an indebtedness, not a rate of taxation.

Mr. CANNON. At the same time, let me state that I do not think it would be wise at first to increase the rate, so that people would be greatly oppressed by it. I think if we can prevent going in debt, the amount that it has been in the past two years—that I scarcely think that with the most rigid economy we can limit it much under the one million dollar mark and get our State fairly launched.

Mr. HEYBOURNE. Mr. Chairman, I would support the gentleman's motion to limit this indebtedness to the sum he has stated, nine hundred and ninety-nine thousand dollars.

Mr. EICHNOR. No, nine hundred thousand dollars.

Mr. HEYBOURNE. I want to state, Mr. Chairman and gentleman, that this is a matter that is going to be very closely watched by the people. The bonded indebtedness for this Territory to-day is causing them some serious reflection, and while I have regard and respect for the gentlemen who have served in Legislatures in Utah Territory in the past in this matter, I have to state here before this Convention that I see a disposition on their part at every session to increase this indebtedness. I am of the opinion of the gentleman, Mr. Eichnor, who has just preceded me, in this matter, that if this indebtedness was put up at a million and a half dollars, it would be a very short time before that limit would be reached. I am not in favor, Mr. Chairman and gentlemen, of allowing this latitude to the Legislature. Debt, as has been stated here, is something to be regretted, either personally, nationally, or in any other way, and if we want to progress as we expect to, we will have to keep this matter down. The gentleman has stated in this regard that there will be an influx of citizens, there would be an increase and that it would be necessary perhaps to increase the governmental expenses of the State. Well, now, when this influx comes here will be an increase in the revenue and I think that that will answer the purposes and meet the ends necessary, and I say if we want to get a good vote, a heavy vote, next November on this Constitution, let us present it before the people in that way that they do not feel as though this burden had been increased upon them, and let us keep it down. I shall certainly vote for Mr. Eichnor's amendment.

Mr. HART. Mr. Chairman, as I view the question the proposition before the people will be simply this, in starting upon the increased burdens of statehood whether they would be permitted to contract a small additional indebtedness or whether they would be required to make that up by an increase of taxes. Now, I am not in favor of running in debt any more than any other gentleman upon the floor of this house. I am strictly opposed to it, but when you fix it at nine hundred thousand dollars, you are practically giving us no latitude to run in debt. If we had any indebtedness now and some gentleman would propose to fix the limit of indebtedness at two hundred thousand dollars, you would think that was a very small amount, and yet if we had no indebtedness and you would permit your limit of two hundred thousand dollars, you would be giving the State more latitude than you give them now in limiting it to nine hundred thousand dollars. As the situation was last year, we were paying taxes at a rate that necessitated or permitted the running behind of something like sixty thousand dollars. That is the situation to-day. Now, there is either one of two things we have got to do. We have either got to permit a small indebtedness upon starting the State government, or else we have got to largely increase the taxes of the people to begin with. I am in favor of giving them just a little latitude. It will only be about one or one and a half hundred thousand dollars, and I am in favor of giving that much latitude to go on.

The question being taken on the motion of Mr. Eichnor, the committee divided and by a vote of 40 ayes to 34 noes the motion was agreed to.

The substitute of Mr. Bowdle was rejected.

Sections 2 and 3 were read.

Mr. EVANS (Weber). Mr. Chairman, I move to strike out all of section 3 after the word "be," in line 3, and insert the word "created," immediately after the word be. It is said, gentlemen, that the people can always be trusted, and that is in the main true, but there are many times in times of excitement and in times of booms, when some public work is projected or conceived by somebody, and when the Legislature is applied to for money for the purpose of accomplishing that work, the Legislature would pass a law to be submitted to the people in these times of excitement, and possibly the debt be created. My idea about running a public government or state government is just like running an individual business. I believe that it ought to be got up within its means, that we ought not to incur any indebtedness for public buildings or other improvements, except where there is sufficient revenue to carry on that improvement, without going into debt for it. I believe that it is well enough just to stop right where we are and say that we will incur no more indebtedness. Now, if the Legislature should submit a law to the people, it has got to be published in the newspapers for a period of three months next preceding the time it is to be voted on. There is a large expense at once for the purpose of finding out whether the people want the debt or not. I think that if we understood that we could not go in debt at all for any of these public purposes, but that we simply had to live within the revenues derived by way of taxation, that would be the very best and most happy state of affairs that could exist in our new State. I shall therefore favor the striking out of this section.

Mr. KERR. I would like to ask the gentleman from Weber a question. If all of section 3 should be cut out, if sections 1 and 2 are not explicit on that question? That is, would it be possible to contract any debt other than that which is specified in sections 1 and 2, if the entire section 3 would be cut out?

Mr. EVANS (Weber.) I think, probably, that would exclude any indebtedness, but I would like an expression, however, in the Constitution so that there would be no question about it; that that would be our only public indebtedness—that no other debt shall be created.

Mr. CANNON. Mr. Chairman, I am opposed to the motion to strike out. In case the State at any time desires to take up any work or make appropriation for some specific purpose, I think it is a wise provision, when people authorize it, by their vote, to allow the people to incur such indebtedness. There is no single individual in the State, unless it happens to be a very wealthy man, with good securities, who can borrow money at five per cent., and yet the State can borrow it at that rate. It is unwise, in my opinion, to require the State to gradually collect money and keep it in its treasury until it has money enough on hand with which to erect the buildings. If they want to erect the buildings, or to perform any great public work, that requires the expenditure of from one hundred to two or three hundred thousand dollars, it is quite usual for the State to be required to expend such sum, either for its educational institutions or for the capitol building—and I maintain it is unwise for the people to be required to pay taxes when they, in procuring the money for that tax, have to pay a high rate of interest sometimes in borrowing themselves, more than is necessary for the actual expenses; and to gradually accumulate that money until they have enough to build a building; unless they pursued that policy, if the gentleman's motion prevails they never could undertake any great public work; but by this section, if the people can authorize the borrowing of money for some purpose, that money may be borrowed, but it limits it; first, stating that it shall specifically define what the debt is for; and, second, must provide means by which that debt will gradually be paid; and, third, that it cannot be assessed at all until it has been authorized by a vote of the people who shall vote upon it at the election. I think this section should remain as it is. For the benefit of Mr. Eichnor, I will say it comes from Washington verbatim, I think.

Mr. EICHNOR. I will support it.

Mr. ROBERTS. Mr. Chairman, I hope that the amendment to strike out a part of the section indicated will be favorably considered. I hope that the section will be amended as proposed, and I think it is necessary that it should be, in order that this section may be in harmony with the section that was passed in the legislative article the other day, providing that the credit of this State should not be used in aid of private enterprises. I believe that was the principal substance of the section that was passed here in the legislative article the other day. This section, as it now stands, is equivalent to using the credit of the State for private purposes, provided that the matter be submitted, as a separate question, to the people and they vote in favor of it, and in order to maintain intact the principle that was won here the other day, on this floor, that the credit of the State should not be used in aid of private purposes; I believe that this part of the section indicated should be stricken out, and that the principle ought to be asserted right here that except debts specified in sections 1 and 2 of this article, no debt shall hereafter be created in the State.

Mr. CANNON. May I ask the gentleman a question? Provided that in any year it shall be found necessary to build a building costing say three hundred thousand dollars, would you advocate taxing the people sufficiently in one year to build that?

Mr. ROBERTS. No, sir; but I would favor getting out of debt first and then we would have a margin upon which to operate.

Mr. CANNON. I would like to ask how you could have a margin?

Mr. ROBERTS. By the revenue accumulating in the treasury.

Mr. CANNON. You would keep that revenue idle in the treasury until you had sufficient?

Mr. ROBERTS. I do not suppose it is necessary to keep it idle. If the State was building a capitol, it would not have to pay the entire cost of the structure in one year or two years.

Mr. CANNON. I would like to call the gentleman's attention to the fact that no use can be made of public funds by any officer entrusted therewith.

Mr. ROBERTS. Under appropriations of the Legislature it could be used.

Mr. CANNON. It could be loaned?

Mr. ROBERTS. No, sir, but used for public purposes.

Mr. CANNON. I would like to know in what way.

Mr. ROBERTS. I do not see any particular difficulty in seeing how it may be used. We will suppose that the State has on hand in its treasury fifty thousand dollars. It might be appropriated for the purchase of the capitol site, we will say, and if another year it had a hundred thousand dollars, it could begin the structure, and then year by year appropriate the revenue as we appropriate revenue for the sustaining of our public institutions year by year, until the public work was completed. Or, it is suggested, if we shall be fortunate enough to pay this present indebtedness of seven hundred thousand dollars or eight hundred thousand dollars off, we would then be able to within the limit use the credit for such purposes as the gentleman speaks of.

Mr. JAMES. Mr. Chairman, I did not intend to make any remarks, but this matter seems to be a general sort of a debate. I suppose we all might as well take a hand in it. The mistake in my opinion that gentleman are making regarding this matter is forever tying up the hands of the Legislature. Now, gentlemen do not stop to think that conditions may arise here that are beyond the control of mankind to protect the people. I had a talk not long ago, Mr. President, in your presence, with a gentleman that dug the first ditch that was taken out of City Creek canyon, to put a little water upon a few potatoes, the first ever planted in this valley. That gentleman made a statement to myself, and others that were present, that from where the Templeton hotel stands now to near where the Knutsford hotel stands now, after the ditch was dug, the entire City Creek in the month of July was turned into that creek, it took two days to reach that little potato patch. Now, that was the condition of our water supply at that time. Now, I say to you, gentlemen, suppose that condition should come back upon our people, what will be the result, what will be the duty of the people? Why should you have your hands tied? Why, the duty of the people will be to start in and build reservoirs that will cost a million dollars in this Territory at once and husband up every bit of water that is now running away to waste during the long winter months and the season of the year when you have no use for it for irrigation. I only mention this for illustration. It may happen. You do not know any of you but it shall. Why should we be so particular about forever tying up the hands of the Legislature and forbidding the people controlling their affairs hereafter? I am sure I have confidence in the people that they will elect legislators that will take care of our affairs and look after them. I am glad I am not a candidate for the Legislature, because I do not think there will be any laws to make for the next twenty years or more after this Convention gets done.

Mr. VARIAN. Mr. Chairman, I want to ask just a question for information. The chairman of the committee prob-

ably can reply to it. What is the purpose of this article in the event of the payment by the State of the seven hundred thousand dollars now existing indebtedness? Will it not leave the State with the power to re-contract a million or nine hundred thousand dollars indebtedness? Is that the intention of it? As far as I read this—of course I am not familiar with it in the sense that I ought to be, perhaps, but I ask for information whether there is any provision now in this article that would provide for the retiring of this seven hundred thousand dollars of indebtedness? I judge from the debate that the intention of the committee was to limit the State in the contracting of new indebtedness to the sum of two hundred thousand dollars; that being in excess of the amount for which the State shall become liable on the old territorial indebtedness, but it occurred to me while listening to the gentlemen and reading this over that there might be a question as to what the power of the State would be in the event of these bonds being paid. I presume the territorial bonds are to run fifteen years, are they not—a number of years anyhow, and of course it will be incumbent upon the State to provide for the taking up of the bonds when they shall mature.

Mr. THURMAN. Would the gentleman permit me to just read a line I have here as an amendment that I propose, and see if it meets what you have in mind?

Mr. VARIAN. I will say to the gentleman very frankly, I have not anything very clear in mind, except that one point.

Mr. THURMAN. With your permission, I will read the line.

The State may, to meet casual deficits or failures in revenue, or for expenses not provided for, contract debts, and such debts, direct or contingent, in the aggregate, shall not at any time exceed one hundred and fifty thousand dollars, not including present indebtedness.

Mr. VARIAN. It does not strike me now that that covers the question that I have in mind. Perhaps I do not make myself clear. I will ask the chairman of the committee. Here we have seven hundred thousand dollars indebtedness represented by territorial bonds that will be paid eventually. Here you have a power to create an indebtedness granted and also limited by section 1 of the article to nine hundred thousand dollars. If we are to assume that the seven hundred thousand dollars in bonds are never to be retired, but are to be continued from year to year and be replaced by new bonds, then it is quite clear that the State is limited to two hundred thousand dollars additional indebtedness. But what I want to know is, when you pay that seven hundred thousand dollars, is the limit still open for the full nine hundred thousand dollars?

Mr. IVINS. May I ask Mr. Varian a question? I would like to know how Mr. Varian interprets—whether he does not interpret it to mean that after the present indebtedness is paid, if the State may incur an indebtedness of nine hundred thousand dollars?

Mr. VARIAN. It does not strike me that way. But as I said before, I would not presume to discuss it now, without looking it over further.

Mr. IVINS. That is the view I have taken.

Mr. CANNON. I do not know that I would be able to give an interpretation of it other than that which would be conveyed by the reading of the language contained in it. The section as adopted by our committee was adopted by a full committee. There were all fifteen of the members present, I believe, and no objection was raised at that time and it was designed to cover more particularly our existing condition than for the future.

Mr. VARIAN. Do not understand me as raising an objection. I simply wanted to know what the idea of the

article was on the part of the committee.

Mr. CANNON. I presume it would be provided that they could at any time, if they needed to, spend the amount of the revenue for a deficiency, but there is a provision, I think, in our revenue article that would limit this.

Mr. EVANS (Weber). Mr. Chairman, I do not believe there is any doubt but what the section would permit a limit of nine hundred thousand dollars at any time. It is clear from the expression of the language (reads section). In other words, we can keep our debt limit to nine hundred thousand dollars all the time. I do not believe that it is right to do that. I think the article, after it shall have been completed, ought to arrange for the payment of this debt, and put a very much lower limit than that which the section now provides, because if we keep it up at nine hundred thousand dollars at five per cent. per annum interest, the new State would have to pay just forty-five thousand dollars a year interest alone. Well, that is a condition of things that is not desirable. It would be very much better to get out of debt and take the money we would pay out for interest and put it into substantial improvements at home. So that the section will undoubtedly be amended if it pass the amendments that have been proposed, so as to make a lower limit when this indebtedness shall have been paid.

Mr. CANNON. I desire to call Mr. Varian's attention to section 10 of the article on revenue, passed this morning, which provides what appropriations and expenditures may be made, and I do not think that a debt could be incurred under section 10——

Mr. HART. Mr. Chairman, I am in favor of the motion of the gentleman to strike out part of the section. If the section remains as it is you virtually defeat the purpose of the limit you first placed. I am in favor of placing the limit there, whatever it may be, nine hundred thousand or a million, or whatever is finally determined upon, and in that way having some limit to the amount of indebtedness. If this section goes in you have no limit, because you can bring on first one purpose and then another and increase the State debt in that way.

Mr. CANNON. The purpose of this is not the same as specified in section 1.

Mr. HART. It may be and may not. A special debt may come in and be paid out of the general fund. If this provision goes in you will have first one purpose and then another voted on specially by the people. Now, the representatives in the Legislature are supposed to represent the views of their constituents. They art not supposed to vote an indebtedness unless their circumstances demand it, and when you submit it to the people you do scarcely more than submit it through their representatives in the Legislature. I say that if we have a limit on the people's representatives in the Legislature you should also have a limit upon the people themselves.

The CHAIRMAN. The question will recur upon the amendment of the gentleman from Weber to strike out all after the word "be," in line 3.

Mr. KIESEL. Mr. Chairman, I hope that motion will not prevail. I think the effect of it will be to stop any internal improvements that may be needed. I think the time will come when large amounts of money will have to be spent and raised otherwise than from revenues or taxation, for the purpose of creating reservoirs and furnishing water for the lands which the general government will give us. Possibly we may want to connect this part of the country with Dixie some of these days.

Mr. HAMMOND. Yes.

Mr. KIESEL. Build good roads with San Juan, perhaps. For all such purposes I do not think we can depend on

revenue entirely, and inasmuch as it will be left to the people to vote upon in future Legislatures, and I think that is safe to do. I do not think we are the quintessence of everything—that we have all the knowledge. I think those that come after us as legislators will also know a little of what is to be done and I am not in favor of tying their hands and handicapping this Territory as you contemplate doing by striking out that part which my colleague from Weber suggests.

Mr. ALLEN. Mr. Chairman, some of the members on the floor have not been satisfied and want to tie the hands of the Legislature and they have done that to quite an extent. Now, they are not satisfied and want to tie the hands of the people and say that you people shall not do with your means what you wish to do. When we place ourselves above the people and say you shall not use your means as you please, I think we are coming to a pretty pass.

Mr. THORESON. Mr. Chairman, I think we have notified the people that we expect to raise the rate of taxation from five mills up to eight and that will increase the revenue of our State. We also notified them that we will keep them in debt forever to the tune of nine hundred thousand dollars and I think that ought to suffice, and the balance should be stricken out. I favor the striking out.

Mr. LAMBERT. Mr. Chairman, I have listened here patiently to a great many remarks about our future Legislatures. I have heard slurs thrown out that we cannot trust our Legislature. In the language of the gentleman from Piute, now they want to insinuate that we cannot trust the people to handle their means. I think we ought to leave this as it is and leave the people to choose what they will do with their means and leave the Legislature untrammelled in this matter.

Mr. THORESON. You would then suggest that we ought to leave no limit to the indebtedness?

Mr. LAMBERT. I did not state that at all. We have put a limit to the indebtedness.

Mr. HART. I would like to ask the gentleman one question. If the Legislature or the people are not to be limited or tied up in any way, what is the use of making a constitution? Is not the very purpose of a constitution to put a limit on the people?

Mr. LAMBERT. I presume it is, but have we as constitution makers the right to tie up men and tell them what they shall do with their finances in the future?

Mr. HART. Isn't that what we have been doing all the time?

Mr. BOYER. Mr. Chairman, I wish to state that I am always in harmony with my friend from Weber (Mr. Kiesel), when he is on the right side, and I certainly take him to be on the right side of this proposition. I believe the proposition of leaving this section as it now stands is right; that it comes right from the hearts of the people. When the hearts of the people are desirous of making an assessment upon themselves, they should have the right to do so. It comes home locally and to the State and I am in favor of the proposition of the section to remain as it now stands.

Mr. SMITH. Mr. Chairman, I trust that the proposed amendment will not prevail in this proposition. While there might be reasons why we would desire to curtail the Legislatures or curtail the county courts or town councils, it strikes me that this proposition is a clear submission to the people taxing themselves by their vote. I do not think this body of men want to tie them up so that they cannot do it. So far as I am concerned, I am fully of the opinion that the section better remain as it is in case of a contingency arising that this proposition may be submitted to them, and the results in my judgment

would prove just what would be desired. If the people wanted it they would vote for it; if they did not want it they would vote it down.

Mr. BOWDLE. I want to ask the gentleman from Weber (Mr. Evans) a question. If your amendment would prevail, the section as it stands, would not it preclude the Legislature ever granting a bounty to any enterprise?

Mr. EVANS (Weber). I do not think this section has any thing to do with bounties. I would like to answer that a little further. Ever since I have been in this Convention, in committees, and every place else, everything that has ever been done by your side of the house that I have the honor of being connected with has always been questioned in the same way that the gentleman questions me now. They throw up their hands in holy horror at once and say, "Is not there some bounty propositions in this section? Won't this cut off a bounty? Will it prevent us from giving the public moneys to private institutions?" There is nothing of the kind intended this section.

Mr. BOWDLE. Now, I ask the other question. The only way that you could grant a bounty would be either to pay it in advance or agree to pay it when the work was done. If this section should stand as you propose to amend it, would not that preclude the Legislature from making a contract to pay a bounty?

Mr. EVANS (Weber). Why, bounties, as I understand it, are appropriated right out of the treasury. The way it already stands you could not make a contract or lend the aid of the State or town or any political subdivision of the State for a bounty or for any other purpose of that kind. That proposition has been settled. But the other question of bounties is not included here at all. I am sorry that it should have been suggested. A bounty is by an act of the Legislature which appropriates a certain amount of money right out of the treasury from the taxes of the people at once. I do not think the gentleman would want to bond the new State for the purpose of creating a bounty. If the State is not able through taxation to give bounties out of its treasury, it certainly does not want to borrow money for that purpose, does it? Is that your idea, Mr. Bowdle?

Mr. BOWDLE. No, sir; that was not my idea, at all.

Mr. EVANS (Weber). This is a proposition to borrow money.

Mr. BOWDLE. If you will allow me to answer the question, I will answer it. If this section should be amended as you want it that no kind of an indebtedness, except as provided in sections 1 and 2, could be created by the State, no obligation to pay anything except as provided by those two sections; now suppose the Legislature should say, "We will pay to any enterprise that may be established a bounty." In that event, wouldn't that be an obligation, and wouldn't it be precluded by this section?

Mr. EVANS (Weber). I do not think the gentleman understands the section at all.

Mr. BOWDLE. I think I do.

Mr. EVANS (Weber). This section is to preclude the State from incurring any indebtedness even by the vote of the people. It is not designed to prevent the giving of a bounty out of the treasury, for any purpose which the Legislature may design. But it is designed to cut off indebtedness, even though the question for any particular purpose may be submitted to the people. Now, I want to say a word or two further in respect to that matter, and I believe the chairman of the committee on revenue will agree with me that this is designed not for the purpose of aiding private enterprises at all; there never was any such suggestion thought of in the committee, but whenever the State desired to do some-

thing—engage in some building or the construction of them, such as the building of a capitol, or the erection of a university, or a school, or something for public purposes, that the State might go in debt in addition to the limit of indebtedness named in the first section, but not without first having submitted it to the people. Am I right about that, Mr. Cannon? Was not that the purpose of the section?

Mr. CANNON. I will state that certainly was the purpose. I do not understand the object of the gentleman in now proposing an amendment, because I distinctly understood that he favored the article and the section.

Mr. EVANS (Weber). We made no minority report at all. As I stated this morning, we got along very nicely. There was nothing of a political nature in it. It is a question whether we will saddle public indebtedness on the people in the future. My own idea is to prevent it and save the interest which we will otherwise pay. Keep it at home and make our improvements as we go along. Let our improvements be more gradual and more permanent and without a heavy debt being saddled on the new State. That is the only purpose of it. That I believe ought to be accomplished in the way suggested. Whenever a gentleman on our side of the house or on the other suggests this is of a political nature, I think there must be some mistake about it, because there can be nothing of that kind in this section.

Mr. CANNON. I would like to ask the gentleman whether in his opinion, if a building costing two hundred thousand dollars was to be erected, whether it would be good policy to borrow two hundred thousand dollars and pay five per cent. interest thereon and erect the building and finish it, so that it would be protected from the weather, etc., or whether it would be good policy to build it at the rate of say fifty thousand dollars a year and leave it unprotected and unfinished in that form?

Mr. EVANS (Weber). I forget how long they were building the State capitol at Albany, New York, but I think it was somewhere in the neighborhood of twenty years. They builded it from the surplus taxes, without any bonded indebtedness, and it is one of the most handsome capitols ever built in the United States. It equals, if it does not excel, the great capitol of the United States, and that great state is not in debt one dollar to-day. But my idea is simply to prevent that thing. You people here in Salt Lake, or the people in Ogden, or the people at Provo, if it is left open, will importune the Legislature and say, "Let us go to the Legislature and get them to submit to the people the question of building a capitol, or a school, or a university. We are in a heavy center of the population, and we will get all the votes at least in the locality where the institution is to be erected." And probably the balance of the Territory will pay little attention to it, and the first thing you know we will have a debt of that kind saddled upon the people and they will hardly realize how it occurred.

Mr. GOODWIN. May I ask the gentleman a question? If your amendment passes, suppose an emergency should arise in the Territory that the farmers throughout the Territory would need fifty thousand dollars to buy seed, wheat, and food, to carry them over until another harvest, how could they get the money if your amendment passes?

Mr. HALLIDAY. Get it out of the Tithing Office. [Laughter.]

Mr. GOODWIN. Mr. Chairman, I move that the gentleman be put out.

Mr. EVANS (Weber). The gentleman from Utah has answered the question. I want to answer the question by saying this: That such a condition of things we hope never will exist. In cases of public calamity, in cases of ab-

solute necessity, no law is known and we would be able in the face of the Constitution to meet a contingency of that kind if such a calamity should occur.

Mr. GOODWIN. Excepting the cases specified in sections 1 and 2 of this article, no debt shall hereafter be created.

Mr. EVANS (Weber). That is my purpose. I do not want any other debt contracted, except this nine hundred thousand dollars.

Mr. MURDOCK (Beaver). I think this is a very important question, gentlemen, and I think there is a very great deal of mistrust manifested in the coming Legislatures, which I think is wrong—not only the Legislature, but the people. This provides that the people may order an indebtedness if they see proper, and to tie up the Legislature and to tie up the people, I think it is very incorrect, and I hope that the amendment that is proposed will not prevail. I think that should be left open, for the fact that we are none of us prepared to tell what the future may develop in this country. We are in, as it were, almost untried to a very great extent in the resources of this country, and we might be very sorry, gentlemen.

While I admire caution and economy as has been exhibited by many speakers here upon this floor, I admire that. I have always admired it, but we cannot tell what the future will develop, and hence I think it would be very safe to leave the section as it is, and if anything should arise in the interest of the people that they would feel it necessary for them to vote upon this question, and give the Legislature the privilege of creating an indebtedness that would be a general good; we understand this, that credit is money. It may be abused, but I think the credit of the State should not be impaired by laying an embargo on it, so that it could not be used by the people. I think the people generally are judicious. They are sensitive upon indebtedness, and while I very much admire the feelings that have been exhibited by the speakers in regard to economy and holding indebtedness very closely, yet I think this is taking a step further than we should be guaranteed in doing. We are here to lay the foundation of a State, of course, but to tie the hands of the Legislature and to lay a restriction upon the people—it is their property. The credit of the State belongs to them, as your credit, as my credit belongs to myself, and I may use it as I see proper. I hope that the amendment will not prevail.

Mr. PRESTON. Mr. Chairman, I had not intended to say anything on this subject, but since my friend from Beaver has talked, I will have to say that I cannot agree with him at all; that many of us on this floor here would have been glad to have had some law or something to have prevented us from going into debt quite so much as we are personally, and I think we ought to have some restriction to keep this new State that we are organizing from going into debt. We ought not to go into debt nine hundred thousand dollars. After we get the present debt cleared off, three hundred or four hundred thousand dollars is all the limit that we should have to go into debt. We can build reservoirs without money. We have done it. The people should build those reservoirs and then they would own them themselves. They should build their water ditches, then they would own them themselves. Capital would not own them, and be taxing them from year to year to pay interest.

Mr. CORAY. Mr. Chairman, I do not think we need worry over this proposition. The women will undoubtedly vote on this question. If there is any public debt proposed, they will be called upon to vote on it, and I think they are generally economical. I think there is no danger in the section whatever.

Mr. VARIAN. Mr. Chairman, I have

about reached the conclusion since hearing the gentleman from Weber that the result of his amendment would be to deprive the State of the power to go into debt to erect public buildings. Is that the understanding of the gentleman from Weber?

Mr. EVANS (Weber). Yes, sir.

Mr. VARIAN. I want to call attention to the first three lines in section 1 with a view to suggesting that the power to create indebtedness there is limited to casual deficits or failures in revenues, which are the same thing, or for expenses not provided for. Now, expenses, I apprehend, mean in that sense and in the context here the current expenses of maintaining the State government. It is a question whether it would include the building or erection of State institutions. If that is so, this nine hundred thousand dollar limit only accomplishes this purpose, it permits you pay off the existing indebtedness of some eight hundred and twenty thousand dollars and to incur an additional indebtedness of some eighty odd thousand dollars for the purpose of meeting casual deficits and paying expenses. Now, if that is the true construction of that section, what is the purpose in prohibiting the State in section 3 from providing for other necessary matters, such as erecting buildings? If that is the gentleman's purpose, then he understands the construction of section 1 as I do.

Mr. EICHNOR. Mr. Chairman, I look upon section 3 that it has the same force as an amendment of the section. The Legislature can propose to amend section 1, which we passed a little while ago, and submit it to the people and the people will vote upon it. I think section 3 is in the same line as the article we passed sometime ago to amend the Constitution. Leave it to the people.

Mr. KERR. I would like to ask the gentleman from Salt Lake a question. If section 3 is as you have just stated, why not leave it out entirely? That is already provided for in the section on amendments. If the people of the State desire to contract a debt in excess of the nine hundred thousand dollars and any additional debt under the provisions of section 2, then an amendment to these sections can be submitted to the people and it is provided by the people. Then, if they are as you stated, why not cut it out entirely?

Mr. EICHNOR. Mr. Chairman, I think the people would have the power to raise the revenue, but if the purpose was distinctly stated as this article provides, they would be more willing to vote for it.

Mr. CANNON. Mr. Chairman, answering Mr. Hart's question, I would call attention to the fact that it would require two-thirds of the Legislature to propose an amendment to the Constitution, whereas in this case the Legislature itself can propose the item and submit it to the people.

Mr. SQUIRES. Mr. Chairman, I might be in favor of voting for this amendment of Mr. Evans if it were not that he has already stated that later on he intends to offer an amendment providing that the debt limit of nine hundred thousand dollars shall be materially reduced after the bonded debt of the Territory or State has been taken up. That will leave us no margin whatever for any public buildings we might need, and I believe that this matter should be left just as it is in this section.

Mr. ELDREDGE. May I ask the gentleman one question? You understand that from this section they would be authorized to use any part or portion of the amount herein permitted to be created in a building?

Mr. SQUIRES. That is not specified. I understand from this first section that as fast as the bonds are taken up other indebtedness can be incurred to the amount of nine hundred thousand dollars for any purpose which the Legislature may vote.

Mr. ELDREDGE. I understand this section limits it. I understand from this section that it limits the purpose for which that money may be expended—to meet casual deficits or failure in revenue, or for expenses not provided for. Now, it is simply limited to those three sources. It can be only applied in whatever may be set forth in this particular section and not that it may be used for anything that the Legislature might see fit, which was not included in this section.

The question being taken on the motion of Mr. Evans, of Weber, the committee divided and by a vote of 32 ayes to 50 noes, the motion was rejected.

Mr. ROBERTS. Mr. Chairman, I move to amend section 3, in line 5, by inserting after the word "single," the word "public," and after the word "or," the words, "other public." I take it, sir, that the principle that was asserted and discussed on this floor a short time ago to the effect that the credit of the State should not be used for private purposes, ought to be protected in this instance. I do not think it necessary to discuss the merits of these amendments at length, as I believe that a recognition of the principle then discussed and accepted by the Convention will be reasserted in this instance, as I conceive that it only provides that the credit of the State shall only be used for public purposes and not for private uses.

Mr. EICHNOR. Does not the section as it was passed day before yesterday make that entirely unnecessary? What is the use of duplicating this Constitution?

Mr. CANNON. There is none.

Mr. KERR. Mr. Chairman, it seems to me that the amendment proposed by the gentleman from Davis is not necessary. I think the amendment that was proposed and carried the other day in the article on legislative covers this. I do not think it possible for any appropriation to be made or for any debt to be contracted for any other than public purposes. I do not think it is necessary at all.

Mr. ROBERTS. Mr. Chairman, the explanation of the gentlemen on that subject that it is clear to their minds that the matter is covered by the section passed in the legislative article—with the consent of my second, I withdraw the amendment.

Mr. HART. Mr. Chairman, I move to strike out the word "three," at the end of line 20, in section 3, and insert in lieu thereof the word "two;" that will make it conform to the publishing of all amendments to the Constitution.

The amendment was agreed to.

Mr. SQUIRES. Mr. Chairman, I suggest a slight amendment to section 3, by striking out the words "for and against it."

Mr. THURMAN. Mr. Chairman, I want to call attention to that. The question is whether this does not require it to be submitted to the people and not to the taxpayers if it is to create a public indebtedness, and we are elsewhere talking about only having taxpayers voting on a proposition of that kind—I merely call that to the attention of the Convention.

Mr. GOODWIN. Mr. Chairman, I think it is fixed in the next section.

Mr. THURMAN. Well, if it is, then my remarks have no application. I have not compared them.

Mr. HART. Mr. Chairman, why not let that stand? This voting is to be done at a general election. It may be, some who will vote for the general officers will not vote either for or against this proposition, and if this is stricken out, why it might be construed that it would require a majority of all those voting at the general election. That no doubt would be the construction, whereas the proper construction, I take it, would be a majority of those voting upon that proposition, either for or against it. I am opposed to the motion to strike out.

Mr. SQUIRES. Mr. Chairman, I withdraw the amendment.

Sections 4 and 5 were read.

Mr. THORESON. Mr. Chairman, I have an amendment to section 5, by striking out "or other municipal corporations," and inserting "or" between "town" and "school," in line 1.

Mr. THURMAN. Mr. Chairman, I am opposed to striking out "or other municipal corporations," and it ought not to have been struck out of the section that we struck it out of in the revenue act, because there may be municipal corporations not included in these names specified. For instance, a village is not included here at all. Now, what harm does that do? And it certainly saves any possible municipal corporation that exists now or that may hereafter be created.

Mr. FARR. Mr. Chairman, I make a motion that section 5 be stricken out. I will now give my reasons, which will be in keeping with my vote to sustain the gentleman from Utah County's motion to strike out all of section 3 after the word "contracted," but my reason for that was because I intended to move to strike out all of section 5, because section 4 covers everything that is necessary. That is contained in section 3, that did not get struck out, and covers everything that is necessary in section 5. The idea of authorizing people to go to work and tax five per cent.—why not say fifty or a hundred per cent. and have some liberal money? People will be taxed to death the way they are today. I think section 4 provides everything that is necessary in this article on that subject. If the people vote for it, then they have that permission, consequently I am certainly in favor of it. I do not wish to make any further remarks on it—strike out the whole of section 5.

Mr. SPENCER. Mr. Chairman, I would like to ask the chairman of the committee one question. I understand Salt Lake City now has already issued bonds for about six per cent. How will this interfere with the rights of Salt Lake City or any other municipal corporation that have exceeded five per cent?

Mr. EVANS (Weber). It cannot affect it.

Mr. CANNON. It would not affect existing indebtedness, but it would not permit an increase except as herein provided, and I think they should not increase their indebtedness. All existing indebtedness, if you will look at section 8, is provided for in this article.

The motion of Mr. Farr was rejected.

Mr. SQUIRES. Mr. Chairman, I suggest that instead of striking out "municipal corporations," we strike out the word "city," then municipal corporations will cover the organized villages, and when the proper time comes I shall vote to reconsider the motion we passed this morning in section 3 of the article on revenue.

Mr. EVANS (Weber). Mr. Chairman, all the charters that exist in the statutes to-day are called cities—every one of them—cities is a more appropriate word than municipal corporations. They were all designated as such. I am in favor of striking out.

Mr. CANNON. Mr. Chairman, I do not think that it is consistent for us to vote against striking this out now, when we, this morning, voted to strike out the words, "municipal corporations." I will say the committee had this in view. The objection that has been raised by the gentleman from Utah County was one which was raised in the committee and we thought it better to have those words even if they were redundant than to strike them out and have afterwards some difficulty come up. I think it would be better not to disturb them now and would be better to reinsert them when we come to the third reading of the other article.

The motion of Mr. Thoreson was rejected.

Mr. EVANS (Weber). Mr. Chairman, I move an amendment to section 5, line

6, by striking out the word and figure five and add in lieu thereof the word and figure three, so that it will not exceed three per cent. I want to call the attention of this Convention to one fact, as this article stands any municipal corporation can go in debt ten per cent. because for some purposes they can go in debt five and then for other purposes, supplying the city with artificial lights and otherwise, they can go in debt five, making an aggregate of ten per cent—an appalling amount. We have had a little experience about these things right in this Territory, and I am going to relate a little that occurred in Ogden. The present law of Congress limits these cities to four per centum of the taxable valuation of the property. We reached that limit very soon. There was an effort made at the time—a good many people agreed to have the Congress of the United States remove that limit and give us an eight per cent. limit. The Congress of the United States did pass it. It went through both houses of Congress. President Harrison, then in the chair, vetoed it, his first official veto.

A good many people were somewhat incensed over his veto, because they thought that it was against progress, that it was quite necessary to borrow a little more money to go into debt about eight per cent. instead of four, but I tell you, gentlemen, that the wisdom of the President of the United States in the veto written to that bill has since proved to be correct, and I believe that the people of Ogden to-day recognize the fact, although they were somewhat incensed over it at the time. We would have had an indebtedness in Ogden to-day had it not been for that veto of something in the neighborhood of one million dollars. To-day the city is burdened and tax ridden until it is scarcely able to stand up under the burdens and you permit us to add another per cent. upon the taxable value of our property there, and then let us add in addition to that, five per cent. for lights and sewers and furnishing the city with water, and we will be saddled with just six per cent. more than we are to-day. I do not believe the people of the city want it. I do not believe that Salt Lake City wants it or ought to have it. I do not believe that any municipality in this State desires a limit as large as that. Why it would simply permit the cities of this Territory to saddle themselves with an indebtedness that they never could shake off. They simply would have to be sold under the hammer of the taxgatherer or the sheriff for the indebtedness which would be incurred. I see my colleague from Weber is somewhat uneasy and desires to get up and make a reply. He will have the opportunity. I have said nothing yet with respect to him.

Mr. KIESEL. No.

Mr. EVANS (Weber). I admired his patriotism at the time he secured the act of Congress, but subsequent events have conclusively shown the wisdom of the President in that veto. I am in favor so far as I am concerned of putting this limit to three per cent. and not letting any city go beyond it. To-day, in Ogden, we have about reached that limit and we have warrants floating about in the community selling at a discount—a very large discount, too, of about fifteen per cent., a condition of things that ought not to exist. It is better for the cities to go slow, better for them to make their improvements, with the means they have in hand, and it is far better for the people who have the debt to pay. I think this limit is entirely too large. I think it is beyond all reason. And my friend may ask me why I did not make some reference to this in the committee. Unfortunately I was not in the committee when this public debt was considered. I was in other committees which required all my attention.

Mr. KIESEL. Mr. Chairman, I think my colleague, Mr. Evans, who is usu-

ally right—in this instance, I think he made a very unfortunate allusion. If we at that time had secured five hundred thousand dollars—it would have enabled us to get five hundred thousand dollars at five per cent. Everything was arranged for, if it had not been for the veto of the republican President, Mr. Harrison. Now, that five hundred thousand dollars at that time would have enabled us to own our own water works; it would have enabled us to own our own electric lights, and it would have provided us a revenue of at least one hundred thousand dollars. Instead of that we are paying out about seventy-five thousand dollars a year. Now, this is one instance, where the veto of the President was not well exercised.

Mr. EVANS (Weber). The water works were sold before this act of Congress passed.

Mr. KIESEL. The water works were contracted for and we were allowed under the terms of our contract to buy them back and that money would have enabled us to do that, to pay for electric light works and to build our whole sewerage system.

Mr. EVANS (Weber). The object was not to buy the water works.

Mr. KIESEL. That was the principal object and nobody was more in favor of it at that time than yourself.

Mr. EVANS (Weber). Certainly; I have stated that the people were indignant at the time. I believe in every city owning its own water works, but this permits five per centum for general purposes and five per centum for water works.

Mr. CREER. Mr. Chairman, I am opposed to the amendment suggested by the gentleman from Weber, because I think that limit would be too narrow. It includes existing indebtedness, but more particularly am I opposed to it for the reason that it would confine school districts that could not in any event assess more than three per centum of the assessed valuation of the property in that district. I know in my district they are opposed to bonding for the purpose of building school houses and they have now to rent to a large extent, in order to furnish accommodations for the pupils and this would confine it so that they could not assess more than three per centum, in order to build school facilities for the children, and I am opposed to that.

I think we ought to have a right if we wish to assess the district up to the amount of five per centum in preference to bonding the district. I had rather leave it as it is.

Mr. ELDREDGE. Mr. Chairman, I hope that this amendment will prevail, and even if it had been made two per cent. I should have been in favor of it. I notice that it gives the authority to counties to create an indebtedness of five per cent. A city which is a portion of a county, five, and a school district, which may cover right over the same ground, five, thus making in one section of the country fifteen per cent. indebtedness, that may be created by these different organizations, the county, city, and school district, and it is decidedly too much to place in the power of the inhabitants of any section of the country to create an indebtedness in my judgment.

Mr. SNOW. Do you think the city is going to vote indebtedness for a school house?

Mr. ELDREDGE. They may vote a tax for a city hall or some building.

Mr. SNOW. That is not the question. I ask you about a school house.

Mr. ELDREDGE. A school district may.

Mr. SNOW. Has a city municipal authority over school houses?

Mr. ELDREDGE. No, sir.

Mr. SNOW. Then, where does that fifteen per cent come in? Here is a discrimination made between county, school, and city.

Mr. ELDREDGE. It says no city,

county, town, school district, or other municipal corporation. That would be an aggregate of a school district or the aggregate of a county indebtedness or of a city indebtedness.

Mr. SNOW. Five per cent.

Mr. ELDREDGE. No; each one five per cent. in their individual sphere. You may take the indebtedness of Salt Lake City to-day, as a municipal corporation, and that is one thing; you may take it then as a school district, and that is another thing. Although the same class of property that is being held for the indebtedness of the incorporation is being held for the indebtedness of the school district, and then we may carry it on farther and then here comes an indebtedness of the county and Salt Lake City has to bear its proportion to the county as its value is to the value of the county, and then we may carry it one step further. We may take it in a Territory here and the property of Salt Lake City—this identical property has to bear its proportion of each one of these various debts. When you go to work and add them together each comes upon the same property and upon the same individuals; you will find that it will aggregate a big amount.

Mr. CANNON. Mr. Chairman, I am opposed to the amendment for the reason that I believe the provision is a wise one to leave it as it is and because it is very carefully guarded already. In the first place you will perceive that section 4 provides that no debt shall be created, etc. Now, gentlemen, this is not even left to the general public, but it is to those who have paid a property tax—the qualified voters who have paid a property tax. I think certainly we can trust them in that matter. I desire to call your attention to the fact that in Utah they have not been in the habit of going into debt to any great extent, except one or two cities. I have in my hand the report of the governor and the secretary of the interior for 1893, and by examining them I find that there are only seven cities in the Territory that at that time had an indebtedness of more than ten thousand dollars. Twenty-two cities in the Territory had absolutely no indebtedness whatever, and the other cities ranged in amounts lower than ten thousand dollars, down to ninety-eight dollars—ninety-eight dollars being the lowest, and I think, gentlemen, that when you have provided as we have for safe-guards to the qualified voters that it is well to leave it to the people so that if they want to do something they may do it. Then, again, this specifically provides that it shall be only for public purposes; that is for the purposes specially provided for, and I do not think that on that ground anyone can object to it.

Mr. SPENCER. Do you mean by the adoption of section 5 to give greater borrowing power to Salt Lake City than any other city in Utah?

Mr. CANNON. No, sir.

Mr. SPENCER. Are you aware that by an act of Congress the borrowing power of Salt Lake City was increased to six per cent?

Mr. CANNON. Yes, sir.

Mr. SPENCER. Would not this give five per cent. for construction of sewers, etc.?

Mr. CANNON. We would have the same power that any city would have and the existing indebtedness would have to be taken into account. Salt Lake City would have the same as any other.

Mr. SPENCER. If this article is adopted as it is, I do not see why Salt Lake City has greater borrowing power than any other city in the State. Salt Lake City has, by an act of Congress, the right to borrow six per centum for general improvements. By the adoption of this section we increase that five per centum. Take Provo, Logan, Ogden City, or any other city, they are confined to four per cent., and the most

that could be conceded then would be nine per cent.

Mr. SMITH. If this Constitution is adopted, is not the law of Congress superseded?

Mr. SPENCER. Will not Salt Lake City have already taken advantage of it?

Mr. CUNNINGHAM. Mr. Chairman, I hope that this amendment to strike out will prevail and insert two per cent. I believe two per cent. is enough. As has been stated by the gentleman from Summit, there are four different ways that you can be taxed five per cent. Now five per cent. means that you take one-twentieth of all the property that you tax. Who feels like paying one-twentieth of all the property? And it is possible that they may take eighty per cent. because four times that would mean eighty per cent. Why, it is ridiculous. Who wants to be taxed one-twentieth of all the property for improvements or any other purpose? Why, I do not know what the gentleman from Utah is thinking about. Two per cent. is a heavy tax, that is what the school tax is now. We cannot exceed two per cent., and that is fatal.

Mr. HOWARD. Mr. Chairman, the gentleman's district is already bonded for the amount of about three per cent. and we have not got the facilities that his district has. It would need about twenty thousand dollars to supply buildings or to give sufficient room for the children.

Mr. HART. Mr. Chairman, I am in favor of the five per cent. limit in the first instance; that is in line 6, which is the one that the gentleman moved to amend, as I understand it. Logan City has an indebtedness now altogether equal to that amount. It is in excess of the amount limited by the congressional enactment, which, I understand it, is four per cent. Five per cent. will a little more than cover her present indebtedness. I would, therefore, favor five per cent. for the indebtedness for general purposes, but when it comes to this special tax for sewerage, for water and lighting purposes, I favor a reduction in that of say three per cent.; but the five per cent. is none too high for general purposes for Logan.

Mr. EVANS (Weber). I think gentlemen certainly misunderstand this article. It is not the question of percentage of taxation. It is a question of percentage of indebtedness.

Mr. HART. That is the way I understand it.

Mr. EVANS (Weber). I know you do, but other gentlemen who have spoken did not. They are talking about the rate of taxation, and I think that my colleague from Weber also misapprehends the question when he says it gives Salt Lake greater privileges than any other. It does not. It treats every city, town, county and village exactly the same. For instance, if Salt Lake City has already borrowed up to six per cent., it could go no further under this section for those general purposes, but existing indebtedness is validated by section 8. To take, for instance, Ogden, they have gone up as high as four per cent., to the limit as now provided by act of Congress. It would permit us to go one per cent. higher for general purposes. If any city had no bonded indebtedness at all, it could go as high as five per cent. under this law, so that it is treating every city, so far as that is concerned, with equality. But the thing here I want this Convention to understand before we vote upon it is this, that this section permits cities and towns to create an indebtedness amounting to five per centum of the assessable valuation of their property for general purposes, and then for lights and sewers and water works an additional five per cent. That would make a limit of ten per cent. that each municipal corporation in this State could reach by way of indebtedness. That is, they would be permitted under this section to go in debt ten per

cent. for these city purposes alone. Then, if the county desired it, it could go in debt five per cent. although the city may be situated within the county, and always is of course; the school district could go in debt five per cent. Think of it! Think of the indebtedness that we are leaving here, that the people might incur providing they saw fit to vote it. Why, Ogden had no difficulty in voting for eight per cent. at the time we wanted to borrow this money. They were unanimous in favor of it under the circumstances. They thought it was the making of the city. It was then in rivalry with Salt Lake.

Mr. KIESEL. It would have made it.

Mr. EVANS (Weber). And that is just the craze that reaches men's minds. It has reached mine. I understand it. I profit by the experience, and I would put a limitation in the Constitution prohibiting people going crazy under those circumstances. [Laughter.]

Mr. SQUIRES. Mr. Chairman, I wish the gentleman would prepare his amendment.

Mr. EVANS (Weber). There would be such a limitation that though but one citizen remained sane, he could go into the courts and say, "you cannot exceed this constitutional limit," and if the bondholder took our bonds and paid us the money, they would be invalid. Why, gentlemen, I tell you that this section is too broad. It gives too much room for the people to go into debt. We can create under it right in the locality as high as thirty per cent.; ten per cent. for a city, ten per cent. for the schools, and ten per cent. for the county, for certain purposes. Just think of it. Nearly one-third of one hundred per cent.

Mr. CANNON. Do I understand you to say that the schools can go in debt ten per cent.?

Mr. EVANS (Weber). No, that would be five per cent.; the other five per cent. would be for any city or town when authorized. I was wrong about that. The city could go in debt ten per cent., the county five per cent., which would be fifteen, the school five, which would be twenty.

Mr. CANNON. Could the school go in debt five in addition to the city?

Mr. EVANS (Weber). Yes, sir; undoubtedly it could; that is just the manner in which this section is drawn. If I could get it through, I would say two per cent., and those cities that have reached as high as five and six per cent., I would stop them right where they are until they cancel some of that indebtedness. It would be better for them in the future.

Mr. FARR. Mr. Chairman, I see they are coming around a little on to my proposition. It might as well be fifty per cent. as twenty. You have already got twenty per cent. arranged for, although section 4 submits it all to the people. They have the right to vote on it, but why can't you be liberal and make it fifty per cent. that they can go to as well as to say twenty per cent.? I do not see any reason why we should provide for any emergency of this kind. I cannot conceive how the city and the town and the county and school and the Territory are going to be taxed so much. We have provided that they can tax twenty per cent.; I should certainly favor the gentleman's motion from Weber, to reduce it down to three per cent. I think that is enough, but then I might just as well have it fifty per cent. as three; it is all the same thing; it has got to be submitted to the people first; there is no consistency in it.

Mr. IVINS. Mr. Chairman, the saving clause in this matter is that no tax at all can be levied unless it is consented to by the people who are property holders and who are directly interested in the tax that is to be levied, and it is because of this that I am perfectly willing to vote for this section just as it is without any amendments. It might be that the constructing of a sewer or paving of a street would enhance the value of prop-

erty thirty per cent., and if it would, and the people whose property is to be enhanced want to vote to construct that sewer or bring an electric light plant into the city, let them do it.

Mr. EVANS (Weber). I do not object to that myself. I am considering the first provision—five per cent. I believe the city ought to control its water and build its sewers and have its own light.

Mr. IVINS. Section 4 applies to the creation of any debt in excess of the taxation for the current year.

Mr. EVANS (Weber). I want to put a limit on the indebtedness for general purposes.

Mr. IVINS. I have nothing more to say except that section 4 seems to give all the protection it needs and I am ready to vote for it just as it is.

Mr. HART. I think that the cities of our county could stand four per cent. and I therefore move an amendment to the motion of the gentleman that the word four be substituted instead of five.

No second.

Mr. CANNON. Mr. Chairman, I desire to call attention to the fact that two or three of our most progressive cities in Utah Territory now approach this five per cent. limit. Brigham City, Logan City, and there are a number of these cities that are in that condition now. I believe that those cities when they went into debt did it for a good purpose. I do not know the individual cases, but I believe they have value received for the money that they expended, and I call attention to this fact, some of the men who are opposing the present rate proposed are men who always claim that they are willing to trust the people and yet when a proposition comes in here to submit it to the people they now want to change it and limit it so that the people cannot have a voice in the matter. We put a reasonable limit upon it, but we want to put it so that they may procure their own water works, their own electric light plants, and anything of this character. And I call your attention, gentlemen, to the fact that in Salt Lake County, which we usually stigmatize spendthrift and boom county, that in this county three times in succession the voters have refused to bond the county, and I believe that you can safely leave this article just as it is and that the Territory will be benefitted more by it than by the amendment proposed.

The amendment of Mr. Evans of Weber was rejected.

Section 6 was read.

Mr. GOODWIN. Mr. Chairman, I move that be stricken out.

No second.

Sections 7 and 8 were read.

Mr. KERR. Mr. Chairman, in order that the provisions of section 3 may conform, I move the following amendment:

That in line 13 the word "people" be stricken out and the words "qualified electors of the State" inserted in lieu thereof. After the word "and" the word "shall" inserted. The words "qualified electors" are used in other sections.

Mr. THURMAN. Mr. Chairman, I wish to offer an amendment to the amendment. I prepared it sometime ago. I call the attention of the Convention to line 13 of section 3, after the word "people," insert the following, "qualified by law to vote upon the proposition submitted." The reason I propose this and the reason I oppose "qualified electors," is because it might leave it open that the ordinary electors of the State would have a right to vote upon this proposition.

Mr. HART. Mr. Chairman, I would like to ask the gentleman where the qualifications are specified in this Constitution? The qualifications named in section 4 do not pertain to a State election. It refers solely to city, town, and county election, in voting upon the question of whether an indebtedness shall be created.

Mr. THURMAN. It means the voters

who may be qualified by the Legislature. If I remember, our article on elections and suffrage or the bill of rights, it provides that a property qualification shall not be required except in cases of a special tax or an indebtedness. It leaves the Legislature if they see fit, to fix a property qualification in those cases. Now, in view of the fact that the Legislature may or may not provide for a property qualification, this will fit the case.

Mr. HART. Why not use the same language there that is used in section 4, requiring them to be taxpayers?

Mr. THURMAN. Well, it is a question whether you want in the Constitution to do that. If you do, all right. It has been left with the Legislature to provide a property qualification and I made this fit that condition. Section 8 of the elections and suffrage article is as follows: (Reads). Now, if that be construed to fix a qualification absolutely without leaving it to the Legislature in those cases, then this amendment of mine meets that condition. If it be construed that that leaves it to the Legislature and the Legislature may afterwards provide any qualification, then my amendment meets that condition.

Mr. CANNON. I would second the motion of Mr. Thurman.

Mr. SQUIRES. I would like to ask the gentleman from Utah if he has any objection to the transposition of that sentence as made by the gentleman from Cache?

Mr. THURMAN. I have none whatever. I think that is a proper transposition; I thought it at the time. I accept that part of it.

Mr. SQUIRES. Mr. Chairman, I understood a part of Mr. Kerr's motion was that the words, "at a general election," shall come after the words, "have been submitted."

Mr. KERR. Yes, sir.

The amendment of Mr. Thurman was agreed to.

Mr. THOMPSON. Mr. Chairman, I wish to offer an amendment to section 3, in line 13, after the words, "received a," to insert the words, "two-thirds majority." I would like to say that sometimes a bare majority imposes a very heavy burden on a large minority, and I think where such a large tax can be assessed that it would be proper that we have a two-thirds majority.

The question being taken on the amendment, the committee divided and by a vote of 29 ayes to 42 noes, the amendment was rejected.

The committee then rose and reported as follows:

MR. PRESIDENT:

Your committee beg leave to report that they have had under consideration the article on revenue and taxation, and that they have passed the same and recommend that it be placed upon the calendar for its third reading. Also, that they have had under consideration the article on public debt and make the same recommendation.

The Convention then, at 5:43 p.m., adjourned.

FORTY-SIXTH DAY.

THURSDAY, April 18, 1895.

Convention was called to order at 10 a. m. President Smith in the chair.

Roll call showed a quorum present.

Prayer was offered by Delegate Christiansen, of Sanpete.

Journal of the forty-fifth day's session was read and approved.

Mr. Lewis and Mr. Richards were excused.

The following petitions were presented, asking that the question of woman's suffrage be submitted as a separate article to a vote of the people:

File No. 329, signed by J. H. Borememort and 128 others, from Kaysville precinct, by Roberts, of Davis.

File No. 330, signed by Myron D. Higbee and 29 others, from Iron County, by Heybourne, of Iron, by request.

File No. 331, signed by W. J. Loftus

and 695 others, from Salt Lake County, by Kearns, of Summit.

File No. 332, signed by E. H. Stout and 367 others, from Salt Lake, by Eichnor, of Salt Lake.

File No. 333, signed by David W. Evans and 266 others, from Ogden, by Kiesel, of Weber.

File No. 334, signed by E. S. Pratt and 485 others, from Salt Lake, by Keith, of Summit.

File No. 335, signed by Andrew Cahoon and 30 others, from Murray, by Haynes, of Salt Lake.

File No. 336, signed by N. Hansen and 33 others, from Pleasant View, by Green, of Salt Lake.

File No. 337, signed by P. F. Peterson and 68 others, from Redmond, by Ricks, of Sevier, by request.

File No. 338, signed by R. W. Nicol and 87 others, from Salt Lake, by Haynes, of Salt Lake.

File No. 339, signed by Mrs. M. Loveless and 396 others, from Provo, by Sharp, of Emery.

File No. 340, signed by E. L. Butterfield and 100 others, from Salt Lake, by James, of Salt Lake.

File No. 341, signed by A. H. Earl and 27 others, of Scofield, by Sharp, of Emery.

File No. 342, signed by W. H. Olsten and 221 others, from Sanpete, by Lund, of Sanpete.

File No. 343, signed by G. L. Savage and 864, from Salt Lake, by Mackintosh, of Salt Lake.

File No. 344, signed by M. E. Kaighn and 21 others, from Salt Lake, by Van Horne, of Salt Lake.

File No. 345, signed by A. E. Beveridge and 408 others, from Salt Lake, by Squires, of Salt Lake.

File No. 346, signed by Joel Shomaker and 30 others, by L. Larsen, of Sanpete.

File No. 347, signed by E. H. Stout and 140 others, from Salt Lake, by Squires, of Salt Lake.

File No. 348, signed by O. P. Connor and 384 others, from Salt Lake, by James, of Salt Lake.

File No. 349, signed by A. S. Bradley and 612 others, from Salt Lake, by Hill, of Salt Lake.

Ordered filed.

The following petitions were presented asking that an equal suffrage clause be placed in the Constitution:

File No. 350, signed by B. Evans and 162 others, from Weber county, by Chidester, of Garfield.

File No. 351, signed by Robt. Davidson and 124 others, from Logan, by Kerr, of Cache.

File No. 352, signed by Elijah Seamons and 112 others, from Hyde Park, by Low, of Cache.

File No. 353, signed by F. A. Little and 97 others, from Morgan County, by Francis, of Morgan.

File No. 354, signed by E. A. Bagley and 24 others, from Piute County, by Allen, of Piute.

File No. 355, signed by James Z. Stewart and 110 others, from Logan, by Warrum, of Cache.

File No. 356, signed by Bertha Thiede and 153 others, from Logan, by Hart, of Cache.

File No. 357, signed by Uriah T. Jones and 10 others, from Iron County, by Heybourne, of Iron.

File No. 358, signed by Mary H. Anderson and 142 others, from Logan, by Hart, of Cache.

File No. 359, signed by Alma Montgomery and 134 others, from North Ogden, by Chidester, of Garfield.

File No. 360, signed by M. Ballard and 89 others, from Logan, by Kerr, of Cache.

File No. 361, signed by Ellen Reese and 83 others, from Logan, by Warrum, of Cache.

File No. 362, signed by Caroline Affleck and 227 others, from Logan, by Hart, of Cache.

File No. 363, containing 119 names, from Summit County; 959 names, from Cache County; 211 names, from Davis

County; 108 names, from Iron County; 56 names, from Wasatch County; 30 names, from Utah County, 31 names, from Gunnison; 601 names, from Millard County; 136 names, from Carbon County; 188 names, from Washington County; 271 names, from Rich County; 52 names, from Emery County; 554 names, from Salt Lake County; 162 names, from Weber County, by Chidester, of Garfield.

Ordered filed.

Mr. LUND. Mr. President, I make a motion that we take the report of the expense committee from the table and consider it.

The motion was agreed to.

Mr. EVANS (Weber). Mr. President, I move the previous question upon the report.

The PRESIDENT. The secretary will read the report.

The report was read by the secretary.

Mr. LUND. Mr. President, I arise to a question of personal privilege. I do not think it is quite fair before one word of debate has been made upon this subject to move the previous question.

Mr. EVANS (Weber). I will withhold the motion for the purpose of giving the chairman of the committee an opportunity to make a statement. My purpose was to cut off debate upon this matter, with a desire to hasten business.

Mr. LUND. Mr. President, I shall try to be as short as our fund is. We have as a Convention servants—our officers. We are the servants of the people. We wanted to be very economical and we made a resolution a little while back that if the fund did not hold out we did not want it to cost the people of the new State a cent. Something to that effect. Now our officers—our servants have not said that to us. We were a dignified body when we hired them, and I think it is only just that we pay them what we agreed to pay them and if our per diem should go down to three dollars from the forty-fourth day, until the end; we can stand it better than we can ask them to go without their pay.

The previous question was ordered.

Mr. EVANS (Utah). Mr. President, as I understand the situation now, the vote recurs upon my motion that the report be filed and that the recommendations be not adopted.

The motion of Mr. Evans of Utah was agreed to.

SPECIAL ORDERS.

The PRESIDENT. As the chair understands it, the special order for today is the motion to reconsider section 1 of the article on elections and rights of suffrage.

Mr. VARIAN. Mr. President, I presume it will be necessary for a motion to be made before it can be voted upon, and I am ready to make it now, if the time has arrived to consider it. In accordance, then, with notice heretofore given, I move to reconsider the vote by which the article on suffrages and elections was passed upon its third reading upon a previous day.

Mr. CORAY. Mr. President, I object to the consideration of that question.

Mr. VARIAN. In my judgment, Mr. President, there is little if anything to be gained by a further consideration of this question. I am of the opinion that every member upon this floor has determined for himself at this time how he shall vote upon this question. In moving for a reconsideration, of course, as it is generally understood, I do so, for the purpose, in the event of the reconsideration being had, of presenting to the Convention a proposition whereby the matter comprehended in the first section I think of the article shall be submitted to the people of this Territory as a separate article, to be passed upon by them at the same election when they shall determine whether this Constitution shall be adopted.

Mr. CORAY. Mr. President, I arise to a point of order. Under Roberts' rules of order, when an objection is made to a consideration of the question, it must be put without debate or any remarks whatever. And I want a ruling of the chair on that.

The PRESIDENT. The gentleman has not been recognized.

Mr. CORAY. The question can be put while another member has the floor, as I understand it.

Mr. VARIAN. I think the chair is in the same situation that I am. It does not quite understand the purpose or point, if there is any point. If I am called to order, I will sit down until I hear the point of order.

Mr. EVANS (Utah). Mr. President, there is an objection made to the consideration of this question. The Convention passed some time ago that they would permit a motion to be made that a reconsideration might be had. The time has now arrived when that motion was to be made, and on it being made there has been an objection raised by a member upon this floor to the reconsideration. If the president will turn to rule 15, he will find that that objection may be made although a member has the floor, and if it shall be made before debate is begun upon the question, the chair must proceed to put that question, and if two-thirds vote in favor of not hearing that question, then it ceases.

Mr. VARIAN. Mr. President, I arise to a point of order.

Mr. BUTTON. Mr. President, I would like to ask a question.

The PRESIDENT. It is not debatable.

Mr. VARIAN. The chair has heard the argument of the gentleman who supported this proposition, I presume the chair is willing, before it makes a ruling, to consider the matter and determine in which way it will make a ruling.

The PRESIDENT. It cannot be debated. As the chair understands it, it can only be voted down.

Mr. VARIAN. I arise to a point of order, that that motion is absolutely out of order at this time. Now, let me state my point of order. In the first place that rule relates to original questions that may come before any legislative body, and which are of such a nature that they do not desire to consider them at all. This is not an original question. It has been debated here for weeks. It has been determined upon two or three different occasions. Under the rules of this house a motion to reconsider is recognized. It may be made on the same day as it was made here and it was postponed for the hearing of it without any objection being made at the time. This objection is not applicable.

Mr. BUTTON. Mr. President, another point of order is that the question was already being debated. The debate had commenced before this motion was made.

Mr. ROBERTS. Mr. President, I arise in this connection——

The PRESIDENT. This is all out of order.

Mr. ROBERTS. I wish to call attention to the fact that this question was made a special arrangement to have this motion of reconsideration come up and technicalities aside, this house agreed that this motion should be made and it carried with it the idea that considerations connected with it—why it should be reconsidered was also made.

Mr. JAMES. I want to inquire of the chair if it was not made a special order for to-day and did not this Convention agree to bring this question up? Now, I ask, is this not an attempt at snap judgment to refuse a hearing upon what this Convention has agreed to do?

The question being taken on the objection the objection was not sustained.

Mr. VARIAN. Mr. President, I was intending to say that there is a grave

question which ought to be considered thoroughly in connection with this reconsideration, not only the effect that the action may have upon our own people; how far-reaching that effect may be, no man can tell at this time. It involves a risk, however pronounced the convictions of gentlemen may be as to the understanding and purpose of the people of this Territory. But there is something other than that—the effect it will have in other quarters. If it shall have the effect to array in opposition to the admission of this Territory as I state a large proportion of the people of the United States, the effect of that opposition should be well considered. I confess that I, for one, want to see Utah become a State. I do not want to go backward one step. We have entered upon the struggle and I want to see the journey completed and it does seem to me that it would be the part of wisdom and prudence to run as few risks in this matter as we shall have to. I believe that all party pledges can and will be faithfully fulfilled in the way indicated. There can be no question about that. Let it be remembered that upon the assumption of our friends who believe in putting this particular section in the Constitution—namely, that the Constitution will carry under any and all circumstances—still let it be remembered that if that be true and granting it, here is a proposition which involves a fundamental principle in State policy, affecting large masses of people which shall have become a part of the organic law simply by the determination and votes of say fifty or sixty of the delegates of this Convention. If I remember correctly the article was passed in committee of the whole by a vote of some fifty-three, and I submit to the Convention in all fairness that this matter ought to be considered in this light, that you will have nothing to lose by submitting the question to the people. Therefore, I submit this motion.

Mr. THURMAN. Mr. President, I move to lay the motion to reconsider on the table.

Mr. EVANS (Weber). Mr. President, I think we ought to be fair in this matter. I understand that Mr. Roberts, who is opposed to the question of putting woman's suffrage in the Constitution, wants to make a statement of only about five minutes. He has so informed me, and I think Mr. Thurman ought to withhold his motion until he makes it. Let him make it anyway. He can do it anyway.

The roll being called on the motion of Mr. Thurman, the result was as follows

AYES—65.

Allen	Lemmon
Anderson	Lowe, Wm.
Barnes	Lowe, Peter
Boyer	Low, Cache
Brandley	Maeser
Buys	Maloney
Call	Maughan
Cannon	McFarland
Chidester	Morris
Christiansen	Murdock, Beaver
Coray	Murdock, Wasatch
Corfman	Nebeker
Crane	Partridge
Creer	Peters
Cunningham	Peterson, Sanpete
Driver	Preston
Evans, Utah	Raleigh
Farr	Ricks
Francis	Robertson
Hammond	Robinson, Kane
Hart	Robison, Wayne
Halliday	Shurtliff
Heybourne	Snow
Howard	Symons
Hughes	Thatcher
Ivins	Thompson
Johnson	Thoreson
Jolley	Thorne
Kerr	Thurman
Kimball, Salt Lake	Warrum
Lambert	Whitney
Larsen, L.	Williams.
Larsen, C. P.	

NOES—35.

Adams	Kearns
Bowdle	Lund
Button	Mackintosh
Clark	Moritz
Cushing	Murdock, Summit
Eldredge	Page
Emery	Peterson, Grand
Engberg	Pierce
Evans, Weber	Roberts
Gibbs	Ryan
Goodwin	Sharp
Green	Spencer
Haynes	Squires
Hill	Stover
Hyde	Strevell
James	Van Horne
Kiesel	Varian.
Keith	

ABSENT—4.

Kimball, Weber	Miller
Lewis	Wells.

PAIRED—2.

Eichnor	Richards.

Motion carried.

Mr. EVANS (Weber). Mr. President, I want to change my vote from aye to no, not because I am not in favor of inserting this clause in the Constitution, because everyone knows that I am, but I do not believe in cutting off gentlemen who desire to speak only a few minutes.

Mr. EVANS (Utah). Mr. President, I move you that this matter we have just laid upon the table be now taken from the table. I do not want it hanging over our head everlastingly.

The motion was agreed to.

Mr. EVANS (Utah). Mr. President, I now move you that the debate cease upon this question at 12 o'clock, if the determination of the question shall not be reached sooner.

Mr. CHIDESTER. Mr. President, I amend that motion by saying that it shall cease in five minutes.

Mr. EVANS (Weber). Mr. President, I move an amendment to the amendment, that the debate cease in fifteen minutes.

The amendment of Mr. Evans, of Weber, was agreed to.

Mr. ROBERTS. Mr. President, it has not been my intention to re-open the debate on the general proposition involved in this question. I think I can get through in the course of two or three minutes with what I have to say. In the course of the discussion of this subject, those who were in favor of imdiately putting or providing for woman's suffrage in the Constitution, when some objection was made to that proposition, wanted to know what demand there was from the people contrary to that, where were the petitions asking that suffrage be not granted or asking that suffrage be submitted as a separate proposition, and at that time there were no petitions or memorials upon that subject. Since that, however it is the fact that there have been laid before this Convention petitions signed by 15,366 people asking that this proposition be submitted as a separate article, to be voted upon by the people. I do not care what the number may be upon the other side. I take it that this Convention cannot blindly ignore the petition of so many American citizens asking, not that woman's suffrage shall be kept out of the Constitution, but asking that they have the privilege of voting against that proposition without being subjected to the necessity of voting against the Constitution itself in order to express their views upon that subject. This question carries with it the consideration as to whether there shall be thousands of votes made by your action against the Constitution in this Territory. And it is a question of sufficient gravity, because this Convention should pause and ask itself the question, if, for the mere purpose of putting this woman's suffrage clause directly in the Constitution, instead of submitting it as a separate article to be voted on separately by the people, they can afford to array against the Constitution thousands of votes.

Now, it is useless to say that the votes against the Constitution will not be cast in consequence of this clause going into the Constitution, because we have heard too many emphatic voices saying that they will vote against the instrument if woman's suffrage goes in. I am of the opinion that if the question of woman's suffrage is submitted to the people that the people will vote against it. Gentlemen of the majority are of the opinion that if submitted separately it would be voted into the Constitution by the people. I do not believe it will. Let it go to the people. Let the question be discussed. Let us see if it is a foregone conclusion that the majority of the people are so overwhelmingly in favor of woman's suffrage as gentlemen suppose. Now, here is an opportunity to save thousands of votes to this Constitution and if you vote this Constitution to submit it separately down, the result will be as I told you, and I shall not fear the guess that I make on that subject. To-day, I shall not vote in favor of taking the course on this proposition that will array thousands against the Constitution.

Mr. HAMMOND. Mr. President, a great deal of stress seems to be laid upon the proposition that if it is placed in the Constitution we are going to lose thousand of votes. Now, sir, my opinion is that we lose thousands of votes if we do not keep it where it is to-day, in the Constitution. That is my judgment. I want statehood I believe as much as any citizen of this Territory, but I have no fears that either party, republicans or democrats, will turn a cold shoulder to Utah to-day. She is no spring chicken like she was, clamoring for recognition. She is a full grown maiden or matron and they will bow and scrape and break their backs to get her into the Union.

Mr. JAMES. Mr. President, I will be as brief as possible. I want to add a little to what my friend from Davis County has said. We were accused at the time when we asked that this matter might be submitted to the people so that they could decide upon it for themselves and by themselves, that nobody was asking for that opportunity. That went out before the public and you have before you to-day 15,500 people petitioning you to permit them next November to go to the polls and cast their votes according to that free right that is given to every American citizen to vote as he pleases and to vote as his dictation may say to him is proper and right. These petitions, Mr. President, come in here from all parts of this Territory. They come from Salt Lake City, from the working associations, from the chamber of commerce, from the city of Ogden, from Park City, from Provo, Mercur, Spanish Fork, Mount Pleasant, Cache County, Logan, Millville, Paradise, Morgan, Coalville, Summit County, Box Elder, Brigham City, Hooper, Corinne, Manti, Millard, Iron County, Moab, Ephraim, Holden, Silver City, Sanpete, Taylorville, Farmer's Ward, Santaquin, Emery County, Centerville, Wellington, Elsinore, Payson, Eureka, Juab, Lehi, P. V. Junction, Salina, Stockton, Ophir, Richfield, Parowan, Piute, Washington, Beaver, Carr Fork, Murray, Rockport, Center, Silver Reef, Frisco, Spring City, East Mill Creek, Rockville, Springville—I suppose this is repetition; I will not read any more.

Mr. HAMMOND. How many from San Juan.

Mr. JAMES. Well, San Juan was forgotten. The representatives seem to be largely of Salt Lake City at the present time.

Mr. ROBERTS. I would like to ask the gentleman a question. These petitions come without being backed up by an organization, do they not?

Mr. JAMES. They do, sir, so far as I know.

Mr. ROBERTS. That is, are they not the spontaneous expression of the people?

Mr. JAMES. That is exactly what I

want to impress upon this Convention, that it is the spontaneous action of the people of this Territory through the charge that was sent out from this Convention that there was not one that wanted the privilege of voting separately on this question.

Mr. THURMAN. May I ask the gentleman a question? Were not all your petitions headed by a line or two appearing to have been written upon the same instrument and by the same individual?

Mr. JAMES. I have not had time, Mr. Thurman, to examine them; I do not know whether it is true or not.

Mr. KIESEL. May I ask a question?

Mr. JAMES. Mr. President, I cannot yield any more. I will be shut off in a half a minute or two more. I want to say to this Convention now, I do not care if you come in here with fifty thousand signers of petitions on the other side and say that they want this to go into the Constitution, I say you have no right to do it. Minorities in this country have a right—and if it was simply a question of selection who should be the choice of the people to an office, then you would have a right to say that the majority controlled, but when it comes to a question of dictating to an American citizen how he shall cast his vote or else compel him to vote against an honest conviction of his heart, you have no right to do it, and that is the reason I arise, Mr. President, in the interest of fifteen thousand honest people in this Territory who want to vote for a Constitution to give us statehood, but say, "we want the privilege of voting as we please upon woman's suffrage." They do not say that we do not want woman's suffrage, they say that if the majority want woman's suffrage, it is right and proper and they should have it and we will consent, but if the majority do not say so, we do not want it choked down our throats.

Mr. EVANS (Weber). Mr. President, I believe that a separate submission would bring up all the embitterments of the past—the discussion of this matter in the campaign. I believe the underlying principle or reasons which govern those who desire to vote for separate submission are to defeat woman's suffrage if they can. That would simply bring up all the embitterments of the past, that we have fought over once.

Mr. ROBERTS. I wish to ask if those who are opposed to woman's suffrage have not the right to try to defeat it if they can?

Mr. EVANS (Weber). That is right, they have a perfect right to do it if they can, but sir, it would bring up the bitter feelings that we have once buried and which never ought to be resurrected.

Mr. KIESEL. You have them now.

Mr. EVANS (Weber). No, we will not have them, gentlemen. You will be loyal American citizens and support the Constitution of the new State. I will ask Mr. James a question. Suppose, as he states, that the people of the minority, however small, have a right to an expression of an opinion, would he vote to submit the question of prohibition to the people here in a separate article? He knows that he would not. I would not do it, because I do not believe that it is practicable. That simply shows the fallacy of these arguments. Gentlemen, we would teach the people of this Territory a political lesson, which would be sufficient to forever condemn us if we do not stand by our party pledges and our honor.

Mr. IVINS. Mr. President, I do not wish to say anything upon this matter, but simply to answer a question that was asked by the gentleman from Davis County. He said have not these petitions all been sent out without solicitation?

Mr. ROBERTS. No, sir.

Mr. IVINS. I hold in my hand a poster which I took from——

Mr. ROBERTS. The gentleman is certainly wrong, my statement was without an organization behind it, such as the suffrage organization.

Mr. IVINS. I simply wanted to say that there was somebody behind it. I hold in my hand a poster which I took from a petition that came from a precinct in my county and was signed by every man and woman in it that I was acquainted with, asking for separate submission of this question. It reads, "Get this filled with signatures and mail it to your delegate at the Constitutional Convention. Don't delay." There was no other communication with it. Now, I hold in my hand a letter that comes from some people——

Mr. ROBERTS. I wish to call the gentleman's attention to the fact that there was something else with it and that was the petition asking the——

Mr. IVINS. I do not wish to be interrupted.

Mr. ROBERTS. ——separate submission.

Mr. IVINS. I hold in my hand a letter from one of my constituents in that very precinct which says that the people that signed that petition did not know what they were doing and this letter has come to me without any solicitation. I have never had a word of correspondence with any of them.

Mr. CANNON. Mr. President.

The PRESIDENT. Mr. Cannon has the floor.

Mr. EVANS (Utah). Mr. President, I arise to a point of order, that the time has now expired.

The PRESIDENT. There is one minute.

Mr. CHIDESTER. Mr. President.

The PRESIDENT. Mr. Chidester has one minute.

Mr. CHIDESTER. I want to ask the gentleman who talks so loud about American citizens and their rights what they have to say about the majority? They hold that the minority has the right to control the majority.

Mr. ROBERTS. Oh, no; we do not.

Mr. JAMES. Mr. President, I arise to a point of order.

Mr. CHIDESTER. That is not——

Mr. JAMES. I want to be corrected. I do not want to be misquoted upon this floor.

Mr. CHIDESTER. You must not make such assertions if you do not want to be corrected.

Mr. JAMES. I did not say I didn't want to be corrected.

Mr. CHIDESTER. He cries every time he opens his mouth and so has every other one——

Mr. BUTTON. Order.

The PRESIDENT. The gentleman's time has expired. [Laughter.]

Mr. IVINS. Mr. President, I claim Mr. Chidester was not permitted to occupy his time.

Mr. CHIDESTER. I arise to a point of order and personal privilege. According to the rules I have a right to close this debate.

The PRESIDENT. Well, your minute is up.

Mr. CHIDESTER. I want to say that there is no petitions against it. Now——

The PRESIDENT. Gentlemen, keep your seats.

Mr. CHIDESTER. I want to say that it is largely children who were recorded on the minority petitions asking for a separate submission.

Mr. JAMES. Mr. President.

The PRESIDENT. The debate has closed, gentlemen.

The roll being called on the motion of Mr. Varian, the result was as follows:

AYES—32.

Adams	Mackintosh
Bowdle	Moritz
Button	Murdock, Summit
Clark	Page
Cushing	Peterson, Grand
Eldredge	Peterson, Sanpete
Goodwin	Pierce
Green	Roberts
Haynes	Ryan

Hill	Sharp
Hyde	Spencer
James	Squires
Kiesel	Stover
Keith	Strevell
Kearns	Van Horne
Lund	Varian.

NOES—69.

Allen	Larsen, L.
Anderson	Larsen, C. P.
Barnes	Lemmon
Boyer	Lowe, Wm.
Brandley	Lowe, Peter
Buys	Low, Cache
Call	Maeser
Cannon	Maloney
Chidester	Maughan
Christiansen	McFarland
Coray	Morris
Corfman	Murdock, Beaver
Crane	Murdock, Wasatch
Creer	Nebeker
Cunningham	Partridge
Driver	Peters
Emery	Preston
Engberg	Raleigh
Evans, Weber	Ricks
Evans, Utah	Robertson
Farr	Robinson, Kane
Francis	Robison, Wayne
Gibbs	Shurtliff
Hammond	Snow
Hart	Symons
Halliday	Thatcher
Heybourne	Thompson
Howard	Thoreson
Hughes	Thorne
Ivins	Thurman
Johnson	Warrum
Jolley	Wells
Kerr	Whitney
Kimball, Salt Lake	Williams.
Lambert	

ABSENT—3.

Kimball, Weber	Miller.
Lewis	

PAIRED—2.

Eichnor	Richards.

Motion lost.

The Convention then proceeded to the consideration of the article entitled executive.

Sections 1, 2, 3, 4, 5 and 6 were read.

Mr. ROBERTS. Mr. President, I move to strike out the words after "convene," in line 7, down to and including the word "session," in line 9. I just want to call attention to the reason for offering the motion and that is in the few lines here where it states "and the Legislature shall transact no legislative business except that for which they were especially convened," and then the words I move to strike out are "or such other legislative business as the governor may call to the attention of the Legislature while in session."

There seems to me to be an incongruity in that language and the only correction that comes to my mind is now to strike that out.

Mr. VARIAN. Mr. President, that was fully discussed for probably half or three quarters of an hour in the committee of the whole and the answer to the objection was that it did not make any difference; if the governor wanted to introduce other business; if any emergency should arise after he had called a special session requiring the submission of other business, that he would simply go through the form of making a proclamation and reconvening the legislative body. That I believe was the idea of my friend from Weber.

Mr. EVANS (Weber). Was not it also the intention that if anything extraordinary should arise during the extra session of the Legislature, all the governor would have to do would be to send in his message so that it might transact that business as well as the special business they were called for?

Mr. HART. Mr. President, I think that clause should go out for the reason that I think that the Legislature should be notified in advance of the purpose for which they were called together and it is only the barest kind of a possibility—it is not at all probable that having called the Legislature together

for one purpose that in a few days or a week after some other extraordinary occasion would require them to act upon some other matter. It is only once in a great while an extra session would be called at all. I think the governor should be limited in this matter and be required to designate in this manner the purpose for which the extra session is called.

The motion of Mr. Roberts was rejected.

Mr. SQUIRES. Mr. President, I notice that the secretary in reading on the fourth line, read "which the Legislature has." Is that correct?

The SECRETARY. Yes, sir.

Mr. SQUIRES. If that is the way the word should be, then the same change should be made in line 6.

Mr. VARIAN. It was not changed; I want to call attention to the fact that the use of the word "has" and the word "have," in the connection there, is a matter simply of taste and we had better pass this thing for the committee on compilation and arrangement to determine this question. I suggest that in the Convention all these matters be passed to the committee.

Mr. SQUIRES. I agree with the gentleman from Salt Lake, but I wanted it uniform in the section.

Sections 7, 9, and 10 were read.

Mr. VAN HORNE. Mr. President, I move in section 10 to strike the letter "s" off the word occurs.

Mr. VARIAN. I suggest such slight corrections should be made without taking a vote.

Sections 11 and 12 were read.

Mr. HYDE. Mr. President, I have an amendment to offer to section 12, to insert at the beginning of the section, "until otherwise provided by law."

The amendment was agreed to.

Mr. EICHNOR. Mr. President, I now offer a substitute for the section as amended:

The governor shall have power to grant reprieves, commutations, and pardons, after conviction, for all offenses, subject to such regulations and restrictions as may be provided by law.

The substitute was rejected.

Mr. EMERY. Mr. President, I have no objection particularly to this section, but I think it deals with legislative matters too much. I move to strike out after the word "law," in the tenth line, all down to the word "state," in the twenty-first line; also commencing at the beginning of the twenty-seventh line, strike out all to the word "provided," in the thirtieth line. Again, commencing with the word "when," in the thirty-fourth line, strike out the balance of the section.

Mr. VARIAN. Mr. President, this whole matter has been gone over on two several days in committee of the whole and was thoroughly discussed. I do not propose to discuss the question. I simply want to call attention to the fact that it is the design of this article to take away from this board of pardons the power of doing anything secret. We want to create a new tribunal in this particular and dignify it by making it a public tribunal of record so that its sittings shall be in the eyes of the people and that there shall be reasons given which may be passed upon by public sentiment for the action taken by this board under this Constitution, and it was for that reason that these matters which may appear to be in some degree legislative were incorporated in here in accordance with the provisions of some other similar article in other constitutions.

Mr. LOW (Cache). Mr. President, I move to strike out the whole section as amended and insert in lieu thereof a substitute which I have here present.

The amendment offered by Mr. Emery was rejected.

Mr. VARIAN. Mr. President, I suggest the time for offering this substitute would have been when opportunity afforded. The house has refused to strike out this section.

The PRESIDENT. The chair is of the opinion that the substitute is in order.

Mr. Low, of Cache, offered the following substitute:

The governor, secretary of state, and attorney general shall constitute a board of pardons and shall have power to grant reprieves, commutations, and pardons after convictions for all offenses, except treason and cases of impeachment, subject to such regulations as may be provided by law.

Mr. LOW (Cache). Mr. President, I want to say that the section as it now stands, with the amendments and as it came from the committee of the whole, is pure legislative matter.

The substitute was rejected.

Mr. VAN HORNE. Mr. President, I want to make a motion to strike out section 12, without any substitute at all.

Mr. MALONEY. Mr. President, this is pure legislation. I am in favor of striking the whole thing out and leaving it to the Legislature.

The motion of Mr. Van Horne was rejected.

Section 13 was read.

Mr. HYDE. Mr. President, I offer an amendment on that section, to add at the beginning of the section, "until otherwise provided by law."

The amendment was agreed to.

Section 14 was read.

Mr. CREER. Mr. President, I move an amendment to precede this section, similar to the one made to the other, "until otherwise provided by law." And I may also offer the same amendment to section 15.

The amendments were agreed to.

Sections 15, 16, 17, 18, 19, and 20 were read.

Mr. VAN HORNE. Mr. President, I move to strike out, beginning with line 24, of section 20, down to and including the word, "office," in line 29. It is already provided for in a section of the legislative article.

Mr. VARIAN. What section of the legislative article?

Mr. VAN HORNE. Section 25, if I remember rightly.

Mr. VARIAN. Section 4 of the legislative article simply is prohibitory against granting extra compensation, fee, or allowance to any public officer after service has been rendered or contract entered into.

The motion of Mr. Van Horne was rejected.

Mr. SNOW. Mr. President, I move that the one thousand dollars be stricken out in line 22 of this section and fifteen hundred dollars be inserted.

Mr. KEARNS. Mr. President, I move as an amendment that we strike out the four lines, 19, 20, 21 and 22, and place the sum of two thousand dollars each.

Mr. SNOW. I think, Mr. President and gentlemen of the Convention, that if it is a superintendent of public instruction that we wish to create in this section, we ought to pay compensation somewhere near commensurate with the ability that will be required. If we want an officer such as we have sometimes had in this Territory, whose principal and chief duty was to apportion the school fund and distribute it to the various county treasurers, then perhaps a compensation of one thousand dollars would be adequate, but I submit that if that is what we conceive to be the duty of a superintendent of public instruction we had better let some other of these State officers exercise these duties ex officio and not create a special officer for those duties; but if we want a man who is educated and who understands the methods of education and who will be in truth and verity a superintendent of public instruction, for heaven's sake, let us give him the salary of an ordinary school teacher and not put him down on less than one hundred dollars a month. Almost any school teacher can get that in the public schools of the Territory that has any ability.

Mr. THURMAN. Do you know what the superintendent has been getting?

Mr. SNOW. I believe he has been getting one thousand dollars and I believe his principal duties have been to apportion the school fund.

Mr. THURMAN. Would you increase the salary five hundred dollars?

Mr. SNOW. I believe that is all.

Mr. FARR. Mr. President, I understand this has all been provided for. I think the one thousand dollars is plenty until the Legislature meets. If they want to they can change it. I do not see what is the use of increasing it. I think it is enough anyhow.

Mr. KERR. Mr. President, I do not know what the work of the attorney general will be sufficiently to say that his salary should be increased from fifteen hundred to two thousand dollars, but I am certainly in favor of that part of the amendment to the amendment which provides that the superintendent of public instruction shall receive two thousand dollars. The gentleman will observe that in section 19 we provide that the superintendent of public instruction shall have general supervision over all matters pertaining to the public schools, and shall perform such other specific duties as shall be provided by law. I submit, Mr. President, that the gentleman who shall be superintendent of public instruction should be a man of learning, he should be a man who has spent years and a great amount of money in preparing for the work of this office. It is not like the work of the office of governor, which requires little or no preparation, [laughter] and can be filled by a man of ordinary ability, and here in this section we have placed the salary of governor at twenty-five hundred dollars, whereas the man who is to have general control of all the schools of the State and who should visit every county and every town in the State, who should attend to the work necessary in order to provide that all the work in the public schools shall be uniform, and be a man of organizing ability—a man who can work with the county superintendents in securing and building up in the State a thorough system of public instruction. Now, I wish to state that the present commissioner of schools receives, I understand, but one thousand dollars a year, and what is the result, gentlemen, of the Convention? In addition to the duties as commissioner of schools, he is engaged as school teacher, with the result that he cannot possibly attend to the work of his office as commissioner of schools. He has time to attend to his work in the school room, and except on an occasional day when it is possible for him to get away from the school and on Saturdays, he is unable to get out into the counties and attend to the work that he should attend to as commissioner of schools. Now, gentlemen of the Convention, the man who occupies this position should be able to give his entire time to the work. The office is worth two thousand dollars. Any man who is not worth that is unworthy the office. Gentlemen, I hope that that part of the amendment will prevail which makes the salary of the superintendent of public instruction two thousand dollars.

Mr. GOODWIN. Mr. President, I would a great deal rather see this whole thing stricken out and left to the Legislature than to have it advertised all down the years that this body had so little conception of the duties of a superintendent of public instruction, so little respect for that position, as to fix the salary at a thousand dollars. It is simply shameful. It is not becoming this new State. It is not in line with modern progress, it is not what the ordinary merchant pays his bookkeeper, it is not what any banker would think of paying a competent teller in his bank. To be fit for the duties a man must have spent years of his life in preparation, years of expenses in education,

and for us in this body to say that such a man's wages are worth eighty-three and one-third dollars a month and no more, is a disgrace to us. I would rather see it stricken out, and I hope Mr. Kearns' amendment will prevail just to save a little of our self respect. We are told to-day that the Legislature can fix it. So far we have been fixing the Constitution so that the Legislature will have no say, and if this is a superior body to what the ordinary Legislature of this State is going to be, in God's name, let us fix it so that they cannot rob the man entirely and make him pay his own expenses. I hope the amendment of Mr. Kearns will prevail.

Mr. LUND. Mr. President, I favor certainly two thousand dollars for the superintendent of public instruction. But I would say that if we must exercise economy this is the place to do it, because he can suit his duties to the amount of pay that he gets. If he only gets five hundred dollars, all that he will do likely will be to distribute the school fund, but if he does what he ought to do he will do at least two thousand dollars' worth of work.

Mr. MAESER. Mr. President, I fully agree with Mr. Kerr and Mr. Goodwin. Why, gentlemen, I have felt terrible when this vote of one thousand dollars was passed as a salary of the superintendent of public instruction. As it has been stated by the speakers before me, if the man is worth anything he is worth that. He ought to devote his whole time for the labor that is required of him to build up a school system throughout our State of Utah, which will be the pride of our State. It is laying the foundation of the foundation of the citizens that are to come—the rising generation, and a man cannot give what he has not got himself. We require one of the best teachers that we have in our State to fill that office, a man that can examine the teachers and judge upon the qualifications of teachers, that can go around in the schools and set schools right and show teachers in regard to methods of teaching, labor with the trustees and members of trustees, attend the county teachers' institutes, and in all things be an authority in matters of education. We expect such a man, after he has for a term or two served and has laid the foundation for a good educational system in the State to be fitted for re-election, and continue for many terms to come, so that an educational system may be built in our State that is a pride of our State and a benefit to the rising generation, and a man of that kind will have to devote all his time to this work. He cannot engage in anything else, as some other of these officers that are here will be able to do. Our superintendent of public instruction must devote his whole time. Now, the present incumbent, as it has already been remarked, must make his living by teaching school besides, and therefore he is prevented from attending to his duties in the way in which he should and in which he desires to do, if he was able to do it. I therefore sustain the motion of two thousand dollars.

Mr. KEARNS. Mr. President, I would like to have this motion put separately, not as a whole—to vote on each one separately.

Mr. EVANS (Utah). Mr. President, I arise to a point of order on that; it cannot be done.

Mr. KEARNS. In order to please the gentleman I will withdraw that motion and move to amend Mr. Snow's motion of two thousand dollars on that subject.

Mr. SNOW. I would like to remind the gentlemen of the Convention that this section provides that all these officers, while traveling in the exercise or performance of their official duties, will be paid their mileage—their traveling expenses.

Mr. VARIAN. If the Legislature provides for it.

Mr. SNOW. Well, they will do it, no

doubt about it. I want you to take into consideration that these officers of public instruction—most of his duties will be traveling among the schools, if he performs his duties, and if that is not provided for extra, I think gentlemen are going entirely to the other extreme, when they vote for two thousand dollars. I shall not do it.

Mr. EVANS (Utah). Mr. President, I am opposed to both of these motions and I will try and give you some of my reasons for it. As has been stated here before, while discussing this question, we are now about to start out under the new era and under our State government, and every salary that we raise will have a tendency to decrease the number of votes in favor of this Constitution, providing that those salaries go beyond what the people feel that they ought to be. Now, we have been paying in the past one thousand dollars and expenses necessarily incurred in the traveling of the superintendent of public instruction. My friend from Cache Valley asked this Convention what the result has been. My answer, sir, upon that question is the result has been that this Territory to-day stands third in this grand Union in the cause of education. This has been the result.

Mr. SNOW. Is that due to the efficiency of the superintendent of public instruction?

Mr. EVANS (Utah). I think it partly is, and I see the statement was further made that a man that could be got for one thousand dollars to operate in that honorable position was not worth having. I say, Mr. Chairman, that I stand here to resent such imputation, for I believe to-day that we have an honorable gentleman who holds that position in this Territory and he has operated with credit under the law in the position. I think that one thousand dollars is sufficient, and while it may be a fact that we ought to have a higher system of education, that the superintendent of public instruction perhaps ought to be required to put in more time, thereby receiving more pay, the same question might be involved in every other officer that we are going to have in our new State, and it is a question as to what we can afford to do, and I am opposed to the motion. We provide here that when the Legislature shall meet they may provide some other salaries for these various officers, but now, in starting out in the beginning of this new State, going before the people with those large salaries, I say that it will be a mistake if we do that. I think that we can get along for at least the term for which the first officers will be elected under this new State, under these salaries, as fixed and passed by the committee of the whole, and then if it shall be necessary, and we see that under the operations of the new State we are able to advance and pay more, thereby requiring better service, then I say it is in the power of the Legislature to fix that so it can be passed upon.

Mr. KERR. Mr. President, I would like to state upon this subject in reply to the statement of the gentleman from Utah County that I stated awhile ago the present commissioner of schools receives but one thousand dollars, it is necessary for him to perform the duties of another office in order that he may make sufficient to live. It is true that the traveling expenses of a superintendent of public instruction will be paid, but men of the learning and ability required to perform the duties of this office can command at least two thousand dollars in almost any other profession, remaining at home, where there are no traveling expenses. The question of traveling expenses therefore cuts no figure here whatever, and I want to say that it may be true as the gentleman from Utah County stated, that men can be found who would be glad to fill this office for one thousand dollars, but gentlemen of the Convention, I repeat my assertion that no man in Utah who is a competent man in that position

can afford to give his entire time to that work for the paltry sum of one thousand dollars.

It requires a man of ability. It requires a man of learning; it requires a man of experience, and if we want a system of public schools in Utah, let us elect to office men who are competent, and men whose experience and learning fit them for this work. If we want men to do this work, we must pay them what they are worth. It was argued here a few years ago that in the University of Utah and our higher educational institutions, it was unnecessary to pay more than a thousand to twelve hundred dollars a year, but it was soon discovered if we have in our institutions of learning men of learning, men of ability, men who are prepared for their work, we must pay those men what they can get in other states, and if a man can get twenty-five hundred dollars a year in Nebraska, we cannot expect him to come to Utah, gentlemen of the Convention, and work for one thousand dollars a year. As to the present work that is being done in our public schools, referred to by the the gentleman from Utah, I desire merely to say this, considering all the conditions under which we have been working in Utah, I concede that a fairly good work has been done, but that the work is not uniform—that the system is not by ten per cent. what it ought to be, is conceded by every educator in Utah. Gentlemen of the Convention, I speak from experience.

In the University of Utah during the two years I was there, we received students from every county and almost every district in Utah, and hardly a new student would be received in the institution who had received the same preparation. Visit the schools throughout Utah to-day and you will not find the same methods. You will not find the same system prevailing in the various counties, and in order that we may perform the best work, in order that we may realize the greatest results from the money expended in our school works, we must have a thorough and uniform system of education, and that I maintain we cannot have except we have a superintendent of public instruction whose learning, whose ability, whose experience, is such as to enable him by devoting his entire time to the work to secure these results. Gentlemen of the Convention, I repeat again, that any man who can afford to give his entire time to this work and who has the ability to do the work is worth two thousand dollars, and I also repeat again that any man who is not worth two thousand dollars in that position, if he gives his entire time to the work, is not worthy of the position, neither is he competent to do the work.

Mr. FARR. Mr. President, it is all very well to talk about high salaries. I like to talk about that; I would like to get them, but I ask this assembly again, where is your money coming from? If we go to work and put these salaries so high that the people when they come to vote upon this Constitution—they are going to sit down on it. Fix those salaries at a reasonably low figure. This salary can be raised by the next Legislature, if they want, that is what it provides for, but if you put it too large to begin with, then it is going to frighten the people, which I do know from my personal acquaintance with the people, that they are thoroughly done I think, and I would like this body of men to consider this. We could start in reasonable, it is all very nice for us to talk about high salaries, we all like it, but I ask you again, where is your money coming from? All the other states are insolvent—nearly every one. They cannot pay their debts to-day; shall we follow them to-day? No, gentlemen, we must pause and consider and start in as we can hold out and let the Legislature fix those matters as it is reasonable.

Mr. KERR. Do you not think that it

is not only possible but probable that a competent man as superintendent of public instruction, worth two thousand dollars, giving his entire time to his work, will better accomplish the work and save many times to the State the amount in expenditures in the work in the school system of the additional salary paid?

Mr. FARR. I will answer it in this way, I believe in getting a man that is capable without taxing the people to death.

The roll being called on the motion to fix the salary at two thousand dollars, the result was as follows:

AYES—48.

Adams	Lund
Bowdle	Maeser
Brandley	Mackintosh
Button	Maughan
Call	Moritz
Cannon	Murdock, Summit
Coray	Nebeker
Crane	Page
Cushing	Peterson, Grand
Eichnor	Pierce
Emery	Roberts
Francis	Robinson, Kane
Goodwin	Sharp
Green	Shurtliff
Hart	Squires
Haynes	Stover
Hill	Strevell
Hughes	Thatcher
James	Van Horne
Kiesel	Varian
Keith	Warrum
Kearns	Wells
Kerr	Whitney
Lambert	Williams.

NOES—49.

Allen	Larsen, L.
Anderson	Larsen, C. P.
Barnes	Lowe, Wm.
Boyer	Lowe, Peter
Buys	Low, Cache
Chidester	Maloney
Christiansen	McFarland
Clark	Morris
Creer	Murdock, Beaver
Cunningham	Murdock, Wasatch
Driver	Partridge
Eldredge	Peters
Engberg	Peterson, Sanpete
Evans, Weber	Preston
Evans, Utah	Raleigh
Farr	Ricks
Gibbs	Robertson
Hammond	Robison, Wayne
Halliday	Snow
Heybourne	Symons
Howard	Thompson
Hyde	Thoreson
Ivins	Thorne
Jolley	Thurman.
Kimball, Salt Lake	

ABSENT—9.

Corfman	Miller
Johnson	Richards
Kimball, Weber	Ryan
Lemmon	Spencer.
Lewis	

The president declared the motion lost.

Mr. CREER. I desire to be excused from voting. I would vote no. I am in favor of the gentleman's motion from Washington, of fifteen hundred dollars.

Mr. GIBBS. I vote no on this proposition, but I would like to vote yes on Mr. Snow's.

Mr. HAMMOND. I vote no on this, but I would like to see the whole thing stricken out and left to the Legislature.

The Convention then took a recess until 2 o'clock p. m.

AFTERNOON SESSION.

The Convention re-assembled at 2 o'clock p. m., President Smith in the chair.

The PRESIDENT. The question before the house is on the amendment of Mr. Snow, in line 22 of the section, "The superintendent of public instruction shall receive fifteen hundred dollars."

The amendment was agreed to.

Mr. KERR. Mr. President, I move you that line 17 be amended so that the salary of the governor shall be two thousand dollars per annum instead of twenty-five hundred.

The question being taken on the amendment, the Convention divided, and by a vote of 30 ayes to 27 noes, the amendment was agreed to.

Mr. HART. Mr. President, I move to amend in line 20 by striking out the sum of one thousand dollars and inserting lieu thereof the figures 1,250. That is not as high as it should be, but it may meet the approval of the Convention.

Mr. KEARNS. Mr. President, I offer an amendment to that to make it two thousand dollars. Gentlemen of the Convention, I will say this in regard to that, if you place the salary at a thousand dollars it has a tendency to drive it into the banks of Salt Lake City. No poor man can ever hold the office. He cannot get before the people in the first place for a thousand dollars. The Territory will never know who he is. In the next place, he will not be able to give a bond. You are making by this salary the object of a treasurer to throw it into the hands of capital alone. Therefore, I favor a salary of two thousand dollars.

Mr. HART. Mr. President, the bonds of the present treasurer, I am informed, are in the sum of $325,000. In other words, he has to have sureties justify in the sum of $650,000. It was stated on the floor of this house the other day that some two or three months' work would be all that the duties of the office of treasurer would require. I am credibly informed that it consumes fully nine months of the year to perform the duties of treasurer, and, Mr. President, in regard to what the treasurer has received heretofore, previous to the last session of the Legislature, the amount appropriated for the treasurer for the two years was twenty-five hundred dollars, and eight hundred dollars for stationery and office rent; this would give a total of thirty-three hundred dollars for the two years. Now, as I understand it, under this salary of one thousand dollars per year, he would be obliged to pay out of that the stationery, the office rent, and provide his bonds, in perhaps the sum of not less than half a million dollars. In order to get a man who will not have Canadian inclinations, I think it would be necessary to give him a little higher salary than one thousand dollars a year. I would favor fifteen hundred rather than two thousand, in view of the amounts fixed for the other salaries.

Mr. ELDREDGE. Do I understand the gentleman to say that he expects that the treasurer will pay his own office rent, or that the government should furnish him an office?

Mr. HART. Under this section, I am of the opinion that the one thousand dollars would include stationery. I may be mistaken about that.

Mr. ELDREDGE. And office rent?

Mr. HART. I do not see any provision for office rent. Traveling expenses remain there.

Mr. ELDREDGE. You would infer from this section that he paid his own office rent as well as his own stationery?

Mr. HART. I have not examined it very closely, I will say that, but that is my impression from my remembrance of it.

Mr. EVANS (Utah). I would like to ask Mr. Hart, did I understand you to say that they had appropriated twenty-five hundred dollars for the two years for his salary?

Mr. HART. Yes, sir; twenty-five hundred dollars previous to the last session of the Legislature.

Mr. EVANS (Utah). Previous to the last?

Mr. HART. Yes, sir; the last session of the Legislature designed for the treasurer to have one thousand dollars per annum, aside from stationery and office expenses, but by a mistake in the enrollment of the bill the part that was stricken out on amendment—that stationery and office rent was by mistake included, so that unless that matter is remedied the treasurer will have to pay

his office rent and stationery out of the one thousand dollars per annum.

Mr. EVANS (Utah). I would like to ask the gentleman one more question, whether he knows of such a thing in this Territory of an officer having to go to such a company as you indicated in your argument to get sureties?

Mr. HART. Well, since mentioning the matter the other day I am informed that no surety company will give such a bond.

Mr. EVANS (Utah). That is not the question. Do you know of any——

Mr. HART. Yes, I do; I know that the present treasurer attempted through a period of something like two weeks to get a surety company to give his bond.

Mr. EVANS (Utah). That is not my question at all. I asked if you knew of any person who had paid sureties to go on his bond?

Mr. HART. Oh, no.

Mr. EVANS (Utah). Well, then that settles that part of it.

Mr. HART. But he is placed under obligations of course to the men who go upon his bond and it is no slight matter to go around and solicit a six hundred fifty thousand dollar bond from your friends.

Mr. EVANS (Utah). Mr. President, I hope that this motion will not prevail. I believe that a thousand dollars is every dollar that we ought to pay. It seems as though we lose sight of the fact that this paragraph as reported by the committee provides that the Legislature may make such changes as they deem proper. It is not being fixed, it is not as the laws of the Medes and Persians, but we are fixing it now upon trial which at most, if the Legislature shall deem advisable to make a change, it will only be for two years.

Mr. FRANCIS. Four years.

Mr. EVANS (Utah). Is it four years? I understand it is not to take effect during their term. I would ask whether that is the fact—whether the treasurer is elected for four years.

Mr. EICHNOR. Yes, sir; all the executive officers.

Mr. EVANS (Utah). Now, Mr. President, I have taken the position before upon this question and I re-assert my position again, but I am going to make two or three illustrations that have not been referred to here. We must remember in the fixing of these salaries the work to be done; it is true that we must take into account the responsibility by reason of the heavy bonds, but in answer to that I submit that I do not not know of a single case in this Territory where a bondsman has been put to any inconvenience by reason of going upon the bonds of any of our territorial officers. Now, that presents the fact that by reason of that bondsmen will be more easy to obtain than they would otherwise. So far as the actual labor is concerned of this office, I believe that a thousand dollars will pay and pay them well.

The labor is not a very great deal connected with this. The responsibility is the great part, but now where is this money to come from? Permit me to say to you, sir, that I had the honor of taking the statistics of the city in which I live and also American Fork, which adjoins, and we are confronted with this startling fact that after I had completed that labor, for my own satisfaction I made this investigation, I began and I took the farmers, those owning five acres of land or more. I did not include in the computation those only owning their homes and their gardens, and I carefully went over that and I find that after I had concluded that, including the land, including their teams, and their harnesses, and their farming utensils, and their labor upon it—I was confronted with the startling fact that an average of all the farms in Lehi City only amounted to four hundred dollars including their labor and their capital invested. I find the same thing, sir, in

regard to American Fork, and it fell some little short of the four hundred dollars on an average, and I submit to you gentlemen of the Convention that that is from the men whom we are seeking to tax for the purpose of paying these salaries, and I ask you to call a halt and ask yourselves the question whether you are willing. These are the facts we have got to confront when we present this Constitution to the people and ask them to ratify it, and they are the people you will have to depend on for its ratification. I submit to you, upon a question of justice, is there any reason why that class of men should be taxed when their whole income including their time and their capital invested only aggregates the amount upon an average of four hundred dollars, that we shall tax them to pay men two thousand dollars for taking care of their taxes? I do not think this Convention is ready to submit any such a thing, and I am willing to trust it to them.

Mr. FARR. Mr. President, I am pleased to see that I have got one man converted and I hope there will be a number more. I presume that you will remember—there does not many of us do—that the treasurers served Utah for twenty years for five hundred dollars a year. True, their bonds were not as high as they are now, but their labor was about the same to do, and I want it kept before the minds of this honorable body that if they expect this Constitution to be ratified, they have got to get the people of the Territory to vote for it, and I can tell you if we do not keep these salaries down, they may not vote for it. Just as the gentleman has said, in regard to the condition of the men that pay the taxes, they are that way all through the Territory, they are the men we are to expect the money from to pay the taxes and if we do not make the salaries reasonable to start with we won't get the votes. I want this kept in mind before this honorable body.

The amendment of Mr. Hart was rejected.

Sections 21, 22 and 23 were read.

Mr. HOWARD. Mr. President, I wish to call attention to section 8. I do not believe it was the intention of the committee that drafted this article to give the governor absolute veto power, but I claim that this section gives him that right. Now, any important bill that might be passed by the Legislature in the closing days of the session might be referred to the governor, and then the Legislature adjourn. If the Legislature passes an appropriation bill and the governor objects to any portion of it, either one or two or more sections, and the Legislature refers it to the governor and in the meantime the session comes to a close, the governor can veto those sections or the whole of it.

The PRESIDENT. Has the gentleman got any motion to make in regard to this?

Mr. HOWARD. I just wish to call the attention of the Convention to this and find out whether it is intended to leave it in that condition. I believe I could offer an amendment, but I have not had time to do so.

Mr. HART. Mr. President, I have an amendment to offer to this section—a matter that escaped my attention when we considered it the first time, and I therefore mention it now. I move you to strike out of section 8, in line 23, the words "sections or," and in the next line strike out the same words, "sections or," and in line 27 strike out the words "section or sections," and in line 29 strike out the word "sections," and insert in line 23, after the word "items," the words "of appropriation of money." And in line 24, insert before the word "items" the word "such." I think this section as it now stands without this amendment would be a very radical departure from the provisions of consti-

tutional law that prevail in the United States. Since this matter was brought to my attention, I have examined every state constitution on the subject and I find that there is only one state in the Union, or possibly two—I am not sure about the second, however, that provides for a similar veto power of the governor as is provided by this section as it now stands. The following states, Mr. President, permit a veto by the governor of an item or items of appropriation bills.

New York, Alabama, Arkansas, California, Colorado, Florida, Idaho, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Jersey, North Dakota, South Dakota, Texas, West Virginia, and Wyoming, provide simply for the veto by the governor of an item or items of an appropriation bill, but the following states, Mr. President, do not even give the governor that power; he has to veto a bill as a whole and he is not even given the power to object to an item of an appropriation bill; these states are: Connecticut, Georgia, Indiana, Maryland, Massachusetts, Michigan, Nevada, New Hampshire, Oregon, Pennsylvania, South Carolina, Tennessee, Vermont, Virginia, and Wisconsin, and the only state in the Union, Mr. President, that provides for a similar veto power of the governor as is brought forth here is the state of Washington. The constitution of Illinois possibly may provide for a similar power, although it is doubtful to my mind, at least from the hurried examination that I gave to it. It clearly gives him the power to veto an item of an appropriation bill, but whether it gives him further power than that I am not clear. I think it would be a serious departure from established precedent. I do not think there is any reasonable doubt about it.

Any such a power as this in the governor, for my own part I would almost as soon vote to give the governor an absolute veto power as I would to permit him to veto any particular section or sections of an ordinary bill. For this reason, it would give a few members a greater power in the Legislature than a majority, and a few members, with the assistance of the governor, would have absolutely more power than the majority of the convention would. In the making up of the bill a series of compromises takes place. Each individual cannot have his own way, but after the bill is agreed upon, there may be a very large majority who would be in favor of putting it through section for section as it stands. There might be two-thirds who would be willing to have a bill enacted in the form that they pass it, and yet if the governor vetoed one section, by the opposition of a few men, unless you could get two-thirds majority who would stand by that particular proposition, the governor would have the right to exclude that, and although a majority might wish to have that section remain, although a two-thirds majority might be willing to pass upon the bill as a whole, yet a few might be willing to exclude one particular section. I do not think, Mr. President, that we should follow after Washington on this very doubtful experiment to say the best. I think that the states that permit the veto of an appropriation item adopt a wise plan. They are in the majority, although you will observe there is a very large minority that does not even give that power. I think that we should not exceed the powers that are given by a majority of these states to their governors in the veto of appropriation items. If my amendment prevails, we will then have a Constitution that is almost exactly similar word for word to the constitutions that I have named. It would be almost word for word the same as New York on this subject, and the other constitutions that I have named. I trust the amendment will prevail.

Mr. FARR. Mr. President, I have read this section over pretty carefully; I do not know who the committee were; I know most of them. It suited me very well. We ain't making a constitution for those other states; we are making a Constitution for Utah, and we are the body of men to tell what is best and if this suits us, I am sure I do not care about suiting anybody else. There is nothing unreasonable or unconstitutional in this and it suits me very well, and if it suited the committee and this Convention I am in favor of it.

The amendment of Mr. Hart was agreed to.

The PRESIDENT. The question is now on the adoption of the entire article.

The roll being called, the result was as follows:

AYES—90.

Adams	Larsen, C. P.
Allen	Lemmon
Anderson	Lowe, Wm.
Barnes	Lowe, Peter
Bowdle	Low, Cache
Boyer	Maeser
Brandley	Mackintosh
Buys	Maloney
Call	Maughan
Cannon	McFarland
Chidester	Morris
Christianson	Moritz
Clark	Murdock, Beaver
Coray	Murdock, Wasatch
Corfman	Murdock, Summit
Creer	Nebeker
Cunningham	Page
Cushing	Partridge
Driver	Peters
Eichnor	Peterson, Grand
Eldredge	Peterson, Sanpete
Emery	Pierce
Engberg	Preston
Evans, Weber	Raleigh
Evans, Utah	Ricks
Farr	Roberts
Francis	Robertson
Gibbs	Robinson, Kane
Goodwin	Robison, Wayne
Hammond	Ryan
Hart	Sharp
Halliday	Shurtliff
Heybourne	Snow
Howard	Squires
Hughes	Stover
Hyde	Strevell
Ivins	Symons
James	Thatcher
Johnson	Thompson
Jolley	Thoreson
Kearns	Thurman
Kerr	Van Horne
Kimball, Salt Lake	Varian
Lambert	Wells
Larsen, L.	Williams.

NOES—2.

Green	Haynes.

ABSENT—14.

Button	Lund
Crane	Miller
Hill	Richards
Kiesel	Spencer
Keith	Thorne
Kimball, Weber	Warrum
Lewis	Whitney.

Mr. EICHNOR. Mr. President, I vote aye, expressing my disapproval of section 12.

Mr. MALONEY. I vote aye, but I object to sections 12, 13, 14, and 15.

Mr. HOWARD. I wish to vote aye, although I object to giving the governor the veto power.

The PRESIDENT. The article on executive has been adopted, gentlemen, and under the rule goes to the committee on compilation.

The Convention then proceeded to the consideration of the article entitled labor.

Section 1 was read.

Mr. ROBERTS. Mr. President, I move you, sir, that section 1, together with the title and all other sections of this article, be stricken out. I wish to say my motion to strike out this article does not arise from any hostility to labor or making provisions for its pro-

tection, but I am of the opinion that this article is altogether useless for the accomplishment of the purposes designed by drafting it, as a part of this Constitution. I shall not at all be afraid of offending laborers, since I myself am one, but it seems to me, sir, that they are uselessly cumbering this Constitution with a provision that is absolutely worthless, because there is not a proposition in it but what can be evaded both by capital and by labor, and I believe, sir, that the true interests of labor can be subserved if the State shall provide for securing the rights of the individual which are provided for in the bill of rights and which in fact are provided for throughout the Constitution, and by the recognized principles of law in our country, and since I regard the whole article as useless, for one, I am not willing to give my voice to putting in this much lumber into the Constitution. And therefore, I am in favor of striking this whole thing out.

Mr. Evans, of Weber, offered the following as a substitute for the entire article:

Section 1. The Legislature shall provide by law for a board of labor arbitration, which shall fairly represent the interests of both capital and labor, and it shall be the duty of said board, under such regulations as may be provided by law, to endeavor by mediation and conciliation to effect a settlement of difficulties between employer and employes.

Section 2. The exchange of blacklists between corporations shall be prohibited.

Mr. RYAN. Mr. President, I hope this will not prevail, either the motion to strike out or the substitute. This Convention has taken the trouble to appoint a committee on labor and they have made a report. It passed the committee of the whole; it has been amended and now it is before the house and if it is not just what we want we will try and amend it as it goes along and without making any further remark, because it was well discussed the other day, I simply enter my protest now against the striking out of this article.

Mr. STREVELL. Mr. President, I would simply like to endorse the words of Captain Ryan. The committee has wrestled with the question. The committee of the whole has done the same, and while we do not claim that it is a perfect article, we believe that it will go a long way and that it will be able to accomplish some good. I hope the article will not be stricken out.

Mr. KEARNS. Mr. President, I agree with my friend on the right. I cannot favor the motion of Mr. Roberts to strike out. I think it is the duty of every man in this Convention to throw around the laborer of this Territory all the protection we can. We have been through this article once and I think we can fix it up where it will be a protection for the laborer of our future State, and it is our duty to do so, and I oppose this motion to strike out.

Mr. CANNON. Mr. President, I am opposed to the substitute and also to the motion to strike out. This matter was referred to a committee and was carefully considered by that committee and afterwards brought before the Convention and discussed thoroughly in committee of the whole. I am in favor of the original article as amended in committee of the whole, and opposed to both motions before the house.

Mr. ANDERSON. Mr. President, I am also opposed to the motion to strike out and also the substitute. I think that the article as reported by the committee should be adopted and therefore I shall support it.

Mr. MURDOCK (Beaver). Mr. President, I am also opposed to striking out the article as it now stands for the very good reason that labor is one of our great resources, we must recollect, and the influence that it would have on the labor community would be I think very detrimental. To say that we had such an article under our supervision,

and to set it aside without any reasonable grounds for doing so, I think it would be very detrimental. It would show to the laboring community that they were of little or no moment in the community, and for that reason I believe it will be to our interest and the interest of this Constitution and to the people generally to retain that in the Constitution, that they also may be protected with other interests.

Mr. EVANS (Weber). Mr. President, I would like any gentleman to explain to me if he can how the Legislature or how the new State can compel a private individual not to make discrimination between man and woman in his employ. If those matters referred to public works it would be a different thing, but how is the State to regulate what a private individual shall do in the employment of labor? It is simply out of the question. It would be a dead letter upon the statute books and would be without effect. There are many things in this article that I believe in. I think the substitute, however, covers everything that is of an important character. Slight troubles or difficulties between labor and capital and all those other matters are merely matters which ought to be left to the Legislature, except one other matter which I have urged before. If any gentleman can explain to me how the Legislature of the new State can enforce the payment of the same kind of wages, regardless of sex, I would like to hear the explanation. That is, if a man is to employ two clerks, one woman and one man, under this it would be contemplated that he paid both of them exactly the same wages. Can that be done? Not considering the question whether it is right that these two persons should receive an equivalent amount of pay for the same kind of work, how can we regulate that? How can we compel it. How can we enforce it? It would bring interminable trouble, I think.

Mr. STOVER. I would like to ask Mr. Evans if he does not understand that in Great Britan the laws prohibit the employment of women and children in mines?

Mr. EVANS (Weber). I said nothing about that. That is something I would be in favor of prohibiting. That is a part of the section. This first subdivision, but I will ask the Captain whether he knows of any such employment in this Territory, and what the occasion for this constitutional provision is?

Mr. STOVER. Why, to prevent it.

Mr. EVANS (Weber). It has never occurred. If it should occur and be abused the Legislature would have ample and plenary power to legislate for it. The constitutional restrictions are only put in for the purpose of averting or preventing some existing evil. We have not had it yet. We are simply apprehending something that will probably never occur, and if it does occur, the Legislature can probably provide for it.

Mr. THURMAN. Mr. President, I agree with the gentleman from Weber that the Legislature will have no power to prevent discrimination in wages on account of sex. I only regret that he cannot see as I do that attempting to prevent an exchange of blacklists stands on the same principle. One is equally impracticable with the other, but in so far as this question of discriminating in wages is concerned, we agree and I support him fully in all that he says. I am in favor of the motion to strike out the article. I know that it may be said that a man has got a pretty hard face to stand up and make a motion of that kind, but I have too much confidence in the intelligence of the laboring classes in this country to believe for one moment that they will be caught by a meaningless, useless, lumbering provision in the Constitution of the commonwealth. There is not a gentleman on this floor but will manfully admit that the Legislature has full power to do everything that we

here require them to do, and that all we are doing is that we are confining them to a means which one of these days, when the Legislature learns the question with which it had to deal, will be trying to find some other means with which to deal with it, in the interests of labor, and the Constitution will say, "you are confined to a board." Gentlemen, there is where we are bringing ourselves to, and I warn you now to call a halt if you are in the interests of labor. If indeed you want to conciliate the laboring man, give the Legislature of the future who will come from the people power to appoint, not only a board but boards or tribunals, or whatever they may please to call them, by which this question of the relation existing between capital and labor may be dealt with in the most convenient manner for the benefit of labor.

I say, gentlemen, that the man who stands here to-day, moving to strike out this article, root and branch, is the real friend of labor, while you are tying up the hands of your Legislature in the future, holding them down to a method which may or may not prove effectual for the purpose, and say, "you cannot deal with this question, except you deal with it exactly in the manner that we have pointed out." Let us grant this motion, strike it out. If you want to put in a simple provision in here to the effect that the relation existing between capital and labor is hereby recognized, and that the Legislature shall have full power to adjust the relations between capital and labor—adjust the difficulties—do that. I am with you. But when you undertake to go into detail and fix a specific method which may not prove effectual I shall be found voting no.

Mr. EICHNOR. Mr. President, it is the usual plea, "I am the friend of the laborer. I am the friend of the working men." But whenever they are put to the test to show their fruits and show their colors, then it is in the distance. I hope that no gentleman will misunderstand the question before the house. Every person that votes aye votes in favor of the substitute. Every person that votes no is voting for the article.

Mr. JOLLEY. Mr. President, we have had this article up before and it has passed the second reading, and it reminds me the way the laborer has been treated in many instances in the past; he has been downed and kicked, and scratched, and maltreated; we have had labor on the floor; we have had it down under our feet; we have scratched it, and we have almost erased it from this article that is before us. If there is anything wrong in whatever there is left, I would think there is talent enough here to straighten it and to amend it. Yet, there is a little left. There are a few of the rags left of it, by amendment, but let us not strike it out. Therefore, I oppose the motion. I do not think it is wisdom to kick labor clear off the floor on this question.

Mr. SNOW. Mr. President, I would like to correct an impression that would be gathered from Mr. Eichnor's proposition, that those that vote no vote in favor of the article. I understand there is still a motion before the house to strike out this article.

Mr. HAMMOND. Mr. President, I am in favor of the substitute and shall vote for it. If that fails I vote for the striking out of the whole article.

Mr. HART. Mr. President, if the substitute be adopted, then the motion to strike out could not prevail at all. By putting the motion to strike out first it virtually permits a division of the question. Mr. Varian, while in the chair the other day, gave a ruling to that effect, and it seems to me that it is the only reasonable position that could be taken to put the motion to strike out before the substitute, for the reason that if the substitute should prevail why the motion to strike out could not be put,

and we vote to strike out something that we have just inserted.

Mr. PRESTON. Mr. President, I like the substitute better than the section as it now stands, but I want the privilege of voting in favor of striking out the whole article. I would rather have the whole article stricken out than the substitute, and if one cuts the other off, then I ask for the motion to strike out to be put first.

Mr. EVANS (Utah). Mr. President, might I be permitted to make a suggestion? If this substitute prevails, it ought to be put first and if it prevails it will kill the others. It is an amendment to the amendment and in the nature of it, it will kill the whole thing. Then a motion could be made to strike that out, if you would so desire, but as I take it, if this substitute prevails, then it destroys both of the other motions and becomes the question before the Convention. If it is killed then the motion to strike out the substitute will be in order, and if that prevails that will kill it and then there will be nothing before the Convention.

Mr. HART. Do you hold that after voting to insert the substitute that we could afterwards vote on that same subject to strike it out?

Mr. EVANS (Utah). I hold, sir, that any motion, either to strike out and insert or to strike out without inserting or to substitute, is nothing more nor less than an amendment and the rule is here that will bear that out. Then, upon that theory, this substitute being an amendment to the amendment that was offered by Mr. Roberts, if that prevails, by reason of its nature, as an amendment, it will kill the whole question, both the original article and the amendment, and that becomes the question.

Mr. HART. The trouble is simply this, we are voting on the same subject twice.

Mr. HYDE. Mr. President, I am in favor of the substitute for the reason that I think it will have the same effect and I do not think the article as it now stands in the Constitution will be of any benefit to the labor interests. Now, I am a laboring man myself, and every act of my life I think will show that I am a friend of the laboring man, but I do not think that voting for this article as it now stands is showing any particular friendship for the laboring man. I shall support and vote for the substitute.

Mr. SQUIRES. Mr. President, in view of what Mr. Hyde has just said, I must call the attention of the Convention to the fact that if this article is not just as Mr. Hyde would like it, we can vote down this substitute and amend the article and make it just as we want it, but if either one of these motions prevails, it will put it out of our power. I am opposed to either one of these motions.

The roll being called on the substitute offered by Mr. Evans, of Weber, the result was as follows:

AYES—19.

Boyer	Hyde
Creer	Ivins
Cunningham	Low, Cache
Evans, Weber	Maeser
Evans, Utah	Preston
Farr	Roberts
Hammond	Robertson
Hart	Thatcher
Howard	Thoreson.
Hughes	

NOES—64.

Adams	Lowe, Peter
Allen	Mackintosh
Anderson	Maloney
Barnes	Maughan
Bowdle	McFarland
Brandley	Morris
Button	Moritz
Buys	Murdock, Beaver
Call	Murdock, Wasatch
Cannon	Murdock, Summit
Chidester	Nebeker
Clark	Page

Coray	Partridge
Corfman	Peters
Cushing	Peterson, Grand
Driver	Peterson, Sanpete
Eichnor	Pierce
Eldredge	Robinson, Kane
Emery	Robison, Wayne
Engberg	Ryan
Gibbs	Sharp
Goodwin	Shurtliff
Heybourne	Snow
James	Squires
Jolley	Stover
Kiesel	Strevell
Kearns	Symons
Kerr	Thompson
Lambert	Thurman
Larsen, L.	Van Horne
Larsen, C. P.	Varian
Lowe, Wm.	Wells.

ABSENT—21.

Christianson	Lewis
Crane	Miller
Francis	Raleigh
Green	Richards
Halliday	Ricks
Hill	Spencer
Johnson	Thorne
Keith	Warrum
Kimball, Salt Lake	Whitney
Kimball, Weber	Williams.
Lund	

PAIRED—2.

Haynes	Lemmon.

The PRESIDENT. The substitute is lost.

Mr. Maloney offered the following amendment:

Insert at end of section 1, the following:

Whenever a disagreement or controversy arises which cannot be settled by conciliation or mediation, the same shall be sent to the board of labor, conciliation and arbitration for settlement, and arbitration by the parties in interest and the decision of the said board shall be final and shall be enforced by the court in whose jurisdiction it occurs. Pending such arbitration proceedings, no employe shall be discharged. Whenever receivers appointed by the State or federal courts are in possession are control of railroads, their employes shall have the right to be heard in court upon all questions affecting them through the officers and representatives of their associations, whether incorporated or unincorporated. No reduction of wages shall be made by such receivers without the authority of the court after due notice to such employes.

The amendment was rejected.

Mr. THATCHER. Mr. President, I am not able to vote for that article as a whole, but inasmuch as it contains the virtue of striking against blacklisting, I would vote for the whole provision rather than lose that. I know individuals now who last year took part in the great strike, who were discharged because they used their rights as American citizens to try to protect themselves. I know of individuals who went to Canada because they were discharged and a blacklist followed them there—followed them back into the United States on the Northern Pacific railroad, and it is impossible for them to get employment in this country, and they are preparing to go to Mexico. I am in favor of any provision which shall say once for all that corporations shall not follow American citizens as bloodhounds once followed the escaping slaves. [Applause.] And for that reason, I shall vote against the striking out of this provision. I shall vote in favor of the provision, although it is crude. I think it could be amended.

Mr. JOLLEY. You mean that you would rather sustain the article as it is here than to vote for the striking of it out, is that it?

Mr. THATCHER. Yes, sir; I will vote for it because it has that one virtue in it.

Mr. PIERCE. Mr. President, I arise to a point of order. A motion to strike the whole article out is not in order. That motion would properly come up upon the question as to whether we should adopt the article or reject it upon the final vote.

The PRESIDENT. I think the point

of order is well taken, although we have gone over a good deal of ground in connection with it.

Mr. EVANS (Utah). Mr. President, I arise to a point of order. I did not desire to take up the time of the Convention, but you can see very well that as fast as one is done away with, if another is permitted to come in, as it has been doing, perhaps the motion to strike out would not be reached to-day at all. Now, I submit to you that when there is an amendment made to any article and that has been amended and the vote begun to be taken on that amendment, it must continue until they reach back to the original article. Then it is subject to amendment.

Mr. SQUIRES. We are considering this article, and if there is not a constitutional majority it will certainly be stricken out.

The PRESIDENT. We have got back to the original article and amendments are in order.

Mr. EVANS (Utah). Will you be kind enough to explain what becomes of the motion to strike out? My contention is and my point of order is this, that the motion to strike out is not a simple amendment. That was amended by the gentleman from Weber and that has been voted upon. My contention is then the amendment which proposes to strike out should be voted upon. Then the article is susceptible of being amended and also an amendment to the amendment again, but not until.

The PRESIDENT. The chair will entertain any motion looking to the perfection of this.

Mr. ROBERTS. Is it the decision of the chair that the motion to strike out is not now in order?

The PRESIDENT. The chair rules that the effort to perfect the article was in order and amendments should be received.

Sections 2 and 5 were read.

Mr. RYAN. Mr. President, I wish to amend by adding a fifth paragraph to section 5, as follows: "The Legislature shall protect employes from political and commercial control." I stated my reasons for such a provision the other day, and it is unnecessary now to review them, as I think all the members are here now that were here then. If we do anything at all for labor, I think we should first liberate it from political and commercial control. That is the object of that amendment.

The amendment of Mr. Ryan was agreed to.

Mr. PRESTON. Mr. President, I move in section 5 to strike out in line 5, "discrimination in wages on account of sex." It is inoperative. It would be impossible to make that operative.

Mr. CANNON. Mr. President, I am opposed to the motion to strike out. I think we have just as much right to place this provision in as many others that are contained, and I believe there is a reason for it. There has been in almost all ages a discrimination on account of sex, not because of the difference in work, not of the difference in the amount performed, but simply because of sex. There are instances in this Territory where parties at the present time contract for certain kinds of work. I would instance the case of tailors, where clothing has been manufactured or made, by tailors, and where there has been a discrimination on account of the sexes that were employed. The articles made are sold to the public without a difference in price. The work is performed just the same by the lady tailors as by the men tailors, and yet there has been a difference in the price. There has been, too, at different times and in some places, a difference in the amount paid to those who were engaged as typesetters, and in different employments, and this provision is intended to prevent anything of this kind. It does not aim to regulate what shall be paid to employes when they work side by side, simply because one is

a man and the other is a woman, that they shall receive the same wages, it does not attempt any such thing as that, but it does provide that where a man and a woman work side by side and perform the same work that they shall receive the same pay and that no discrimination shall be made.

Mr. VARIAN. Does the gentleman understand that this Convention or any legislative body has a right to determine the principles of contract between citizens, and say that you shall or shall not discriminate in the matter of wages between employes?

Mr. CANNON. Yes, sir; I think that the Convention has the right to say that as between two persons who perform the same work equally well, there shall not be a discrimination because one happens to be a woman and the other a man. I think we have that right.

Mr. GOODWIN. Is not that already disposed of in another article, where it brings women down to the level of men? What is the use of duplicating it? I shall favor the striking out, unless there is an amendment added that if this goes the girls shall pay for half of the ice cream and soda water.

The PRESIDENT. The gentleman will please send up his amendment in writing.

Mr. PRESTON. Mr. President, the gentleman from Salt Lake might just as well undertake to make the wages of all men equal as to undertake to make the wages of women equal with men; it cannot be done; it is inoperative. The supply and demand will govern the question and it cannot be regulated in any other way.

The question being taken on the amendment of Mr. Preston, the Convention divided, and by a vote of 46 ayes to 22 noes, the amendment was agreed to.

Sections 7, 8, and 10 were read.

Mr. EVANS (Utah). I move that section 10 be stricken out.

The motion was rejected.

Mr. Kearns offered the following as an additional section:

Eight hours shall constitute a day's work on all works or undertakings carried on or aided by the State, or municipal governments, and the Legislature shall pass laws to provide for the health and safety of employes in factories, smelters, and mines.

Mr. JOLLEY. Mr. President, I would like to amend by inserting counties as well as State and municipal governments.

Mr. KEARNS. That covers it. I accept the amendment of Mr. Jolley.

Mr. HOWARD. Mr. President, I am opposed to the amendment of the county being inserted in there.

Mr. PRESTON. Mr. President, that motion is not in favor of laboring men, to give them eight hours' labor in a day, because they will only get eight hours' pay and they cannot live on eight hours' pay, or at least prosper on it, in this country. I have never been able to do it. I am a laboring man, with the best of laborers; I do not care where they come from or what country they come from, and I have not been able to get along with eight hours' work in a day, nor they cannot unless they wish to continue to be laborers all the days of their lives and never rise to the dignity of proprietors in any kind of business. If they wish to be serfs in the land, then let them be confined to eight hours' labor and get eight hours' pay. That is all they will get; it cannot be done.

Mr. CREER. Mr. President, I am opposed to the amendment interjected by the gentleman from Sanpete County, that is, that it may mean counties as well as cities, for the reason that no doubt that would govern poll tax, and one thing that we need more especially than another is better roads in our new State, and I think that the poll tax payer had just as soon work ten hours as eight; in order to keep up with the advancing prosperity we want good roads.

Mr. JOLLEY. Mr. President, we cannot get our people in Sanpete to put in more than eight hours good solid work on poll tax, and there is no reason for asking them to do it.

Mr. KEARNS. Mr. President, I hope that this section will prevail. It is the custom in all the late constitutions that eight hours is a day's work in all county and municipal works of that kind. And poll tax that the gentleman refers to, if he puts in eight hours for the pay that is in it he would be satisfied.

Mr. CREER. I have put in ten hours.

Mr. KEARNS. I hope the section will prevail.

Mr. MORRIS. Mr. President, I favor the eight hour labor on the ground that there is not enough of labor for those that want to be employed. That is one good, sound reason, in my opinion. There is not enough labor in the country for the working men to-day, and it is a good proposition to divide it so that all may have a chance to get an opportunity. Permit some to work ten or twelve hours a day when the others cannot work an hour a day—for that reason I favor the proposition.

Mr. ANDERSON. Mr. President, I hope this motion of Mr. Kearns will prevail; I think it is a good provision and should be adopted.

Mr. HAMMOND. Mr. President, I hope it will not prevail for the very reason that Mr. Morris says, that there is not labor enough to go around. Leave it with the Legislature and when there is plenty of labor, why, then let it go around.

Mr. EICHNOR. Mr. President, a number of the gentlemen say that they are laboring men. I have labored as high as fourteen hours a day and sixteen hours a day, but I believe eight hours for work, eight hours for improvement, and eight hours for rest will produce a race of nature's noblemen. I am in favor of an eight hour system, and I believe when it is properly understood it will not work to the detriment of capital but to the benefit of capital, because when a man works eight hours and has a few hours for improvement and enough time for rest, he will do much better work.

Mr. JAMES. Mr. President, I think I will have to take issue with our working friend, Mr. Eichnor. I hardly agree with him. I am afraid he makes a mistake. I am afraid he conceives something that he thinks is working, but if he had to apply it, he would discover that he had made a mistake. Now, gentlemen of this Convention, I am not going to say it, egotistically or braggingly, but I say I am a working man. I was brought up a worker, I was reared on a farm, and I came with the ox teams over the plains before the railroad was built. I have filled every position in a mine from a shoveler in the day rate to the manager and owner of property. I do not believe in my time that I ever came in contact with a man that I believed could do a better day's work than I could. That is a manual day's labor. Now, Mr. President, when any gentleman stands upon this floor and tells you that eight hours as a uniform day's labor is a proper thimg, he just simply does notk now what he is talking about. I say to you, Mr. President, that there are different classes of work; I say to you, Mr. President, that men come to me daily for employment, that beg me to give them twelve hours a day's work in preference to eight. Why? Because that twelve hours a day labor is a different proposition from eight hours. We have got eight hours in our mines, we have ten hours in our mines, and we have twelve hours in our mines. Our engineers as a rule running machinery all work twelve hours and they are willing to take it. Why? Because you could not have a ten hour shift. Your machinery must run continuously, you cannot afford to put three engineers on.

Mr. KEARNS. This does not apply

to your engineers at all. This is just public works—State buildings.

Mr. JAMES. Well, the public works have engineers.

Mr. KEARNS. You are speaking of your own men.

Mr. JAMES. You hamper the operation of your public works in that manner of dealing with a day's labor. Now, I want to say to the gentlemen here that are trying to legislate in the interest of labor, that they are very apt to overdo this thing. I do not permit any man to be any more of a friend to labor than I am. I have been a friend of labor because I was brought up in it. I have not only worked at it, but I have been the employer of labor for the last thirty years. Now, you can go to Omaha and have a lesson of what you are trying to do in this convention today. Two years ago the municipality of Omaha passed an ordinance compelling eight hours a day's labor. My friends, it caused almost a riot in that town in a short time. The laboring men said they would not stand it, or would not submit to it; why, because, as the gentleman has said here, a little while ago, on this floor (Mr. Preston), they got eight hours' pay and they were not permitted to work any longer. Why, it is in the interest of the employer of men every time to have eight hour a day men. Why, it is like the machinery, if you have a piece of machinery that you have got to crush right up to its very utmost that it is put there to do, does not that machinery soon work out? On the other hand, if you have machinery there to do that work that one-half its capacity will perform the labor, won't that machinery hold up? But here you take your eight hour a day man and of course he feels like playing half the time. You pay him for only eight hours and the result is he does a good deal better eight hours' work for you than if he is working ten, and I tell you my friends, if you go up here among these men and put the question to them in that shop and ask them if they prefer to work eight hours a day and get eight hours' pay or work ten hours a day and get ten hours' pay, the laboring man will say to you right straight, "I prefer to have my choice about this thing; I prefer to do as I please about it." That is what the laboring man will say to you, Mr. President, and this very effort in behalf of the laboring man is simply to his disadvantage.

Mr. BUTTON. Mr. President, I have been a working man. I have worked eight hours and I have worked more. My experience is altogether different from the man that has just spoken. I belong to labor unions. I never belonged to one yet that did not want eight hours for a day's work, and any man that hires labor and will keep watch of his labor will find out that he will get better work for his money at eight hours than he will at ten.

Mr. JAMES. I think that is so.

Mr. BUTTON. And he will find another thing that is different from what the gentleman has just said. He will be paid for ten hours' work although he only works eight. And I am in favor of the section and am going to vote for it. I have lived in New York state where they have the eight hour law, and never saw a riot over eight hours a day work. There may be riots over ten. We have never had a strike yet because the employer wanted to cut it down to eight hours. There is more where they are trying to make it ten.

Mr. RYAN. Mr. President, I certainly want to add my testimony in favor of the eight hour a day system. It has been my experience that men will do just as much work if not more in eight hours than they will in ten, and I do not pretend to ask men to work longer than eight hours. When they work eight hours they have done more than their share of the world's work.

Mr. KEARNS. Mr. President, in regard to my friend, Mr. James—according to the statement of himself and

many more on the floor here, they are the finest body of working men I was ever in in my life. They all tell of their qualifications as working men. Now, I judge from the standpoint of himself, he could always satisfy himself with eight hours a day. I think if I should tell you my good qualities as a working man you would laugh the same as you did at what he says. I was always a working man until I came here and turned out to be a politician. I was always a working man, and I maintain I can do as much in eight hours as I want to. He talks about his men playing when he works them ten hours; I believe they would, because he could not stay and watch them ten hours. That is too long for a man to sleep, and I hope this section will be put in.

Mr. VAN HORNE. Mr. President, it seems to me this section only applies to public works, and the real argument in favor of the section proposed is that it gives a chance for the public to employ more of the citizens than it would on the longer hours. I believe it is universal with the laboring men that on public works eight hours constitutes a day's work, and I shall vote for the provision.

Mr. CORAY. Mr. President, I suggest the quickest way for the members to get themselves on record on this question—that seems to be all they want to do—is to have the roll called on this section and let them vote aye or no.

The roll being called on the adoption of the section offered by Mr. Kearns, the result was as follows:

AYES—79.

Adams	Larsen, L.
Allen	Larsen, C. P.
Anderson	Lemmon
Bowdle	Lowe, Peter
Boyer	Low, Cache
Brandley	Maeser
Button	Mackintosh
Buys	Maloney
Call	McFarland
Cannon	Morris
Chidester	Moritz
Christiansen	Murdock, Beaver
Clark	Murdock, Wasatch
Coray	Murdock, Summit
Corfman	Nebeker
Crane	Page
Creer	Partridge
Cushing	Peters
Driver	Peterson, Grand
Eichnor	Peterson, Sanpete
Eldredge	Pierce
Emery	Roberts
Engberg	Robertson
Evans, Weber	Robinson, Kane
Evans, Utah	Robison, Wayne
Francis	Ryan
Gibbs	Shurtliff
Goodwin	Squires
Green	Stover
Hart	Strevell
Haynes	Symons
Halliday	Thatcher
Heybourne	Thompson
Howard	Thoreson
Hyde	Thurman
Ivins	Van Horne
Jolley	Varian
Kiesel	Wells
Kearns	Williams.
Lambert	

NOES—11.

Barnes	Lowe, Wm.
Cunningham	Maughan
Farr	Preston
Hammond	Sharp
Hughes	Snow.
James	

ABSENT—16.

Hill	Miller
Johnson	Raleigh
Keith	Richards
Kerr	Ricks
Kimball, Salt Lake	Spencer
Kimball, Weber	Thorne
Lewis	Warrum
Lund	Whitney.

Amendment adopted.

Mr. SQUIRES. Mr. President, I desire to offer a new section as follows:

Section 12. The Legislature shall provide for the abolishment of the contract system as applied to public works, and all such works shall be done under the supervision of the State or the political subdivision thereof that is having the work performed.

I understand that this matter was presented by the working men's protective labor union of Salt Lake to the labor committee, but has not been by them reported. They reported a different article upon that subject and the Convention has struck it out.

Mr. EICHNOR. Mr. President, Mr. Squires referred to that idea or that section that had been proposed to the committee. It was not proposed to the committee, but the committee was loaded down with a number of propositions and we expected or anticipated a great deal of trouble with the article which we had presented and we were not mistaken in our anticipations. I favor the original section.

The question being taken on the section offered by Mr. Squires, the Convention divided and by a vote of 27 ayes to 38 noes, the section was rejected.

Mr. GOODWIN. Mr. President, I offer the following amendment to section 5, to take the place of subdivision 2, line 5:

The employment of youths under eighteen years of age in occupations dangerous to limb and life.

Mr. VARIAN. Mr. President, as I read that that would prevent the employment, if it is operative, of young men under that age in mines. It seems to me that it is in line with this principle, if it is a principle, which I have always thought was barbarous, preventing boys from making a living until they had reached an age when they could be admitted into the association of men. I may be in error about that, but I do not believe in that sort of a principle. I do not care whether it is fathered by the working men's organizations or not. I think that a boy of fifteen or sixteen or seventeen, if his circumstances are such that it is necessary for him to work, if he has others dependent upon him, requiring his labor, ought to be permitted to work and if he cannot get it in any other way except to take the risks in some of the hazardous employments of the country, I see no reason why he should be debarred from taking that risk.

Mr. GOODWIN. Mr. President, I had no such object in view. The idea was that boys under the age of eighteen as a rule have not judgment matured enough to handle machinery whereby the lives of other people are put in danger. As an illustration, the putting of young boys on street cars in this city. I had no thought of shutting any boy out in the world, but perhaps there is a feature in that that I ought to have given more consideration to. I was thinking of the owners of dangerous machinery employing boys where the public or some portion of the public are put in danger. I do not know, but the objection raised is good.

Mr. MALONEY. Why not say fourteen years of age instead of eighteen?

Mr. GOODWIN. Well, that does not weigh, because I do not think any one would so employ a boy under fourteen years of age.

Mr. CUNNINGHAM. Mr. President, would not this prevent a boy from running a mowing machine or working around a threshing machine, and all such things as that?

Mr. GOODWIN. No; I do not think so. It might prevent a boy riding a mustang.

Mr. IVINS. Mr. President, I employ a large number of boys down on my ranch, and the best broncho riders I have are young fellows, and I should dislike to be deprived of their services, and they would very much dislike being deprived of the opportunity of making thirty dollars a month.

Mr. SQUIRES. Mr. President, it would also rule boys out of running elevators in hotels and business blocks

and probably knock them off of their bicycle.

Mr. GOODWIN. Under the remarks of the gentlemen I am satisfied there will be enough boys killed. I withdraw the amendment.

Mr. CREER. Mr. President, I move the article do now pass.

The PRESIDENT. There is a motion of Mr. Roberts to strike out the whole article that is properly before the house.

Mr. STREVELL. Mr. President, I have an amendment I wish to offer to take the place of section 9, that was stricken out yesterday. I believe that that was an important matter and I think that a great many members of the Convention think so, but they voted against it on the ground of expense.

The same was read as follows:

Section 7. The secretary of state shall collect statistics and information on the subject of emigration, agriculture, and labor, its relation to capital, earnings of labor, men and women, and means of promoting their material, social, intellectual, and moral prosperity, and other statistics of general information.

Mr. STREVELL. I desire to say just one word on that in this regard, and that is, I believe that that work which is important to be done would be done in the office of the secretary of the state without creating a bureau.

Mr. ROBERTS. I would like to ask the gentleman if he expects the secretary of state to undertake that on fifteen hundred dollars a year.

Mr. STREVELL. I was in favor of giving the secretary about twenty-five hundred dollars. He will have a chief clerk.

Mr. ROBERTS. The Constitution does not do it.

The amendment of Mr. Strevell was rejected.

The PRESIDENT. The question now recurs on the motion of Mr. Roberts to strike out the entire article.

Mr. VARIAN. Mr. President, I make a point of order on that. This article is on its third reading—its final passage, a motion to strike out simply accomplishes what would be accomplished by a negative vote on the article. If the motion to strike out shall not prevail, then we would have to go on and take the same vote in a different form over again. The only question now before the house is, unless there is some amendment to be offered to the several sections, the calling of the roll upon the third reading and final passage.

The PRESIDENT. The chair thinks the point of order is well taken.

Mr. SQUIRES. Mr. President, I move that after the word labor the following words be re-inserted:

It shall be the duty of such board to endeavor by mediation and conciliation to effect a settlement of difficulties between employer and employe.

Mr. STREVELL. Mr. President, I feel like opposing that motion for this reason, my idea of striking of it out yesterday, after a part of it was stricken out, was that I did not care to have a part of the duties of the board left. I wanted to have the duties prescribed here or leave it entirely to the Legislature.

Mr. VARIAN. Mr. President, possibly the gentleman is under a misapprehension of the reason and effect of the motion to strike out. If he will notice, commencing on line 7, he will see that the provision was that the board is required to hear and determine controversies which may be submitted by either of the parties. As that provision stood, the employer could compel a submission of the controversy. And if it should be constitutional in the full sense—if this Convention has power to enact that (which I deny), it would not have been a board of arbitration at all. It would have been simply a board of control which could be put in motion by either party. The very name of arbitration would be inconsistent with such a board as that.

Mr. HART. Mr. President, I am op-

posed to that motion to insert those words, for the reason that it undertakes to define what the duties of this board shall be. Now, I am opposed to attempting at this state of the development of labor and capital to determine just how this matter may be. I am afraid the construction would be that the Constitution, having attempted to define the duties, that the Legislature could not add other provisions. I am afraid that the construction would be that you could not require compulsory arbitration, and we may, later in the development of this question, see that that is the wise thing to do, and the only way to effectually do anything in conciliating matters between capital and labor.

Mr. SQUIRES. May I ask the gentleman a question? Does he have an idea that such a thing as compulsory arbitration can ever be obtained?

Mr. HART. Well, that matter is in a state of uncertainty yet. I do not know but what it may. As it now stands, if both parties have to consent to the matter—if one refuses, why the whole thing is useless. It may be that that will be the only solution of the question between capital and labor.

Mr. SQUIRES. It would then have to be in the courts, not before an arbitration board.

Mr. HART. Well, in the court and then an arbitration board having certain powers.

The motion of Mr. Squires was rejected.

Mr. VARIAN. Mr. President, I move the secretary re-number the article and transpose sections 10 and 11 so that 10 will come last.

The motion was agreed to.

The roll being called on the adoption of the article on labor, the result was as follows:

AYES—78.

Adams	Kearns
Allen	Kerr
Anderson	Kimball, Salt Lake
Bowdle	Lambert
Boyer	Larsen, L.
Brandley	Larsen, C. P.
Button	Lemmon
Buys	Lowe, Wm.
Call	Lowe, Peter
Cannon	Low, Cache
Chidester	Maeser
Christiansen	Maloney
Coray	Maughan
Corfman	McFarland
Crane	Morris
Creer	Moritz
Driver	Murdock, Beaver
Eichnor	Murdock, Wasatch
Eldredge	Murdock, Summit
Emery	Page
Engberg	Partridge
Evans, Weber	Peters
Evans, Utah	Peterson, Grand
Farr	Peterson, Sanpete
Francis	Robinson, Kane
Gibbs	Robison, Wayne
Goodwin	Ryan
Green	Shurtliff
Hammond	Squires
Hart	Stover
Haynes	Strevell
Halliday	Symons
Howard	Thatcher
Hughes	Thompson
Hyde	Thoreson
Ivins	Van Horne
James	Varian
Jolley	Wells
Kiesel	Williams.

NOES—13.

Barnes	Ricks
Cunningham	Roberts
Heybourne	Robertson
Mackintosh	Sharp
Nebeker	Snow
Pierce	Thurman.
Preston	

ABSENT—15.

Clark	Miller
Cushing	Raleigh
Hill	Richards
Johnson	Spencer
Keith	Thorne

Kimball, Weber Warrum
Lewis Whitney.
Lund

Mr. HEYBOURNE. Mr. President, I desire to state that the article is so mutilated that I can hardly recognise its originality and I shall have to vote no.

The PRESIDENT. The article on labor has been adopted.

The committee on rules presented the following report:

Committee Room.

MR. PRESIDENT:

Your committee on rules herewith report resolutions 74 A and 75 B, with the recommendation that rule eleven be amended by adding after the word "Convention," in the fourth line of the rule, the following:

"And no member shall speak longer than fifteen minutes on any one question;" and that rule twenty be amended by adding after the word "another," in line 8 of the rule, the following:

"Provided, the time of any member shall not be extended more than fifteen minutes." VARIAN,
Acting Chairman.

Mr. EVANS (Utah). Mr. President, I move that the rules be suspended and that we adopt this now.

The motion was agreed to.

The Convention then proceeded to the third reading of the article entitled revenue and taxation.

Sections 1 and 2 were read.

Mr. PRESTON. Mr. President, the word "mixed" was stricken out of the 8th line and the word "and" inserted between the words real and personal.

Mr. BOYER. Mr. President, I move to amend section 2, in line 17, by striking out the words, "if any there be."

The amendment was rejected.

Section 3 was read.

Mr. CANNON. Mr. President and gentlemen of the Convention, I move to re-insert the words stricken out the other day, in line 12, "municipal corporations." That would conform to the idea expressed and agreed to the other day.

The amendment was agreed to.

Mr. ROBINSON (Kane). Mr. President, I move as an amendment, to strike out the words "his, her, or its," in line 8 of the section, and insert the word "their." I think this is somewhat cumbersome.

Mr. CANNON. That would be ungrammatical and it would be a matter for the committee on compilation and arrangement.

The PRESIDENT. There is no second to it.

Section 4 was read.

Mr. BUYS. I would like to ask the chairman what is the meaning of the language, "and all machinery used in mining and all property and surface improvements upon or appurtenant to mines and mining claims, which have a value separate and independent of such mines and mining claims." I want to know whether the intention was to exempt all mining machinery and improvements from taxation—whether that was the intent of it and whether it would do so.

Mr. CANNON. I would state that the intent was to tax mining machinery, but there are certain improvements I hold of no value, except for the mine in which they exist, such as a tunnel or a shaft, or something of that character, and of course such improvements could not be taxed. It provides that they shall be improvements having a value separate and independent of such mines or mining claims.

Sections 6, 7 and 8 were read.

Mr. CORAY. I would like to ask the chairman of the committee how much property is there that has not been taxed heretofore—what is the estimated value of it—mines and mine improvements?

Mr. CANNON. It is almost impossible to ascertain that. We could not arrive at an accurate estimate, but it would probably reach in the neighborhood of from two to four million dollars.

Sections 9, 10 and 11 were read.

Mr. VAN HORNE. I would like to ask the chairman of the committee whether the term "personal property owned or used" is intended to cover temporary use such as special cars that are forwarded for the purpose of one shipment and would be used by a corporation?

Mr. CANNON. Answering the gentleman, I would suppose that this would not apply to property of that kind, but cars that are used continuously even if they belong to corporations in the east, the design would be to tax them, but that is not the only class of property. Money might be used by corporations which is borrowed—that is permanently used.

Section 12 was read.

Mr. ELDREDGE. Mr. President, I move to strike out that section. It is pure legislative matter.

Mr. CANNON. Mr. President, I trust this motion will not prevail. It was argued at length yesterday. I do not want to take up the time of the Convention. I think this well worth the consideration of the Convention and it will save to the State something like three thousand dollars a year and unless it proves to be bad, I think it should remain. It can easily be changed by the Legislature if necessary.

Mr. ELDREDGE. It simply provides until the Legislature shall otherwise provide, so that the entire matter is left in the hands of the Legislature. Therefore, it might just as well be stricken out.

The motion was rejected.

Mr. EVANS (Weber). Mr. President, I desire to offer an additional section, to be designated section 14, as follows:

"Section 14. Taxes shall be levied and collected for public purposes only."

Mr. BUTTON. Mr. President, I move to lay it on the table.

Mr. EVANS (Weber). I do not want to discuss it all. I simply want to vote upon it.

Mr. VARIAN. That is simply declaring a general principle, is it not?

Mr. HART. Mr. President, the question is, if you lay it on the table whether it would not take the article with it, under the rule. I think if there is any controversy on that point, we had better vote directly on the adoption or rejection of the proposition.

Mr. EICHNOR. That is what Mr. Evans wants.

Mr. EVANS (Weber). No. I do not want to do that. It would do it, however. Gentlemen have no right to impugn my motives about that. I simply want to declare that I do not want taxes levied or collected except for public purposes.

Mr. VARIAN. Can taxes be levied for any other than public purposes now?

Mr. EVANS (Weber). I think not, but it is expressed in so many of the constitutions and is left out of this one, and I think it ought to be expressed in this. If the vote to table carried, of course the whole article will go with it. Mr. Eichnor is mistaken about me, because I do not want to carry the article with it.

Mr. EICHNOR. I say you want the vote on the proposition direct.

Mr. EVANS (Weber). That is all. I do not want to discuss it at all.

The motion of Mr. Button was withdrawn.

Mr. EVANS (Weber). I now move the adoption of the section which I proposed and to designate it section 14, and ask that the ayes and noes be called.

Mr. VARIAN. Mr. President, as I understand it, this is simply a declaration of what the law is anyhow. I do not know any other construction to be put upon it—that taxes must be levied for public purposes. I see no objection to putting it in the Constitution, but on the other hand, I see no reason for putting it there.

Mr. CANNON. I would like to ask the gentleman who introduced this a question. Is the purpose, Mr. Evans, to prevent payment of bounties?

Mr. EVANS (Weber). That question

of bounties has rung in my ears ever since I have done anything in this Convention.

Mr. CANNON. I ask the question.

Mr. EVANS (Weber). I say it is for the purpose of preventing the levy and collection of taxes for any purpose except for a purely public purpose.

Mr. CANNON. Would it affect the payment of bounties?

Mr. EVANS (Weber). If it does affect the payment of bounties, I hope it will carry.

The roll being called on the adoption of the section proposed by Mr. Evans, of Weber, the result was as follows:

AYES—36.

Barnes	Lemmon
Boyer	Lowe, Wm.
Buys	Low, Cache
Call	Maeser
Corfman	Maloney
Creer	Murdock, Wasatch
Cunningham	Nebeker
Engberg	Partridge
Evans, Weber	Peters
Evans, Utah	Preston
Francis	Roberts
Hammond	Robertson
Hart	Robison, Wayne
Halliday	Sharp
Howard	Snow
Ivins	Thatcher
Kiesel	Thoreson
Kimball, Salt Lake	Thurman,

NOES—45.

Allen	Larsen, L.
Anderson	Larsen, C. P.
Bowdle	Lowe, Peter
Button	Maughan
Cannon	McFarland
Chidester	Morris
Christianson	Moritz
Coray	Murdock, Beaver
Crane	Murdock, Summit
Eichnor	Page
Eldredge	Peterson, Grand
Emery	Peterson, Sanpete
Farr	Ricks
Gibbs	Robinson, Kane
Goodwin	Ryan
Green	Shurtliff
Heybourne	Squires
Hill	Stover
Hyde	Strevell
James	Thompson
Jolley	Van Horne
Kearns	Varian.
Lambert	

ABSENT—25.

Adams	Mackintosh
Brandley	Miller
Clark	Pierce
Cushing	Raleigh
Driver	Richards
Haynes	Spencer
Hughes	Symons
Johnson	Thorne
Keith	Warrum
Kerr	Wells
Kimball, Weber	Whitney
Lewis	Williams.
Lund	

Mr. JOLLEY. Mr. President, I have a substitute here for section 5. I would like it read and would like the floor for a few minutes to speak upon it.

The same was read as follows:

All mortgages secured on either real or personal property shall be taxed; a reduction equal to the amount of such mortgage shall be made in the assessed value of the property covered thereby.

Mr. CREER. I arise to a point of order. That is exactly in substance and in language almost what was stricken out.

The point of order was sustained.

Mr. EVANS (Weber). I would like to make this suggestion in respect to this point of order, and that is this, the motion is equivalent to the section which was stricken out and it reaches exactly the same thing and it is simply a question now——

The PRESIDENT. That was in committee of the whole. This is in the Convention. I think the thing is perfectly in order.

Mr. JOLLEY. Mr. President, while I realize that it is somewhat legislative

matter, yet I realize by placing that article in the Constitution, it would be a material help to thousands of poor people that are now in Utah Territory. We have been living in days of prosperity in the past for many years until the last two years. We have found ourselves—thousands that have our homes mortgaged, personal property mortgaged, and there has been a shrinkage in property and valuation of at least fifty per cent., until to-day people are almost unable to find the wherewith to pay their taxes, and while the money that they have borrowed—the men that own it are exempt from helping to bear that burden.

This is simply equalizing that burden, taking a portion of it from the poor man that has got to-day possibly fifty or seventy-five per cent. of all that he owns mortgaged, and is paying taxes on all that he owns, and the money that he borrowed too, and yet within the last two years has lost fifty per cent. of all that he does own, and they are laboring and struggling, but it is life and death financially, and if we are here, as we have been to-day, in the interest of the laborer and the poor, I think that we could not do them a greater favor than to have that inserted in the Constitution. It would be a boon which would be a great help. It would be an encouragement to them that to-day are unable to keep body and soul together. This is all that I have to say. I trust it will receive consideration here before you vote it down.

Mr. IVINS. Mr. President, I do not wish to occupy a moment's time debating this question, but to call attention to the fact that it was precisely the same thing that was voted down yesterday by a vote of two to one. It amounts to just the same thing, and I hope that it will be voted down to-day. Now, I want to state while I am on my feet, if this question is going to be opened up for discussion again, there is a good deal to be said and we have a provision that we are ready to put in and substitute for that that will make mortgages taxable, as they are under the California system, but we do not want to enter into this debate. We are willing to leave it for the Legislature to determine, just as we left it yesterday. It is a fair proposition.

The substitute of Mr. Jolley was rejected.

Mr. MORRIS. Mr. President, before calling the roll I want to call attention of the gentlemen to the fact that there is something wanted in section 11. We have outside of the general taxation of this city five or six special taxations. There is the light tax, there is the water tax, there is the sewer tax, there is the sidewalk tax, there is the street tax, and there is no end to the special taxes that we have outside of the general taxes until the people are eaten up with taxes and no end to it. I think there is something wanted in that section.

The PRESIDENT. There is no question before the house.

The roll being called on the adoption of the article entitled revenue and taxation, the result was as follows:

AYES—77.

Allen	Lambert
Anderson	Larsen, L.
Barnes	Larsen, C. P.
Bowdle	Lemmon
Boyer	Lowe, Wm.
Button	Lowe, Peter
Buys	Low, Cache
Call	Maeser
Cannon	Maloney
Chidester	Maughan
Christianson	McFarland
Coray	Morris
Crane	Moritz
Creer	Murdock, Beaver
Cunningham	Murdock, Wasatch
Eichnor	Murdock, Summit
Eldredge	Page
Emery	Partridge
Engberg	Peters

Evans, Weber	Peterson, Grand
Evans, Utah	Peterson, Sanpete
Farr	Preston
Francis	Ricks
Gibbs	Roberts
Goodwin	Robertson
Green	Robinson, Kane
Hammond	Robison, Wayne
Hart	Ryan
Halliday	Shurtliff
Heybourne	Snow
Hill	Squires
Howard	Stover
Hyde	Thatcher
Ivins	Thompson
James	Thoreson
Jolley	Thurman
Kiesel	Van Horne
Kearns	Varian.

Kimball, Salt Lake

NOES—3.

Corfman	Sharp.
Nebeker	

ABSENT—26.

Adams	Mackintosh
Brandley	Miller
Clark	Pierce
Cushing	Raleigh
Driver	Richards
Haynes	Spencer
Hughes	Strevell
Johnson	Symons
Keith	Thorne
Kerr	Warrum
Kimball, Weber	Wells
Lewis	Whitney
Lund	Williams.

The President declared the article adopted, and referred to the committee on compilation and arrangement.

During the roll call the following explanations were made:

Mr. JOLLEY. I will vote aye as far it goes, but it does not go far enough to suit me.

Mr. NEBEKER. Mr. President, in voting on this proposition, I want to explain my position. I believe in section 2. While the proposition is aimed to be left to the Legislature to tax mortgages I believe that the Legislature is silent upon that proposition that mortgages can be taxed under this article and I am not in favor of taxing mortgages, unless we go to the California provision, therefore I vote no.

On motion the Convention then, at 5:24 o'clock p. m., adjourned.

FORTY-SEVENTH DAY.

FRIDAY, April 19, 1895.

Convention was called to order at 9 a. m. President Smith in the chair.

Roll call showed a quorum present.

Prayer was offered by Rev. Geo. W. Rich, of Park City.

Journal of the forty-sixth day's session was read and approved.

Mr. Coray was excused.

Mr. Chidester moved the rules be suspended and all petitions relating to elections and right of suffrage be filed without being read.

Carried.

The following petitions were presented asking that the question of woman's suffrage be submitted as a separate article to a vote of the people:

File No. 364, signed by C. A. Glazier and 9 others from Provo, by Corfman, of Utah.

File No. 365, signed by W. H. Dickson and 171 others from Salt Lake, by Van Horne, of Salt Lake.

The following petitions were presented asking that an equal suffrage clause be placed in the Constitution:

File No. 366, signed by Elizabeth Carlisle and 37 others from Mill Creek, by Cannon, of Salt Lake.

File No. 367, signed by Hugh McKee and 174 others from Huntington, by Howard, of Emery.

File No. 368, signed by N. J. Neilsen and 32 others from Hyrum, by Thoreson, of Cache.

Mr. Hyde, of Juab, presented the following petitions from Nephi, asking

that the question of prohibition be submitted as a separate article to a vote of the people:

File No. 369, signed by Thos. H. Ingram and 54 others; File No. 370, signed by Chas. Morris and 46 others, and File No. 371, signed by J. W. Paxman and 15 others.

Referred to committee on schedule, future amendments and miscellaneous.

Mr. RICKS. Mr. President, I move that all petitions on the woman's suffrage question hereafter presented be presented to the clerk without being read to the Convention.

Mr. CHIDESTER. And in order to save time in this matter, I move that the rules be suspended and that all petitions of that nature be submitted to the clerk and placed on file.

Mr. CANNON. I would like to ask the purpose of the motion—if it is the intention that it go on record?

Mr. CHIDESTER. Not necessarily.

Mr. VAN HORNE. Mr. President, I hope that will not be done. We put in our bill of rights a declaration that the right of petition of the people should not be taken away from them. The right of petition means the right of presenting it to the body which has to consider it, and I think it will not be courteous to our constituents without at least reading the title of the petitions.

Mr. CHIDESTER. I did not mean any discourtesy, but it was simply to save time. There are a number of petitions coming in and it will encumber the records.

Mr. BOWDLE. Mr. President, if I understand the motion, it is simply the reading by the clerk of the petitions. They will go into the minutes just the same and in fact be treated and considered as such, is that it, Mr. Chidester?

Mr. CHIDESTER. Yes, sir.

Mr. BOWDLE. I am in favor of that motion.

The motion was agreed to.

Reports of standing committees.

Committees on public lands and education reported as follows:

Convention Hall,
Salt Lake, April 18, 1895.

PRESIDENT CONVENTION:

Your committee on public lands and education and school lands, to whom was referred the article on "public lands," have decided that each committee report on the respective duties assigned them.

Respectfully,
FRANK PIERCE,
Chairman committee on educatio nand school lands.
L. B. ADAMS,
Chairman committee on public lands.

Report adopted.

Committee on schedule, future amendments and miscellaneous reported as follows:

Committee Rooms,
April 19, 1895.

MR. PRESIDENT:

I submit herewith report of your committee on schedule, future amendments; also minority report on the question of "prohibition;" also return herewith the various files referred to us and recommend that they be filed.

RICKS,
Chairman.

Constitutional Convention Hall.

MR. PRESIDENT:

Your committee on schedule, future amendments and miscellaneous have considered the proposition to submit a separate article to the vote of the people, prohibiting the manufacture and sale of intoxicating liquors as a beverage; and respectfully beg leave to report that in the opinion of your committee the question involves the destruction of so much property, injury to established business enterprise, and the disturbance of vested rights in property, that it is a question which ought not to be hastily dealt with as it must necessarily be if considered by this Convention. Moreover, we respectfully represent that the control of the manufacture and sale of intoxicating liquors by means of governmental prohibition is but an experiment, and if tried at all in the new State ought to be by legislative enactment, and not by constitutional provision; and we therefore recommend

that the subject be left to the Legislature.

B. H. ROBERTS,
L. B. ADAMS,
J. J. WILLIAMS,
S. FRANCIS,
KARL G. MAESER,
SAMUEL H. HILL,
JAMES F. GREEN,
JOEL RICKS.

Committee Room,
Joint County and City Building,
April 19, 1895.

TO THE PRESIDENT AND CONSTITUTIONAL CONVENTION:

The minority of your committee on schedule, future amendments and miscellaneous deem it their duty to recognize the many petitions presented praying that prohibition as a separate article be submitted to the voters of Utah for their acceptance or rejection. Therefore, we beg leave to submit the following article on prohibition, to be voted on as a separate measure.

GEO. P. MILLER,
J. D. HALLIDAY,
JOS. E. ROBINSON.

Mr. JAMES. Mr. President, the committee on corporations other than municipal are ready to report. They have not submitted with their report any written statement for the reason that they have not had time.

The committee is anxious to get this report before the Convention that it may be printed and go into the committee of the whole.

Mr. EVANS (Weber). Mr. President, I move that the rules be suspended and that the minority report on the question of prohibition be rejected and the majority report be adopted.

Mr. THURMAN. No; let us reach it in the regular order.

Mr. IVINS. Mr. President, I am entirely opposed to this summary manner of disposing of this question or any other of similar importance that may come before this body. I want to ask why, under a suspension of the rules, we should proceed to deal with this question this morning when there are other matters upon the calendar waiting for our attention? It is not proper and right, and I hope that this question will be left until it comes up in its regular order and then let us make such disposition of it as we may choose.

Mr. VARIAN. Mr. President, I move to lay the motion on the table.

The motion of Mr. Varian was agreed to.

Mr. THURMAN. Mr. President, it has been suggested that the motion just made here carried the whole question to the table; if that was the purpose of it, this Convention did not understand it. I do not believe in a thing being carried by a misunderstanding.

Mr. VARIAN. It was not the purpose of it, but I suggest that it can be taken up at any time.

Mr. THURMAN. Well, it ought to be taken up right now. I do not think this Convention wanted to do that, that they wanted to deal with the petitions of a large portion of Utah in any such way.

Mr. VARIAN. Mr. President, I will say the object was to cut off the discussion, so that we could go on with the business.

Mr. THURMAN. I accept the suggestion. I move now that it be taken from the table.

The motion was agreed to.

Mr. EVANS (Weber). My only purpose in offering my motion was to dispose of this question as the gentlemen say in a somewhat summary manner. We have been here sometime. I believe that the Convention is in a temper now to dispose of it without delay.

Mr. HART. A motion to suspend the rules is undebatable.

The motion of Mr. Evans was rejected.

Mr. FRANCIS. Mr. President, I move that the committee on accounts and expenses be instructed to inquire if it is necessary to longer employ the services of our committee clerks. Also if we need all the other officers at present employed, and report thereon as soon as possible.

The motion was agreed to.

Mr. BARNES. Mr. President, in behalf of that committee, I would ask that a copy of the resolutions be furnished the committee.

Mr. ADAMS. Mr. President, I would move that the article on public lands be reinstated on the calendar in its regular order; it was taken off you will remember some time ago and we would like to have it reinstated.

Mr. CANNON. Mr. President, this is out of order. Motions come later.

The PRESIDENT. This motion will come in a little later.

The Convention then proceeded to the consideration of the article entitled public debt.

Section 1 was read.

Mr. CANNON. Mr. President, I desire to offer the following amendment, in line 6, after the word "indebtedness:" "and when existing indebtedness shall have been paid the debt authorized by this section shall never at any time thereafter exceed two hundred thousand dollars."

Mr. VARIAN. I ask to offer a substitute for the section.

Mr. EVANS (Weber). Mr. President, I move an amendment to the amendment of Mr. Cannon, striking out the words, "two hundred thousand dollars," and inserting "one hundred thousand dollars."

The PRESIDENT. The motion is out of order.

Mr. Varian presented a substitute for the entire section as I understand it.

The substitute offered by Mr. Varian was read as follows:

The State may, to meet casual deficits or failures in revenue and for necessary expenditures for public purposes, including the erection of public buildings and for the payment of all territorial indebtedness, assumed by the State, contract debts, not exceeding in the aggregate at any one time the sum of three hundred thousand dollars, over and above the amount of the territorial indebtedness assumed by the State, and when the said territorial indebtedness shall have been paid, the State shall never contract indebtedness for the purposes herein specified in excess of the sum of three hundred thousand dollars; and all moneys arising from loans herein authorized shall be applied to the purposes and none other for which they were obtained.

Mr. VARIAN. Now, Mr. President, my purpose in rewriting the entire section was to make perfectly clear what I conceived to be the intention of the Convention. While the amendment offered by the chairman of the committee this morning eliminates some of the obscurity that was embraced in that section, it seems to me it ought to be more specifically and clearly stated; that is to say the intention of this section, as I understand it, was to authorise the contracting of an indebtedness to meet casual deficits or failures in revenue and also such other burdens growing out of the necessity for public institutions or buildings. I thought, and some differ and some agree with me, that "or for expenses," in the second line, was not sufficiently explicit, that that might be interpreted to refer to the ordinary and current expenses of the State, and inasmuch as it is susceptible of this dual interpretation, it was deemed expedient to present the matter to the Convention more explicitly. The substitute offered provides for expenditures for public purposes, including the erection of public buildings, and it also includes the other proposition which is embraced in Mr. Cannon's motion, that when the territorial indebtedness, which is specifically mentioned as the indebtedness comprehended by this section, shall have been paid or any part shall have been paid, that the limit for these other purposes shall be fixed at three hundred thousand dollars. I do not know whether that would meet with the approbation of the members of the Convention or not, but it is the amount usually fixed in clauses of this kind and certainly would not be considered more than sufficient

if it were necessary to erect public buildings. At the suggestion of gentlemen here I would ask leave to make that two hundred thousand dollars instead of three hundred thousand dollars.

Mr. HART. Mr. President, it seems to me that the amendment by the gentleman from Salt Lake, Mr. Cannon, hardly covers the ground that he wishes. It seems to me that the matter is left uncertain as to whether additional indebtedness could be contracted by the State in excess of the present indebtedness, or whether that would apply only after the present indebtedness was fully paid. It seems to me that it is not as clear as the proposition offered by the gentleman from Salt Lake, Mr. Varian, which clearly limits the indebtedness of the State to a certain amount. It seems to me that the amendment of the gentleman from Salt Lake places no limit upon the matter until after the present indebtedness is paid.

Mr. CANNON. Mr. President, I call the gentleman's attention to the fact that the section as passed in the committee of the whole would limit the indebtedness, including the existing indebtedness, to nine hundred thousand dollars. The amendment offered by myself provides that after the existing indebtedness shall have been paid that thereafter the indebtedness provided for by this section shall never exceed at any time two hundred thousand dollars. I think it is clear on that point. I am opposed to the substitute offered for the reason that it takes up some matters dealt with in other sections that I think are covered better than they would be by this. I think that the amendment proposed, making it two hundred thousand dollars after existing indebtedness is paid—that the article would be better as passed in committee of the whole.

Mr. HART. Mr. President, I call the gentleman's attention to the words "after the debt has been paid." What would be the rule before that debt has been paid?

Mr. EICHNOR. Nine hundred thousand dollars.

Mr. HART. Suppose some part of that should not be paid at any time?

Mr. VARIAN. Will the chairman of the committee point out what matter in other sections is embraced?

Mr. CANNON. In section 2 there is a provision that the money arising from the contracting of such debts shall be applied to the purpose for which it was raised and for no other purpose whatever.

Mr. VARIAN. I call attention to the fact that that is copied from the original article. That objection is certainly not good.

Mr. CANNON. Well, I did not want to confuse the two sections.

Mr. ROBERTS. Mr. President, I cannot say that I object to the substitute offered by the gentleman from Salt Lake, especially as to the principle of it, but I am of the opinion from my recollection of its reading that it would be simpler to amend this section as reported from the committee and cover the same points, and if I vote against it at all, it would be upon that ground, that I think that this section as we have it from the committee could be amended and make us a better section than this substitute. As for instance, I would so amend and intended to offer the amendment until barred out by the number that are already before the house, so that it would read, "the State may, to meet casual deficits or failures in revenue, or for expenses, not provided for, contract debts and such debts direct and contingent in the aggregate shall not at any time exceed one hundred thousand dollars, not including present indebtedness, and the moneys arising from the loans creating such debts," etc., shall be applied to the purposes for which they were obtained. Then I would say that the committee on sched-

ule, future amendments and miscellaneous will necessarily bring in a section in their report making provision for the State to assume the territorial indebtedness, and thus you would avoid in this section the provision that is made for the State taking the indebtedness of the Territory, and leave this section unburdened by reference to the territorial indebtedness at all, and would prefer an amendment of this kind to the substitute that is offered.

Mr. PRESTON. Mr. President, it says, "when the present indebtedness is paid." I would like to have some information from the chairman of the committee as to when that may be. Can the chairman of the committee on public debt tell when that will be done?

Mr. CANNON. I am unable to foresee exactly when it will be paid. I can find out when it will mature.

Mr. SQUIRES. Are not the bonds fifteen year bonds?

Mr. CANNON. They are twenty year bonds and the time has partly elapsed, but the object of the amendment is that when the existing indebtedness shall have been paid that the debt authorized by this section shall never thereafter at any one time exceed two hundred thousand dollars.

Mr. ROBERTS. Does it not follow then that before that indebtedness could be settled that under your amendment the State could exceed this limit that we are trying to fix upon?

Mr. PRESTON. That is the point I was trying to make.

Mr. CANNON. I think not, Mr. Preston. It could not exceed the nine hundred thousand dollars. It limits it to less than two hundred thousand dollars in excess of the present indebtedness.

Mr. VARIAN. I would like to ask the chairman, supposing when this Constitution goes into effect the indebtedness of the Territory is nine hundred thousand dollars, as it is liable to be, what would be the effect then of this article as amended by you?

Mr. CANNON. I would understand it myself, that then we could not increase the indebtedness for the purpose named in this section until we had paid the indebtedness which exists, and that therefore they could contract indebtedness not at any time to exceed two hundred thousand dollars.

Mr. ROBERTS. Suppose that the State should pay off, we will say, five hundred thousand dollars of its debt, could it not then immediately go on under your amendment contracting several hundred thousand dollars indebtedness again?

Mr. CANNON. The State could go not to exceed the limit provided until the indebtedness was paid. I do not think they could renew that indebtedness, except in the way of taking it up.

The amendment offered by Mr. Cannon was rejected.

The substitute offered by Mr. Varian was adopted.

Mr. EVANS (Weber). What is the limit now in the substitute?

Mr. VARIAN. Two hundred thousand dollars.

Mr. EVANS (Weber). Mr. President, I move now that that be amended by inserting the words "one hundred thousand dollars," instead of two hundred thousand dollars.

The amendment was rejected.

Sections 2 and 3 were read.

Mr. EVANS (Weber). I want to inquire of Mr. Cannon what these objects are in section 3—what is intended by that?

Mr. CANNON. I would state that the object of the committee as I understood it, was that in case of any public work of any kind being desired to be undertaken and the people desiring to perform that by incurring indebtedness, they should have the power to vote upon it.

Mr. EVANS (Weber). Now, I understand this section just as the chairman does exactly, and since Mr. Varian's substitute has been adopted that pro-

vides for public buildings, I therefore move that section 3 be stricken out. I submit that that substitute fully covers section 3. Section 3 is a useless thing and it ought to be stricken out.

Mr. SQUIRES. Mr. President, the only point that would make me hesitate about striking this other section out is that in this section as provided for is required to first be voted by the people, and in section 1 there is no limit of that sort. It leaves the entire matter of indebtedness to the Legislature. Whatever they should provide will have to go up to the limit of the indebtedness of the State, without the people having a word to say about it. This section 3, it seems to me, ought to be amended in some way so that this extra indebtedness should be voted by the people, as provided in section 3, and not leave too much to the Legislature.

Mr. VARIAN. Mr. President, the object of creating a public debt as declared in section 1, would be restricted and practically of little importance, if it were to be determined as suggested by Mr. Squires, by a popular vote. You will observe that the debt is limited to certain specified purposes. They are necessary purposes. First, to meet the deficits in the current revenues of the year; second, to supply the necessary public buildings for public purposes. Now, for what other purposes can the people of this State be called upon to create a public debt? Section 2 provides in the improbable contingency of invasion, insurrection, war, etc., for this matter. Section 1 provides for taking care of the State as she shall move along from year to year, if it shall be necessary to provide her with the necessary public buildings. Now, what other purpose can be served by providing for still an additional debt for some undefined object or purpose, provided the people shall vote upon it? Of course, if there is a purpose that is not disclosed, let us put it in here, because I fear that an article like that, unexplained, carrying so much obscurity and uncertainty as to the purposes of it upon its face, when the people come to look at it and vote upon this Constitution, it will have a tendency to alarm them. Of course, I may not have been astute enough to see it. If there is a specific and good purpose, let us put it right in there so that the people can see what is meant by it. I confess I do not understand it.

Mr. ROBERTS. I would ask Mr Varian if the indebtedness provided for in sections 1 and 2 would not be under the jurisdiction of the Legislature to contract those debts?

Mr. VARIAN. Yes, sir.

Mr. ROBERTS. And that it is not necessary to refer under these provisions to the people at all?

Mr. VARIAN. No, sir; I do not think it is ever held to be a good policy to refer debts of this kind, because before the people would pass upon it the emergency would have passed.

Mr. ROBERTS. Mr. President, I submit that in the event of undertaking a public building, it would be a question that the Legislature in all probability would be elected upon, and it is sufficient limit to the Legislature if we say the purposes for which they will tax the people and for which they will not—not only limit them as to the purposes for which they shall use these taxes or this indebtedness, but also the amount of the indebtedness. I take it, sir, that it is a sufficient limitation upon the Legislature that there is nothing further left for which the State can reasonably go into debt than for the purposes specified in the substitute for section 1 and in section 2, and therefore there is no excuse on earth that I can see for leaving in section 3 in this article, and I shall vote to cast it out.

Mr. CANNON. Mr. President, the substitute offered for section 1 and which has been adopted by the Convention, meets the objection that was made at the time in the committee of the

whole to striking out section 3, the objection which I then made to striking it out. The only question in my mind is whether or not two hundred thousand dollars would be ample for purposes that might be designed under section 3, and yet I would hesitate to make the amount larger than two hundred thousand dollars, because when not applied to those purposes, I think two hundred thousand dollars is more than enough. I would have preferred one hundred thousand dollars for the purpose first stated in section 1 or originally stated in section 1, and a provision as in section 3, but under the circumstances, so far as I am concerned, I believe I shall vote to strike out section 3.

The motion to strike out section 3 was agreed to.

Section 4 was read.

Mr. SNOW. Mr. President, I move to strike out the words in line ten, "those voting thereon," and insert in lieu thereof the words, "such electors." It will be noted that in section 5 the debt that is authorized aggregates fifteen per cent. besides extra indebtedness for sewerage, etc. The qualifications required in section 4 to vote on these propositions are those of a taxpayer. Now, according to section 4 a majority of those voting at this election could vote the tax so that a small minority might be at any time capable, in the absence of all the qualified voters voting, to vote this tax upon the great majority if this section only requires a majority of those voting at the election to vote these taxes. The amendment which I propose limits the assessing of this tax to a majority of the qualified electors. The object of this amendment is to provide that only a majority of the qualified electors—that is, taxpayers, shall be capable at any election to vote the assessments that are authorized in section 5 to prevent a bare minority. I would like to illustrate. Suppose there are one hundred electors in a school district and the proposition is to assess five per cent. According to this, if there were but fifty who went out to the polls to vote, twenty-six of them would carry the election, and seventy-four of them would be compelled to pay a tax that had been authorized by twenty-six electors. If my amendment carries, it will require fifty-one in such a case to carry the election or assess the tax. The proposition here is that there shall be in addition to being a qualified elector a taxpayer for the next preceding year.

Mr. EICHNOR. Mr. President, I am opposed to the amendment. It is the duty of every citizen to vote. If a man can make his vote—if a man by remaining away from the polls can make himself as effective as by going and voting against it—that is the result of the amendment; why, it is contrary to the institutions of the United States. It is the duty of every citizen to vote and a majority of the votes cast should govern. Why, if that principle were adopted the men could stay at home and it would be just as good as if they were to go and vote; that is certainly wrong in principle.

Mr. BOYER. Mr. President, the very reason that Mr. Eichnor advances as his objection to the amendment of this section, I should offer in favor of the amendment. I certainly hold that for the purpose of an assessment of a tax upon any individual that there should be a majority in any voting district or precinct to determine that tax and that should consist of a majority of the voters of the district, because that in order to take money from one individual for the purpose of an improvement, in the event that he does not desire it, there should at least be a majority of voters requiring that. For instance, you might illustrate a little further on the proposition that Mr. Snow introduces. Supposing that in an election district that there were one hundred voters, proper notice having been

given, and only three voters in the precinct should turn out to cast their ballots for the assessment of a special tax of five per cent——

Mr. EICHNOR. Whose fault would that be?

Mr. BOYER. It would be the fault of no one particularly, only those who expressed a right to cast their vote by staying at home. The two parties out of three voting could assess a tax upon a hundred taxpayers for the purposes of a special improvement. Now, I hold that he that stays at home and does not vote for the assessment of a tax, expresses a determination not to be taxed. This section, as I take it, is for the sole purpose of the privilege of making a special assessment, and it is given to the parties that desire that assessment to express their views and not for a party that votes against it. The party staying at home expresses his views against this assessment. He evidently does do so, by not voting for the assessment. Now, in order to get a legitimate assessment, we must have a majority of the electors in favor of it.

Mr. ROBERTS. Mr. President, it occurs to me to ask why not go to the polls and register a protest against the indebtedness by voting?

Mr. BOYER. In answer to Mr. Roberts, I would say this, if I understood the question. The question is asked, why not go and express your vote at the election as against it? The question is one that requires an affirmative in order to assess the tax, consequently if the person stays at home he expresses by a negative that he does not wish the tax assessed against him. That is the reason, and I hold that it should be necessary for a majority of the electors of the district to say when the tax shall be assessed.

Mr. LAMBERT. Brother Boyer, do you think it right to reward a man for staying away from the polls?

Mr. BOYER. Sometimes I do, yes, sir; now Mr. Lambert, I may be away from the election district, as many times dozens of men are away from the election district—are off on other business and cannot possibly be at home to vote at school elections or when the special assessment may be made, and I hold that they have no right whatever when they are absent and away to express their wish; they cannot possibly get to the polls and they should have that right from the fact that it requires the affirmative for the assessment of this tax and there should be a majority of the electors in the district required to make that assessment.

Mr. BOWDLE. Would not that same argument pertain to any election?

Mr. BOYER. No, sir; because this is a special election for a special purpose, for a special tax, which assesses every individual at the same rate, and if he chooses upon a general election to stay away and sacrifice his right, it his own business and nobody else's. It is not understood only just so far as the general taxes are concerned.

Mr. GOODWIN. May I ask the gentleman a question? Under the new dispensation could not a man's wife do that for him, if he were away?

Mr. BOYER. She could do just half of it; if he were fortunate enough to have two wives they might be able to do the business. [Laughter.]

Mr. ROBERTS. Mr. President, I shall oppose this amendment, just for one reason. It seems to be a contrivance by which an election may be carried by the people staying away from the polls, and therefore I shall vote against it. I believe in the kind of an election that can only be carried by the people going to the polls and voting.

Mr. BUTTON. Mr. President, I want to offer an amendment, and if this amendment carries, I will vote for the other. I move that every elector shall be fined five dollars if he don't go to the polls and vote.

The PRESIDENT. It is not germane to the subject

Mr. JOLLEY. Mr. President, I think that this is something that we should carefully consider. Now, it has come under my observation in the past where there have been less than two dozen voters that have imposed a heavy tax upon two hundred voters for school improvements, and it was simply because it was in a busy time of the year, and in a farming district, and the people were scattered and busily engaged, and the notices being posted up for ten days were unobserved by the busy workers of the people. And I think myself that they should get the assent of a majority of the people before they assess any tax.

Mr. THORESON. Mr. President, I am opposed to this amendment. We elect public officers for certain purposes, and they present these questions to their constituents—to the people of their district, or the city that they represent, and they ask the people to come up and vote for or against the proposition made, and I think that they should be backed up by their people. They want to ascertain the feelings and by a majority staying away then for different purposes they do not get this information, but by coming up and voting for or against, they tell their servants—these officers, what they expect of them, and they act accordingly.

Mr. CREER. Mr. President, for the same reason expressed by the gentleman who has just spoken from Cache, I am opposed to the amendment. It would have a tendency simply to stultify progress of our school districts, because the people simply would stay away, and there is no other manner to present it. The trustees must do that almost yearly—that something is needed for the improvement of the school property of the district. According to this idea all they would have to do is to stay at home, and it is encouraging a principle that is absolutely wrong, in my opinion.

Mr. PARTRIDGE. Mr. President, I would not say anything, only I see a disposition to oppose the amendment. The question was asked here by one gentleman, if the speaker who was speaking was in favor of punishing the person—I do not remember now just how it was—but I will reply to that at any rate, by asking him if he would wish to punish a person for staying at home? Now, I understand this matter in this way, that if the trustees of a school district wish a tax. and they call upon the voters of that district to vote that tax, it should be a matter that concerns the voters of that district. It is not a matter that concerns the trustees alone, but it concerns every one that holds property in that district, and I do not think that a few men should have the privilege or the right to get up an election contrary to the wishes of the majority and force them to pay a tax. It is said here that by their staying away they should be forced to go to the polls. I do not think so. I think that they should have a say in it. If they did not want an election they should not be forced to do it—to go to the election, and if there is a majority go there and vote for it, and if there is only a minority that wants it, why let it fail, that is the way I look at it.

Mr. EVANS (Weber). Mr. President, I am in favor of the amendment, because I am opposed to public indebtedness. Gentlemen misunderstand this section. It is not a question of the rate of taxation. It is a question as to whether the people can go in debt by this method. And being opposed to public indebtedness, I shall vote for the amendment.

Mr. ELDREDGE. I would like to ask the chairman of this committee one question. What tax is section 4 intended to apply to? Is it a general tax or does it look to cover anything that that may come up in the form of a special tax?

Mr. CANNON. I should understand

that it would be the taxes which would be collected for the special purpose; that if it were for a school district, it would be the tax collected for school purposes; if a county, it would be the tax collected for a county purpose, etc.

Mr. ELDREDGE. Would we understand that that would apply to a tax levied under the statute or would it be a tax collected?

Mr. CANNON. I would understand it to apply to the circumstances connected with the various cases. For instance, take a school district, the school trustees would know before hand about the amount of tax that would come to them. This section is designed to prohibit them from incurring an indebtedness greater than they may expect a revenue to cover. That is my understanding of it, and anything that they might reasonably expect to collect they would have a right to appropriate or incur indebtedness for.

Mr. SQUIRES. Do you remember, Mr. Cannon, that the recent court decision in regard to the indebtedness of this county excluded the school tax from the amount?

Mr. CANNON. I do not understand the scope of the gentleman's question or what he wants.

Mr. SQUIRES. The purpose of the county court here was to ascertain what the limit of indebtedness should be in order to know how much of these outstanding warrants are illegal, and the court decided that they could not include in the taxes of the year, the school tax of the county, and that made these ninety-five thousand dollars of warrants which were issued illegal.

Mr. EVANS (Weber). How would that affect this?

Mr. SQUIRES. Well, this is the same language as provided in that statute. I wanted to know what he understood by it.

Mr. CANNON. The purpose is, as I understand it from the committee, to limit the indebtedness that may be created by a county or by any municipal corporation to the amount of revenues that that particular subdivision would receive.

Mr. SQUIRES. Including school tax?

Mr. CANNON. Including school tax.

Mr. HAMMOND. Mr. President, I am in favor of this amendment, but I am like an old broken winded horse with the heaves. I cannot tell all that I think about it, but it affects San Juan and, that is enough for me to get on the floor. Our school districts there are small. That is, they cover a good deal of ground, with the centers of population small, while our taxable property, which is cattle and sheep, are roaming over the wilds there and the cattlemen's headquarters and outfits are from forty to fifty miles away. Now, our school districts and voters get together—a half a dozen of them, as they have done, and get up a craze—boom—want a school house, and go on to this higher education, and it has affected very largely the main property taxpayers in that county, because there is no paper published there. The Tribune scarcely ever gets down there and for that reason those cattlemen do not get posted in regard to these little notices stuck up on the blacksmith shop or the co-operative store or the meeting house, and they are in oblivion in regard to it until the tax is assessed upon them.

Mr. BOYER. Mr. President, I want to say one word further if I may be permitted. Now, the principle of this law that we are enacting here is based upon the position that a majority must make the law. The very Convention that is gathered together here that will frame this organic act under which this assessment may be made will require fifty four of the delegates here to pass upon this article to give it place in the Constitution. Now, suppose a number of those men go out and we can only get fifty-three, that part of the organic act would certainly fail. It requires a majority to give us this organic act

under which the special assessment may be made. If they were outside, they could hustle out and collect them in.

Mr. CHIDESTER. Mr. President, I am opposed to the amendment for the reason that it would give those who desire to levy a tax or those who stayed away or were absent from any cause—might perhaps thwart the design of those who wished to levy a tax. Now, some might remove from the district, yet they might have been voters; their names may be on the list and all of that, and it seems to me that it would give a reward to those who were careless and indifferent and stayed away from the polls. It would thwart the real design and wishes of those who would want to levy the taxes.

Mr. IVINS. Mr. President, there seems to be such a decided opposition to this amendment I must say a word. Mr. Hammond has represented a condition that exists in nearly all of the outlying counties of this Territory, and I am certain that unless this amendment is approved that injustice may be done in those outlying counties. I know the ambitions of men to build school houses and make other improvements, and in many instances men who have control of these affairs are not the representative men of the district.

Mr. HAMMOND. They pay no taxes some of them.

Mr. IVINS. They pay no taxes some of them. It is just as Mr. Jolley says, advantage will be taken of those away from home, due notice will not be given, and a small minority would, in many instances, impose very heavy burdens upon the majority. I say whenever the time comes that a majority of the people desire that money shall be expended for special purposes, they will go to the polls and say so.

Mr. CHIDESTER. Is it not a fact that the trustees would have to publish a notice to the taxpayers of this meeting?

Mr. IVINS. They might be required to publish a notice. It is also a fact that the paper in which they published a notice might not find its way into one-tenth of the houses of the people of that district.

Mr. CHIDESTER. Is not it a fact that they would have to publish the notice in the different places in the precinct—post notices also?

Mr. IVINS. Yes; it is also a fact that notices may be posted up in a district where people never see them, and I have known it to be done. It has come under my own observation.

Mr. CREER. Mr. President, I would like to ask Mr. Ivins a question. This does not cover the school district? It also covers towns and counties. Therefore, if they want to make any improvement—get an expression of the people, there is no way of reaching that—simply by absenting themselves they can defeat the whole thing. Now, in all legislative bodies we have a compulsory process to compel a majority. Does this apply also to the citizens of the towns and villages, and other subdivisions, besides school districts?

Mr. IVINS. I suppose it would. I am in favor of it applying to them.

Mr. CANNON. Mr. President, the objection I have to the amendment is this, every man who might be detained from the polls, even though he might vote for the proposition, would be counted against it. I think it would be unfair. I think in addition to that, there might possibly be as many men away from home who might want to vote for a tax as were away from home who would oppose the tax, and it would be unfair in that case to count the absentees all against the proposition. The lists had not been revised, every man who might have died or might have removed from the district, would be in the same way counted against the proposition. I am certainly in favor of defeating the amendment.

Mr. BOWDLE. Mr. President, this is a very absurd proposition, to say the

least of it. Suppose that you have a registration list of a hundred voters, it would require fifty-one of those to vote a tax. You commence in the morning, the registration list has a hundred voters. Suppose that one of those voters should die during the day, how are you going to determine whether you have got an election or not? How would you arrive at a conclusion in that manner? I think that the face of the thing would be absurd.

Mr. RICKS. Mr. President, I have a proposition that I wish to mention before this goes to a vote. I believe that the section ought to be so amended as to make it necessary for at least a majority of the residents of any district, county or city to vote on a proposition of this kind, providing that a majority of those ought to decide a tax. And I believe if you strike out in line 7 the words "and voted or by a majority," it would cover exactly the objections made so that it would read, commencing in line 6, "unless the proposition to create such debt shall have been submitted to and voted on by a majority of the qualified electors thereof." It would render it necessary for a majority of the electors to vote on a question. And then if a majority of them voted in favor of the indebtedness, it would be created, but as it is, without the amendment of Mr. Snow, if there are a thousand electors in any district and twenty of them go and vote, eleven of them can vote the indebtedness or the tax, and I am not in favor of leaving it in that way, neither am I exactly in favor of the amendment of Mr. Snow, but I believe that the amendment that I propose, if adopted, will leave the question to the majority.

Mr. ALLEN. Mr. President, the gentlemen from San Juan and Washington, speaking about these cattlemen—I know of men that have large herds and they do not care whether their children have education or not. They are the men that are able to pay taxes and the tax is voted on. They do not grumble at it, yet they would not go the polls either for or against, and if they were compelled to go to the polls some of them would vote for it, but they are indifferent and pay no attention to it. Therefore, I think the amendment ought not to carry.

The amendment of Mr. Snow was rejected.

Mr. RICKS. Now, Mr. President, allow me to submit my amendment.

The amendment of Mr. Ricks was rejected.

Section 5 was read.

Mr. EVANS (Weber). Mr. President, I now move to strike out the word and figure five, in line 6, and insert in lieu thereof the word and figure two. I must submit a remark or two on this. This to me is more vital than anything else. I want to show you, gentlemen of the Convention, just in figures, for a moment, where this section is leading us. We started out yesterday and the motion was voted down, but I do not believe that this Convention apprehends the real danger of this section. I am going to take for illustration Salt Lake City and Ogden City, with respect to their assessed property valuation. I will first take Salt Lake City. It has an assessed valuation in round numbers of forty million dollars. We can levy under this section twenty per cent. of the taxable valuation of that property. That would permit an indebtedness for city, county, and school within the State, of eight millions of dollars, or in other words it would permit an indebtedness for these purposes of one hundred and sixty dollars per capita. I believe the amount of money equally distributed throughout the United States would only amount to from twenty-seven to thirty dollars per capita. Now, we take Ogden City, as I understand it from a statement made to me this morning by the mayor, our assessed valuation is about twelve millions of dollars. If we can levy for the purpose

of indebtedness twenty per cent. under these sections, we can incur an indebtedness of two millions, four hundred thousand dollars for these various purposes. That would amount exactly to one hundred and sixty dollars per capita. It seems to me that these figures are perfectly appalling when examined. It would seem to me that upon this question of public indebtedness we are simply running mad. We have gone already to a considerable length in respect to these matters, but here is an article which will permit us to go far beyond what we have already been entitled to go. Judge Dillon, the authority upon municipal corporations, gave an opinion with respect to the very situation which exists here in Utah. He holds that school indebtedness and the city indebtedness are separate and distinct; that they are two political subdivisions for that purpose, so that this section will be construed as to indebtedness as meaning that the city may go in debt five per centum for general purposes, five per centum for water, lights, and sewers, which is ten, the school district five per cent. and the county five per cent., that makes twenty per cent. As I have amended this section, the total indebtedness would be seven per cent., one for general city purposes, that would not include of course the present indebtedness, because that is already provided for in section 7, so that this would be a legalized debt and would be required to be paid. One per cent. for general city purposes after the adoption of the Constitution, and one per cent. for county purposes. That is certainly ample; one per cent. after the indebtedness which we have already assumed; that is certainly ample; and two per cent for water works or lights or sewers. Salt Lake City has a valuation of forty millions of dollars; two per cent. would allow eight hundred thousand dollars for these purposes; it would allow Ogden for the purpose of establishing water works two hundred and forty thousand dollars. It seems to me that is amply sufficient, but not only that, a portion of the general taxes collected for the city could be appropriated for those purposes. Now, gentlemen, are we willing to say in the light of the past experience that we will permit these political subdivisions to go in debt more than seven per cent? Is not that liberal? It is beyond what I think it ought to be, but it seems to me that we certainly ought to agree upon these figures. Talk about twenty per cent. of indebtedness for these political subdivisions. Why, gentlemen, it is one-fifth of the entire wealth of the State, including its real and personal property. Would any individual desire to go in debt for one-fifth of his worth? Indeed, it would exceed one-fifth, because we already permit about one per cent. territorial purposes. I, therefore, am in favor of this amendment.

Mr. CREER. Mr. President, if this proposition of the gentleman was adopted it would work a great hardship to other cities that have not already gone in debt. Now, for instance, we will take the city from which I come, Spanish Fork. I think we have an assessed valuation of from nine hundred thousand to a million dollars; we have no way now of protecting the property there—that is from accidents by fire. This motion would simply give us the power to assess for water works about two thousand dollars; therefore we would be perpetually or forever prohibited from establishing water works. Of course these other cities have already got the benefit of these water works and the benefit of electric lights and such things as those, and we want some opportunity; we cannot get it by the annual taxes, because we are limited in that.

Mr. EVANS (Weber). You would be allowed to go into debt thirty thousand dollars.

Mr. CREER. No, sir.

Mr. EVANS (Weber). One per cent. and two per cent. for water works——

Mr. CREER. Well, three thousand dollars——

Mr. EVANS (Weber). It would allow you thirty thousand dollars if you have a million.

Mr. CREER. That even would not be sufficient to establish water works for our city, but I take it that it would not allow that much, because we have got to take besides water works, electric lights and other improvements as well; we would be limited to this tax. I say that this would be unjust and unfair to other cities who had not already got these advantages that Ogden and Salt Lake and Provo and the other large cities of the Territory have to-day, and we should not be prevented from voting those improvements. They are actually necessary, and I am opposed to this. Therefore, I move an amendment, that we make it not to exceed three per cent.—strike out the word and figure five, in line 5, and make it three, and in line 19 also. I think the statute provides now four, and I am willing to decrease it one per cent.

Mr. PETERS. Is it too late to offer an amendment which would practically be an amendment to the amendment?

Mr. CREER. This is an amendment to the amendment.

Mr. CANNON. Mr. President, I am opposed to both of these amendments. This was very thoroughly discussed in the committee of the whole, and the committee decided to leave the article as it is. As it was there pointed out, this is left to the people, and unless the people vote upon it, those who have paid a property tax the year before—unless they vote to have indebtedness, it cannot take place at all. I have been looking over the report of the governor to the secretary of the interior while the gentleman from Weber was speaking, and I find quite a number of the cities far exceed the amount we have named already. I have selected four of these, Brigham City exceeds the amount of $19,866. I am informed by the gentleman from Brigham City, one of the representatives of their county, that they have there a most excellent system of water works, and that is a great benefit to the city—more than the amount of indebtedness they have incurred. In Corinne also, they have $4,663 more than the amount; in Logan they have $25,998 more than we propose. In Manti they have $7,311, and so you could go on through the different cities of the Territory. Those that have been the most progressive and that have benefits to show for that which they have increased their indebtedness for, and I think we can safely leave it to the people, just as it is in the article. I am opposed to the amendment.

Mr. PARTRIDGE. Mr. President, I favor Mr. Evans' amendment. If we cannot get that, I would favor two per cent. If we could not get that, I would take the next best. It was said by the gentleman who was last up that this tax cannot be levied without the people vote for it. We have just decided that question, that a minority can vote the tax. If it had been carried that a majority was necessary, it would not have been so bad, but under the existing condition of our action, I am opposed to putting such a high limit and allowing a minority to vote an excessive tax on the people; therefore I shall vote in favor of Mr. Evans' motion, and if that does not prevail, I will favor the next best.

Mr. ELDREDGE. Mr. President, I shall favor the amendment offered by the gentleman from Utah County, for the reason that I think it is unsafe to grant power to create an indebtedness to the amount that this section does as presented by the committee. I think that if we will look at the history of the people of Salt Lake City and of Ogden, the last few years, we will con-

clude that had there been an opportunity to have created an indebtedness to the extent that it is here provided, that there has been a period that that indebtedness would have been created, and it is reasonable to presume that history will repeat itself, and that sometime in the future if this provision prevails, there may be a condition of things which will lead the people up to do just what they would have done had they had the opportunity in the past. Now, we find that Salt Lake City has reached its limit, as was provided by law, and to-day there hangs over the city an indebtedness of $3,573,000, and under this provision they could have extended that indebtedness to eight millions of dollars. Therefore, I am opposed to giving such unlimited powers in the interests of creating indebtedness.

Mr. VARIAN. Mr. President, I came here this morning prepared to reduce that percentage, but I am confronted in my own mind at least with an objection that might be obviated perhaps by a reconsideration of the section, which provides that this limit shall include existing indebtedness. Now, take the city school district here; I believe there is an indebtedness of some eight hundred thousand dollars; that would be the existing indebtedness; if we reduce this to one per centum, which would be some four hundred thousand dollars—it would provide for only half of the indebtedness already existing and during the life of these bonds and until they were all paid, the school district here in this city would be crippled and prevented from expending or improving in any way. I think about two and a half or three per centum would obviate that objection or a special exception as to the municipalities and cities of a certain class, but if this amendment shall prevail of Mr. Evans' the conditions will be just as I stated.

Mr. THORESON. I would like to ask the gentleman if section 8 of this same article does not cover that case?

Mr. VARIAN. No; lines 5 and 6 of this section, "shall not for any purpose become indebted for an amount including existing indebtedness," etc. Now, if you put in one per centum that fixes this city school district for a good many years.

Mr. EVANS (Weber). He called your attention to section 8.

Mr. VARIAN. There seems to be a conflict, although I am not quite certain as to the meaning of section 8. Section 5 is quite specific. It says that they shall not, for any purpose, become indebted to an amount including existing indebtedness. Now, section 8 provides: (Reads.) I think it is still within the limitation of this maximum percentage. It is simply a declaratory clause at the close of the article, that nothing shall be intended by this article to impair the going into debt upon submitting to a vote of the electors, etc., within the limitations of section 5. I submit that three per cent. would be a better provision there, or that a special exception be made for certain cases which would involve the reformation of the entire article.

Mr. FARR. Mr. President, I have listened to the conflicting views of the members here, and I have pretty carefully looked this section over, and I, for one, would prefer to leave this section to the future Legislature than to pass this question as it is, and especially according to the various ideas and notions of the members present; consequently I shall make a motion to strike out section 5.

The PRESIDENT. The motion is not in order now.

Mr. THORESON. Mr. President, I want to state in behalf of the committee that the committee was of opinion that section 8 covered the present indebtedness under the territorial law, and that section 5 has no reference what-

ever to the present territorial indebtedness, but that the existing indebtedness here referred to would be under the State Constitution, and I believe that the judgment and the views of the committee on this—it is set forth in section 8—seems to be very plain. Under the territorial law no debt can be created without a vote of the people; that is, bonds could not be issued. Hence, this is to cover up existing indebtedness of the cities referred to particularly. There may be an exception or two outside of Salt Lake City and Ogden City. But it was particularly inserted for the benefit of these two cities to cover the present indebtedness.

Mr. RICHARDS. Is it not a fact if the construction that you place upon these sections be correct, that if when the State is admitted an indebtedness shall exist at that time up to this limit, it cannot be increased—no further indebtedness can then be incurred?

Mr. THORESON. Indebtedness created after the admission could not be increased above the limit fixed by section 5.

Mr. RICHARDS. But if an indebtedness existed at the time of the admission of the State up to the limit, then would it not be impossible for the State or town or district to create any greater indebtedness after that?

Mr. THORESON. They would have a right to go and create a limit fixed in section 5, over and above the limit of the territorial law.

Mr. RICHARDS. I do not think it possible to place that construction upon this language.

Mr. CANNON. Mr. President, I believe I have the same view expressed by Mr. Richards. I think that section 5 limits the indebtedness including existing indebtedness to a certain per cent. It expressly states that.

Mr. RICHARDS. That is to say, that if at the time of the admission of the State, the indebtedness of the State is up to this amount no further indebtedness could be created?

Mr. CANNON. Yes, sir. That is my understanding. I call attention for instance to Salt Lake City, which has a six per cent. indebtedness at the present time. Salt Lake City, under this provision, could not increase her indebtedness at all, except for purpose of procuring water privileges or electric lighting, etc.

Mr. VARIAN. How about the schools?

Mr. CANNON. The school districts the same way.

The amendment of Mr. Creer was rejected.

The amendment of Mr. Evans, of Weber, was rejected.

Mr. PETERS. Mr. President, I desire now to offer my amendment.

Mr. EVANS (Weber). Mr. President, I now move to strike out section 5.

Mr. Peters' amendment was read as follows: Strike out lines 1, 2, 3, 4, 5 and 6 of section 5, and substitute the following:

Even when authorized to create indebtedness as provided in section 4 of this article, no county shall for any purpose become indebted to an amount, including existing indebtedness, in the aggregate exceeding two per centum, and no city, town, school district, or other municipal corporation shall for any purpose become indebted to an amount including existing indebtedness in the aggregate exceeding four per centum.

Mr. PETERS. Mr. President, the object in making this motion is for the purpose of reducing the debt limit of counties. As the article now stands the debt limit of the State is about one per centum of the assessed valuation. That is, including present indebtedness. The next largest subdivision of the State is the county, and includes all of the municipalities. Under this section 5 a county may incur an indebtedness up to five per centum of the assessed valuation, which in my mind is excessive. Two per centum will cover all that will ever be necessary. That is to

provide a sufficient amount to raise funds for all necessary expenses of that county. As the statutes now stand no county is authorized to bond to an amount exceeding one per cent. of its assessed valuation, notwithstanding that the United States statute provides that the debt limit shall be four per centum. Now, as to cities, we come nearer to the people, and it seems to me that they ought to have the right to borrow more than a county for the reason that money that they secure is usually for an immediate purpose and benefit of the city, for the purpose of putting in water works and so on. At the present time each incorporated city is authorized to borrow an amount not exceeding four per centum of its assessed valuation. Many have taken advantage of that provision and have already placed in excellent water systems. We have in our own city a system that has cost us about twenty-eight thousand dollars. Now, when you come to say that a city can put in a water system for three per centum of its assessed valuation, that will render any service to that city, it is a mistaken idea—that is for a small city. It would do very well probably for a large city, because the assessed valuation is so much larger in that city. The lower rate of per cent. would bring a larger sum of money; but when you take a city of twenty-five hundred inhabitants or three thousand and attempt to say that they can put in a water system for three per centum of the valuation, the wealth of those cities will have to far exceed to-day what they are in the Territory of Utah. The assessed valuation of our city is about seven hundred thousand dollars and four per cent. of course will be twenty-eight thousand dollars, and the water system to render it of sufficient service in our city really ought to cost about thirty-five thousand dollars. We are now unable to even furnish the people with water that they would desire and by that means we cut off the revenue. If we could extend our system so that it would bring in more families and more users we would be better able to pay the interest and create a fund to meet the original indebtedness. Now, I would be willing to have the counties one per cent.; in fact I would not care if they would not be authorized to borrow at all, but two per cent. it strikes me is sufficient, and four per cent., as the section now reads, is high, and the object of my amendment is to make a distinction between counties and cities. I will say that I had a further amendment to the last part of the section, to strike out the word five and insert the word three, in line 15.

The question being taken on the amendment of Mr. Peters, the Convention divided, and by a vote of 50 ayes to 3 noes, the amendment was agreed to.

Mr. EVANS (Utah). Mr. President, I move to amend section 5 in line 19, by striking out the word five and figure 5, and inserting the word three and figure 3, in lieu thereof.

The PRESIDENT. That has been voted down.

Mr. EVANS (Utah). If the chair please, I would like to be heard on that, It is not the same thing. That that was voted down was to strike out five and insert two.

The PRESIDENT. No, sir; it was three. It was Mr. Creer's motion to insert three in place of five.

Mr. EVANS (Utah). Then, I will make it four.

The question being taken on the amendment of Mr. Evans of Utah, the Convention divided and by a vote of fifty ayes (noes not counted) the amendment was agreed to.

The PRESIDENT. The question now before the house is on the striking out of the entire section.

The motion was rejected.

Mr. PRESTON. Mr. President, I move to strike out, commencing in line 16, all the balance of the section. Cities

can provide all those things without that proviso in there. Cities and towns where they need this kind of improvements can provide for them without that part of the section.

The motion was rejected.

Sections 6 and 7 were read.

Mr. BOYER. Mr. President, I move to amend section 4 in line 10, between the words "a" and "majority" insert the words, "two-thirds."

The motion was rejected.

Mr. THURMAN. Mr. President, I desire to offer a substitute for section 1:

> The indebtedness of the State at any one time shall never exceed the sum of two hundred thousand dollars. This section shall not be construed to prevent the State assuming the present indebtedness of the Territory and paying the same as may be provided in this Constitution.

I suppose the article on schedule will provide for that.

Mr. VARIAN. Mr. President, of course that is not in order, but the matter is so important I will waive that question.

Mr. THURMAN. Mr. President, I desire to call attention to the objection. I am satisfied that the mover of that substitute and the Convention had in mind the object that I seek to attain now. Of course that section that I offer contemplates that the article on schedule must provide the payment of the territorial debt.

Mr. VARIAN. Congress provides that too.

Mr. THURMAN. Yes, Congress provides that we must do that. The objection that I have to this may be considered hypercritical, but at the same time I am satisfied that we want to place this matter beyond question. I will call the attention of the Convention to the point I make. "The State may, to meet casual deficits or failures in revenue and for necessary expenditures for public purposes, including the erection of public buildings, and for payment of the territorial indebtedness, assumed by the State, contract debts, not exceeding in the aggregate, at any one time, the sum of two hundred thousand dollars over and above the amount of the territorial indebtedness assumed by the State." The point I make is this, that it points out specific objects for which the State shall not exceed a certain limit of indebtedness, leaving the State to go in debt without limit for any other purpose, should it feel inclined so to do. Then the balance of it rather emphasizes that fact, I think, "and when the said territorial indebtedness shall have been paid, the State shall never contract indebtedness for the purposes herein mentioned, in excess of the sum of two hundred thousand dollars." Leaving it again, limiting the State only as to the purposes specified, and not for purposes which may not fall within the enumeration. Now, the substitute I offer is not as perfect as I would like it, but it seems to me to meet what I believe the mover of this substitute designed.

Mr. ROBERTS. I desire to ask the gentleman from Utah if it would not be better to provide there for the indebtedness of the State existing at the time—the indebtedness that might be assumed at the time it was assumed? It says, "at the present time."

Mr. THURMAN. Yes, that is what I intended.

Mr. VARIAN. Mr. President, I do not think that the section, in the light of section 2 taken in connection with it, is susceptible of the construction that there is no limit as to other purposes. I take it that a familiar rule of construction would warrant the putting of this meaning upon this article and this alone, where they undertake to point out and specify the power of the Legislature or the people with reference to certain matters, all else not specified or embraced by implication within the grant would be excluded. This is made clear particularly here, by reference to the second section which provides in

addition to the above limited power to contract debts, "the State may," etc. So you take the two sections together, I do not think there is any question about that. I think it is perfectly clear. So far as the other objection is concerned, I, for one, intended just what I put in here, to limit to certain purposes. I thought the Convention desired that. I certainly wanted to vote to limit its power of contracting indebtedness for the State to certain defined purposes, and not leave it open, and I thought this included all the purposes we would be willing to go in debt for.

Mr. THURMAN. Reading the latter part of it again, "and when the said territorial indebtedness shall have been paid, the State shall never contract indebtedness." Now I will ask the gentleman if he objects to the following four or five words being struck out, "the State shall never contract indebtedness for purposes herein specified," strike out "for purposes herein specified." If that is accepted, I would withdraw my substitute.

Mr. VARIAN. I do not wish to be tenacious, but I really do not put the construction on it that you do, Mr. Thurman.

Mr. ROBERTS. Mr. President, before that question is put—in addition to the defects as I look upon it already stated by the gentleman from Utah County, I think there is another objection to this substitute as it stands, and that is in the latter part of the substitute or the section as it has been adopted, "and when the said territorial indebtedness shall have been paid, the State shall never contract indebtedness for the purposes herein specified in excess of the sum of three hundred thousand dollars." Now, from the rather hurried consideration that one has been able to give this section in the midst of the confusion of the house and trying to keep track of other questions, it seems to me that as it stands here your indebtedness of the State may play between the limit of nine hundred thousand dollars. That is, we will suppose that the territorial indebtedness is paid all but two hundred thousand dollars, or one hundred thousand dollars; so long as it is not entirely paid off it may be increased again and run up well nigh to the nine hundred thousand dollar line, and I think I am not mistaken in regard to the effect of that under the present reading of this section. So that the State indebtedness, so long as you refuse to pay off the territorial indebtedness, may constantly play between a hundred thousand dollars and nine hundred thousand dollars.

And then again, I, for one, am convinced that by making the enumeration here of specific purposes for which the State may go in debt, placing the limit for these specified purposes to two hundred thousand dollars, that for purposes that are not specified the State may go into debt. Now, I have prepared a substitute on these lines as follows, following very much the language that is found in the section as reported to the Convention by the committee; making it a part of my argument now, and not offering it as a substitute, it would be as follows: "The State may, to meet casual deficits or failures in revenue or for expenses not provided for, contract debts, but such debts, direct and contingent, in the aggregate shall not at any time exceed two hundred thousand dollars, not including the present indebtedness of the Territory of Utah, which is hereby assumed by the State of Utah. The moneys arising from the loans creating such debts shall be applied to the purposes for which they were obtained to repay debts so contracted and to no other purpose whatsoever. And except for the purposes named in this section and in section 2 of this article, no indebtedness shall be incurred by the State." Now, it seems to me that if a provision of that kind were adopted, it would clear away all

possible difficulty that might arise in construing this section, but as the section is now, I cannot vote for it, nor can I vote for the article if that section is retained in the article.

Mr. VARIAN. Mr. President, I think we can arrive at the idea. Mr. Thurman suggests that we strike out the words, "for the purposes herein specified," and insert "except as in the next section provided." I have no objection to that if that will satisfy the gentlemen on the other side.

Mr. THURMAN. I will accept that and withdraw my substitute.

The amendment was agreed to.

Mr. PETERS. Mr. President, in order to make the language a little more uniform, I would ask that the word "even" be stricken out in that amendment of mine.

The amendment was agreed to.

The roll being called on the adoption of the article the result was as follows:

AYES—88.

Adams	Lambert
Allen	Larsen, L.
Anderson	Larsen, C. P.
Barnes	Lemmon
Bowdle	Lowe, Wm.
Boyer	Lowe, Peter
Brandley	Low, Cache
Button	Lund
Buys	Maeser
Call	Maloney
Cannon	Maughan
Chidester	McFarland
Christiansen	Moritz
Clark	Murdock, Beaver
Coray	Murdock, Wasatch
Corfman	Murdock, Summit
Crane	Nebeker
Creer	Page
Cunningham	Partridge
Cushing	Peters
Eichnor	Peterson, Sanpete
Eldredge	Pierce
Emery	Preston
Engberg	Raleigh
Evans, Utah	Richards
Farr	Ricks
Francis	Roberts
Gibbs	Robertson
Goodwin	Robinson, Kane
Green	Robison, Wayne
Hammond	Ryan
Hart	Sharp
Haynes	Shurtliff
Heybourne	Snow
Hill	Squires
Howard	Stover
Hughes	Thompson
Hyde	Thoreson
Ivins	Thurman
Johnson	Van Horne
Jolley	Varian
Keith	Warrum
Kearns	Wells
Kerr	Williams.

NOES—1.

Evans, Weber.

ABSENT—17.

Driver	Morris
Halliday	Peterson, Grand
James	Spencer
Kiesel	Strevell
Kimball, Salt Lake	Symons
Kimball, Weber	Thatcher
Lewis	Thorne
Mackintosh	Whitney.
Miller	

The president declared the article adopted, and referred to the committee on compilation and arrangement.

Mr. LUND. Mr. President, under the resolution that was passed this morning, the committee on expenses would report as follows:

Convention Hall,
April 19, 1895.

Mr. President and Gentlemen of the Convention:

We, your committee on accounts and expenses, complying with the resolution introduced this morning by Mr. Francis, beg leave to report as follows:

We have consulted a number of the chairmen of different committees, also a number of other delegates, and have reached the following conclusion: It may appear at times that the officers are not fully employed, but we submit that the implied (if not the expressed) intention of the Convention in employ-

ing its officers was that they were employed for the entire session.

The committee on compilation and revision has yet a great deal of work for the committee clerks, hence their service cannot be dispensed with. Assuming our understanding of the employment of the officers expressed in the foregoing to be correct, we believe it beneath the dignity of this honorable body at this late stage of the proceedings to discharge any of its employes before final adjournment. We therefore recommend the retention of all employed, and also recommend their payment in full from the government appropriation.

Very respectfully,
A. C. LUND, Chairman.
A. J. CUSHING,
JOHN R. BARNES.

The report was adopted.

The Convention then, on motion, took a recess until 2 o'clock p. m.

AFTERNOON SESSION.

Mr. ADAMS. Mr. President, I now move that the article on the calendar on public lands be replaced on the calendar in its regular order.

The motion was agreed to.

Mr. EVANS (Utah). Mr. President, I move you that the action of this Convention just preceding its adjournment, in regard to the adoption of the report of the committee on expenses and accounts, be reconsidered.

The PRESIDENT. The chairman of the committee is not here.

Mr. EVANS (Utah). I only ask to give notice now that I expect to call that up.

Mr. EICHNOR. Mr. President, I now move that the Convention resolve itself into committee of the whole for the consideration of the article on water rights, irrigation and agriculture.

The motion was agreed to.

The Convention then resolved itself into committee of the whole with Mr. Cannon in the chair, and proceeded to the consideration of the article entitled water rights.

COMMITTEE OF THE WHOLE.

Section 1 was read.

Mr. MALONEY. Mr. President, I move to strike out the entire article, sections 1, 2, 3 and 4.

Mr. EVANS (Utah). Mr. Chairman, I would like to ask whether there is a minority report accompanying the majority report.

The CHAIRMAN. There is a minority report.

Mr. EVANS (Utah). If so, I would ask that it be read before the motion is taken upon striking out this entire article.

The minority report was then read.

Mr. CHIDESTER. Mr. Chairman, I desire to offer a substitute now for the entire article.

Mr. SNOW. Mr. Chairman, I move you that the minority report be accepted and the majority report rejected.

The CHAIRMAN. Before that motion can be entertained, a substitute has been offered by the gentleman from Garfield County, which will now be read by the secretary.

Mr. Chidester's proposed substitute was read as follows:

The Legislature shall provide by law for the regulation, distribution, and controlling of the waters of this State, and may provide by law such rules and regulations under which rights may be acquired to any of the waters of this State for any useful purpose, and shall also provide for the protection of all water rights acquired or to be acquired for any useful purpose.

Mr. PETERS. Mr. Chairman, I arise to a point of order. I notice the substitute that has just been offered by the gentleman is nothing more nor less than the minority report—section 2 of the minority report. I think that Mr. Snow's motion ought to precede it.

Mr. CHIDESTER. I beg to differ with the gentleman. It is a part of the minority report.

The CHAIRMAN. The chair would rule that the substitute is in order.

Mr. CHIDESTER. Mr. Chairman, I wish to say in regard to this article that I have considered it a dangerous article. It is in my

opinion a failure in that it proposes to take from the government of the United States water rights and transfer it to the State. In my opinion that cannot be done. All that could be done is what the Enabling Act has given them. That being the case, we have no need of such an article as this. In the second place, I believe that the right of eminent domain so far as it is calculated to condemn water rights for public purposes is also evaded. I believe that the present law that we have in regard to water rights is as good as any that exists in the United States. While, of course, it has not been confirmed by the courts—if it had been, it would be a good law to-day—it has saved many a lawsuit. The system that is inaugurated in our present law has saved a great deal of litigation, and the substitute that I offer puts us in the position to leave this matter to future legislation. It provides that the Legislature may handle this, and in so doing may adopt a law similar to the one that we have now, which in my opinion is all that we need, but to take this provision as it stands here, in my opinion, would be to work a hardship upon the people. And then again, the engineer and board of control, in my opinion, is an expensive luxury in which we do not, or should not wish to indulge. It would be impossible for us to repeal it unless it was done by constitutional amendment. If this was left to the Legislature and they tried the scheme and it was pronounced a failure, they could do away with it. Therefore, I think it is unsafe to couch that within the Constitution, but leave that to future legislation, and I think that they will govern this matter and enact laws that will be calculated to further the ends of justice in this regard.

Mr. SNOW. From what you have said, I understand that your substitute is substantially section 2 of the minority report.

Mr. CHIDESTER. It is.

Mr. SNOW. Section 1—You are not opposed to that?

Mr. CHIDESTER. I am not opposed to that, but it simply puts us in this position, that we are asserting something in the Constitution that we could not interfere with anyway. We cannot interfere with those existing rights; it would be unconstitutional. We cannot take away any existing rights.

Mr. SNOW. But you state a recognition here and confirm it. I ask the gentleman to consider that and see if he cannot accept it.

The minority report was re-read.

Mr. CHIDESTER. I can accept that all right; I was misled. This was laid on my table and I supposed this was the one. I would withdraw my substitute for the purpose of admitting the minority report.

Mr. SNOW. Mr. Chairman, I wish to make the motion that I tried to make several times, that the minority report be accepted.

Mr. L. LARSEN. Mr. Chairman and gentlemen, I wish to make a few explanations. As Mr. Snow has said, the minority does not include the first part of this article that has been distributed around. It is an article for both the majority and the minority reports. The minority report has not got the first three lines in this article. I hope that the motion that the minority report be accepted will prevail. My first idea on the subject of water rights was this, not to include this part—the majority report. I was opposed to that, where it cedes to the State the water—the property, but finding a number of gentlemen in the Convention that were in favor of this, I was for including that part, but if the Convention should prefer to have this part left out, I certainly would be in favor of voting for the minority report as it stands, and I hope that motion will prevail. I am not in favor of creating new and expensive offices in this State, which I believe the

people would not be in favor of when it is presented to them for their votes for election. I think they will oppose the Constitution on that ground. I think it would be better to leave that part to the Legislature to provide for them if they deem proper to do so, and if they should make a mistake at any time, they can correct this, or it can be corrected by future legislation, and for this reason I hope the motion will prevail.

Mr. BUTTON. Mr. Chairman, who is the father of this report, I would like to know?

Mr. JOLLEY. Mr. Chairman, I will answer that, it was Mr. Larsen, who has just taken his seat. Mr. Larsen is the father of the minority report, and as he has stated there were some gentlemen that wished a little addition, and he allowed an addition to the substitute for both the minority and the majority report, and that is what has been distributed over the house. Mr. Chairman and gentlemen, I would state that there appears to be a great uneasiness among the farmers of this Territory in relation to the word ceding the water to the State. They feel as though they ought to be protected very pointedly in their already acquired rights, and that the Legislature will be a safe body to regulate those things, and while I am up I will just say in conclusion that I favor the minority report on those grounds. I think it will give perfect satisfaction to the people throughout the Territory—that is the farming community, and it will cause that fear to leave their minds that now is existing. I have been written to in relation to this matter, and petitioned to do all that was possible to prevent the water being given to the State as its property, and I would say, "let us vote for the minority report."

The CHAIRMAN. Gentlemen, I wish to make a ruling to this effect: I believe it is improper to move to strike out an entire article and substitute another article. The only way in which this can be done is by striking out section by section and substituting sections of the proposed article.

Mr. JAMES. Mr. Chairman, before you make a decision—there is nothing to hinder that from being done, providing the Convention consents to it.

Mr. EVANS (Utah). I do not understand that to be this question; I understand the motion to be that we adopt the minority report.

Mr. SNOW. That is the motion.

Mr. CHIDESTER. Mr. Chairman, it would be impossible to comply with your ruling for the reason that there are only a few sections in the substitute.

Mr. EVANS (Utah). Then, I arise to a point of order. There has been a motion made to adopt this minority report and it is now before the Convention for discussion.

Mr. SNOW. Mr. Chairman, I appeal from the decision of the chair. All I have to say is this, that I think we are governed in committee of the whole by the same rules that govern the Convention so far as they are applicable. They are applicable in everything but to shut off debate, or to limit it. The only object in committee of the whole to ignore these rules is that we may have freedom of discussion. I think when there are two reports before the committee, a minority and a majority report, that it is the privilege of the Convention to accept one and thereby reject the other. It seems to me this is a plain proposition, and that is all there is before the committee.

Mr. SQUIRES. Mr. Chairman, I read from Roberts' rules of order, section 32, on committee of the whole. (Reads.)

Mr. IVINS. I just want to ask Col. Squires, if there is any difference between adopting a report and accepting a report? That is what the motion is—to adopt the report of the minority.

Mr. SQUIRES. We have under con-

sideration this article on water rights and irrigation and we may adopt or reject any section of that article.

Mr. NEBEKER. Mr. Chairman, I call the chairman's atttention to the fact that the motion of Mr. Snow is simply a motion to amend in this, that it proposes that this committee shall adopt the minority report instead of the majority report. It is really a motion to amend.

Mr. THORESON. Let me call attention to the fact that in the record, page 136, thirty-third day, the gentleman presents a minority report, which, under the rule, was referred to the committee of the whole. The minority report is before the committee now for action and the motion to adopt is proper.

Mr. BUTTON. Mr. Chairman, may I have the floor a minute now?

The CHAIRMAN. Yes, sir; if you wish to speak on the subject.

Mr. NEBEKER. Mr. Chairman, I object, unless it is to state a point of order. I submit that I have the floor.

Mr. BUTTON. Have we not a right to debate this point of order on the appeal?

The CHAIRMAN. Mr. Nebeker had the floor; he had not finished his speech.

Mr. EVANS (Utah). Mr. Chairman, I arise to a point of order. My point is this, that there has been a ruling made of the chairman, as I understand it, that Mr. Snow's motion is out of order. That has been appealed from, which has been properly seconded. The only business before this Convention is the debate as to whether the decision of the chair should stand as the judgment of the assembly or no.

The CHAIRMAN. The point of order is not well taken, for the reason that that is what is being discussed.

Mr. NEBEKER. Mr. Chairman, I am not in favor of the minority report——

Mr. HART. Mr. Chairman, I understand the motion before the house now is whether the decision of the chair shall stand?

The CHAIRMAN. That is correct.

Mr. NEBEKER. I did not wish to speak to the appeal at all.

The CHAIRMAN. Mr. Button has the floor.

Mr. BUTTON. Mr. Chairman, on the twenty-fifth day, page 106 of the journal, rule 20——

Mr. EVANS (Utah). Mr. Chairman, I arise to a question of personal privilege. The point of order I raised—I desire to read this rule as personal privilege. (Reads from rules.) My point of order is, the only thing to do is to pnt that question.

The CHAIRMAN. The point of order is not well taken. This question is debatable. Mr. Button has the floor.

Mr. BUTTON. Mr. Chairman, I just wanted to read rule 20 as amended; that applies to committee of the whole. (Reads.)

The point of order raised here on this question. This article could not take the place of another.

Mr. HOWARD. I would like to call the attention of the chair to page 82 of Roberts' rules of order. (Reads.)

The CHAIRMAN. The position of the chair is as follows:

The chair contends that in committee of the whole, a motion to adopt a report, either of the minority or majority, is out of order. The only place where a report such as that can be adopted, is in the Convention. Reports of committees are made to the Convention and not to the committee of the whole.

The question being taken on the appeal, the committee divided and by a vote of 45 ayes to 34 noes, the decision of the chair was sustained.

Mr. CHIDESTER. Mr. Chairman, I now insist on my substitute for the whole article.

Mr. SQUIRES. Mr. Chairman, I arise to a point of order; that it is our duty to consider this matter section by section, and no substitute for the entire article can be received.

The CHAIRMAN. The point of order is well taken.

Mr. SNOW. Mr. Chairman, I move to strike out section 1 of the majority report and substitute section 1 of the minority report.

Mr. FARR. Mr. Chairman, I will say that I have heard a great deal said in the last fifteen or twenty minutes, and a great deal of confusion, but I must say that I have not been able to comprehend any of it. I do not understand it. This motion to substitute or strike out section 1 and substitute another—I have heard no complaint of the report of the committee. I am not very partial to any of the whole business, but I want to state to this honorable body that this committee consisted of fifteen men, and they spent some two or three or four weeks on it at different times and heard all the complaints and all the suggestions of all the members coming in on all sides, and suggestions outside of this Convention and letters from all parts of the Territory in regard to the matter; they were all submitted to this committee, and they have had all this to take into consideration. They have got the best wisdom and talent and ability of the territorial board of irrigation, which they have put their minds and attention to for the last year or two. They have sent to Colorado and Arizona and California, and got the best opinion they could and they have fixed up a very nice report. I have heard the other, but the committee has got them all together and consolidated them, and this report of the committee embraces everything that all this talk and hurrah has been made this afternoon. It takes the whole of it in and what in the world is the trouble, I cannot tell. They do not make any point, only this one wants his report, and this one wants his idea in and they jump up around. I say it is time to go at it like men and if there is any fault to be found with it, put in the reason and if it is unworthy, we can strike it out. I think there is time enough spent on this. I would like to get down to business.

Mr. NEBEKER. Mr. Chairman, I am in favor of Mr. Snow's motion. In the first place, section 1 of the minority report in my opinion means nothing; there is no advantage in my mind to the irrigators of this State to have that section inserted in the Constitution, because the Constitution, without it, will provide means by which vested rights shall be recognized and confirmed. Section 1 of the article as reported by the committee, or at least part of it, I believe to be a good thing, not with any view of the State confiscating any water rights, because I realize that vested rights to the use of water cannot be disturbed. If water has been appropriated for any beneficial use, whether we declare in this Constitution or not that the State can take charge of that water, the individual will have at least a day in court on that question and those rights will not be disturbed. But there is an advantage, as I understand it, in declaring the waters of all natural springs, lakes, and collections of still water within the boundaries of the State are hereby to be the property of the State, in this, that our Enabling Act has provided that we shall declare by ordinance that we will forever disclaim any right to the public lands in the State.

Now, it has been silent on the subject of water, and there seems to be an opinion in possession of attorneys who have studied this question that by making this declaration here in this Constitution, it is possible for the State to obtain ownership and absolute control of the unappropriated waters of the State. If that be true, I submit that it would be a good thing to do, because if we could by declaration obtain all the public lands of this State, I do not think there is a gentleman on this floor who would say that that would not be a good thing to do in that simple man-

ner, to become possessed of all the public lands in this State. So if we can do that by declaration and thereby obtain the control of the water instead of having to deal with the parent government hereafter, we will simply have to deal with our State Legislature, so far as acquiring right to any of the unappropriated waters in this State is concerned. I am opposed to the balance of the article as reported by the committee, for the reason that I do not think it would be wise for us to provide for a state engineer and board of control through this Constitution, because that will be a matter of experiment, and it may or may not be a good thing; and if it be a good thing, subsequent Legislatures can deal with that question. The principal argument, as I understand it, for a board of control is that the way the courts are now run it is a very hard matter for an individual to have a vested right confirmed, that the courts are expensive, or the expression has been used, in order to obtain a record of a vested right it was like creating a derrick to raise a sack of of potatoes with. Now, I think I will here anticipate the action of this Convention in stating that I believe the judiciary article as reported by the committee will be adopted, and if it is adopted, we will have a court in each county, and if any individual wishes to have his water right made a matter of record it will be an easy matter for him, as plaintiff, to make every other individual who will own in that stream of water, defendants, so that the courts will have jurisdiction of the whole question and will make an order on the evidence, and that order can be made a matter of record and the title to water will then be confirmed in the same manner as the title to land is now confirmed, as I understand it.

Therefore, I think that if this Convention simply adopts the proposition that the waters of all natural streams shall be the property of the State, we might go a little bit further to appease the apprehension that was mentioned here by Mr. Jolley, and say that the vested rights that have already accrued shall not be disturbed. We might make that declaration in this Constitution. I think it would be harmless and I do not think it would mean anything; at the same time, to appease that element that has been mentioned by Mr. Jolley, I do not think that that would be a bad thing to do.

Mr. CHIDESTER. If that be the case that through adopting this section it cedes to the State the waters of the State that are unappropriated and acknowledges the vested rights, how would the citizen obtain the right to water that is not appropriated at the present time?

Mr. NEBEKER. He would obtain that right through the regulation of a subsequent Legislature.

Mr. CORAY. I think I can answer that question, if the gentleman will allow it.

Mr. NEBEKER. I will yield for the gentleman, Mr. Coray, to place the gentleman from Garfield straight. [Laughter.]

Mr. CHIDESTER. One more question, would it make any difference whether the water remained the water of the United States or the water of this State so far as the citizen obtaining a right to it?

Mr. NEBEKER. I do not think so.

Mr. CHIDESTER. It would be just the same one way or the other?

Mr. NEBEKER. I think it would be just the same one way or the other, any more than we would have the power to confirm the right nearer home, that is all.

Mr. MURDOCK (Beaver). Mr. Chairman and gentlemen of the committee, when other men speak my mind, it is unnecessary for me to occupy your valuable time, but there are some points in this first section that perhaps I might enlighten the minds of you to a small extent. My friend from Bear Lake has

pretty much covered the ground that I wished to on that first section.

The object of the first section is this, nothing more or nothing less, simply to extinguish the right of the general government to the waters of the coming State of Utah, simply to extinguish the right that it may hold and let it revert to the domain or to the State. We might ask the question, who is the State, what is the State? The State is the people, consequently it confirms any original right that they may have. It reverts to the people—to the State, and that is all that that section can be construed, is that it is to extinguish the original right which the government may hold to the water and confer upon the new State. As my friend Mr. Nebeker said, it just simply brings the matter at home instead of having to carry our claims to the general government, and for this reason I hope that that section will be retained. I think it is a very essential section. You have all read it, of course, but there can be no other construction upon the section. (Reads section 1 of the majority report.) In some of the amendments, I notice there were certain references to useful purposes—that water was used for useful purposes. There may be any number of conflicting claims that would come up and they might be put upon that ground, substantially, useful purposes, but they might not have a legal right to the water although it had been used usefully, but this is all that that section contains, is simply to extinguish the right of the general government to the waters of this domain. I see the same furore is raised here on this floor—I am wholly pleased to have opposition, if I think I am right. It has created the same furore here upon this floor as it has throughout the whole country, and there were importunities sent from all parts of the country when they saw the article that was circulated to the members on this floor, which in substance is the same that this first section contains, that it shall revert to the State. The committee even were very much prejudiced against that clause or against that portion of the printed matter that was circulated here. They were very much opposed to it, but when they came to look it squarely in the face and investigate the matter, it only confirmed the rights of the original owners. Now, there is a great conflict of interest in the way, as you all know, in every part of the country, and there is perhaps all of them—the use of the water is converted to useful purposes. No doubt about that, as all know that our lands are worthless unless we have the use of water, and this is one of the most intricate subjects that can be brought upon this floor, is the water question. That is the foundation of all our interests, both agricultural and manufacturing, and every other interest is planted upon the interest of the water, and as I said before I left my home, that if that one question could be regulated satisfactorily to the people of the country, I should then have spent my time, as I think, very profitably if that could be done, for there is nothing that is more intricate in regard to an interest than the water interest.

As you all know, there is no use of my detailing it; and we have come to this condition; we have come right here to this condition, now, gentlemen of the committee, that it is necessary that some legal steps be taken to define the true and correct rights of every individual. Where there is abundance of water, there is little or no trouble, but where water is scarce, there is such an intricacy of interests, one taking from the other, that I may be safe, and will be safe, I think, in saying that many men who think they have a legal right to water have none, and it will be necessary, in my opinion, that this water question will have to be put into the hands of a legal tribunal to adjust the rights of the various individuals, and for this reason I hope that this section

will be retained. That is all it conveys. You can make nothing else out of it. It brings the interest right home instead of forcing us to go to the general government to establish our claims.

Mr. SNOW. Do you think the appropriation of the waters of the State has already vested a right in the proprietors?

Mr. MURDOCK (Beaver). Well, it has by usage.

Mr. SNOW. We have vested rights now?

Mr. MURDOCK (Beaver). We have vested rights now.

Mr. SNOW. Do you think this declaration then in this section 1 will make that right any stronger?

Mr. MURDOCK (Beaver). Well, it will make it equally as strong—yes, stronger—I think it will.

Mr. SNOW. Suppose the general government should deny our right to thus take from them their rights by a simple declaration, would we not then have to carry it to the federal courts?

Mr. MURDOCK (Beaver). No; I think not.

Mr. SNOW. How would you get your rights then, if you did not?

Mr. MURDOCK (Beaver). I think if they would object to that section, why of course we would have to go to the general government for our rights.

Mr. SNOW. Do you think the simple declaration here "we appropriate water," gives the right to us if we have not got it by use already?

Mr. MURDOCK (Beaver). I apprehend they are reasonable enough, that they will grant to the domain all water of the State.

Mr. SNOW. Would they grant it any more reasonable or any quicker by making this declaration than without it?

Mr. MURDOCK (Beaver). It would certainly draw it to a thorough conclusion in regard to the use of the water.

Mr. SNOW. Do you think the declaration is merely suggestive to the general government that we claim the waters of the State?

Mr. MURDOCK (Beaver). I think, in common with other rights that will be ceded to the State, that they would cede the waters.

Mr. MALONEY. Mr. Chairman, if there is any one thing about which the people of Utah are sensitive, and in which they take a vital interest, it is water rights and irrigation. Now, when you come to look at this first section of the majority report, you find the first section is simply a confiscation of water rights in this State. Now, the United States owns lands in this Territory and will in the future State of Utah, but they have donated to us in the Enabling Act something like eleven and a half millions of acres. Of course, when that land was donated, we obtained the right to the water, because when land is conveyed, it carries with it all the water rights that are appurtenant to that land.

Now, the question of the gentleman from Washington to the chairman of this committee seems unanswerable. The idea of our making a declaration in this Constitution that all the still waters, lakes, and running rivers, and streams of this State are the property of the State is simply ridiculous, because it cannot be done. You cannot take away vested rights by constitutional amendment or enactment, or by any act of the Legislature. That has been determined over and over again. So I say that the first section is simply meaningless and it is wholly unnecessary. I say that we cannot take away the vested rights of the people of this Territory who have since 1847 been using this water. I do not care what method you adopt to take it away from them, you cannot do it, and to put something in the Constitution declaring that their water is the water of the State is simply out of the question. Now, Mr. Chairman, this majority report—section 1 does not protect vested

rights at all. You will see in the first part of the section there is a declaration that the State is the owner of all the water. Then, when they come to protect vested rights, as they call it, then simply speak of the use only, not the right or title to the water. So then, I would say that my position is that there ought not to be any legislation here or any constitutional provision upon this water question. Leave it entirely to the people. The idea of our having a board of control, superintendents, division watermasters, stepping in and interfering with the rights that these people have had since 1847, is not to my mind the thing that the people of Utah want. So I say, Mr. Chairman, rather than have this first section, I would prefer the section of the minority report, but I am opposed to the whole business.

Mr. HEYBOURNE. Mr. Chairman and gentlemen, I am not very partial to the provisions of this article that has been reported by the committee, nor am I very partial to the minority report. Yet, if we had to do anything with this question, I think we had better support the minority report, or the amendment offered by the gentleman from Washington. It may have a tendency to appease the unsettled feeling and condition existing throughout the Territory in relation to the possibility of confiscating the water rights of the people. My opinion is, that if we confine this matter to the second section, it would answer all the purposes that would be required. We have at the present time laws in relation to the water interests of the Territory, and I apprehend that the matter is of vital importance and one that will receive due consideration at the hands of the Legislature. We anticipate, of course, in the near future the fact that a great deal of lands would be taken up and a system of irrigation adopted whereby reservoirs and canals would be constructed, and people have gone to work in the rural districts of our Territory particularly and acquired as they considered rights to the use of the waters to irrigate their lands, and have got away with the idea that there was an effort being made to confiscate them and to make them more complicated than they were previously. Therefore, in consideration of this I shall support the gentleman's motion from Washington County.

Mr. CORAY. Mr. Chairman, I would say in regard to this report that we have had the advice of the best attorneys in Salt Lake City, and among them Judge Sutherland, and he submitted to us an article that he considered would be good for Utah Territory, and in that article the first section was identical with the first section submitted by the majority report. He declared that the waters of Utah Territory belonged to the United States, and the citizens merely have the right to use that water. They do not own the water. They simply have the right to use it, and if they run any of it to waste why that waste water can be appropriated by somebody else, and the object of the committee was to transfer that right from the United States to the State.

Mr. NEBEKER. Do I understand you that it is the opinion of Judge Sutherland that that declaration does transfer the water to the State from the United States?

Mr. CORAY. Yes, sir; transfers the water from the United States to the State; that is the way I understand it, and there is a question comes up—there is a great deal of the water that rises in Utah Territory and runs out into other states; you will find it so in the northern boundary, a great deal of it runs to Wyoming, and we think there would be an advantage in claiming that water before Wyoming claimed it—or Idaho rather; and I will also say that this is a copy of an article in the Wyoming constitution on this subject, and it has been ratified by the government, and I understand that Wyoming

claims the waters of the state of Wyoming, and we thought that by making this claim that if the government ratified the Constitution, they ratified the claim also.

Mr. ELDREDGE. May I ask the gentleman one question? If by action of the constitutional convention of Wyoming they became entitled to the waters of that State, what about that large portion of the water that rises in Wyoming and comes into Utah?

Mr. CORAY. I suppose it is appropriated if they choose to do so, if it had not been appropriated before.

Mr. ELDREDGE. On the understanding that individuals have acquired a right to the use of that water long before Wyoming became a state?

Mr. CORAY. I understand it so. I do not understand that this section interferes with the rights of individuals. It has never been construed so. The law has been applied in Wyoming for some five years and has never been construed that the title to the water interferes with the right to use the water. The ownership of the water does not impair the right to use the water unless the public interests demand it; then they can deny it.

Mr. SNOW. Mr. Chairman and members of the committee, I think that in relation to the law governing water rights it is somewhat new and as yet undefined. I believe the lawyers of this committee will agree with me when I say that there are no exact settled rules in relation to water except a few fundamental, and that one of those fundamental rules is the right of use for beneficial purposes, or what is known as usufructory right of water. Now, while this is true, in this intermountain region we have come to look upon water as an absolute piece of property. Our Utah statutes define it as personal property that can be transferred by one person to another, and we all recognize its value, as a paramount value to nearly everything else in this mountain region. The land is worthless without it. To extend a right of eminent domain reaches a man's property that is most precious to him. You may take his land or his house or almost anything that he has and it will not affect him like taking his water rights, because the land is valueless without it. In the county that I come from wherever there is water there is an oasis in the desert, and water is so valuable there that one inch computed according to weir dam measurement is worth two hundred and fifty dollars any minute and you cannot buy it for that. We are very jealous of our water rights and we would dislike very much to see a right of eminent domain in relation to water rights obtain. And while we recognize the principle of beneficial use for water, as the only absolute right, yet, as I said before, we have become used to looking upon it as a piece of personal property, the title to which vests in us absolutely and can be traded or bartered off by one person to another. Now, I hold this, that if as stated by the chairman of this committee and by the gentleman from Rich, that the only purpose of this section 1 is to declare that the State owns these waters, that it is absolutely of no use, for if we own the waters, we own them by right of appropriation and use and from no other. And it does not matter if we make the declaration here if it does not rest upon that use and appropriation, it is of no value, and if it does rest upon appropriation and use it is of value without the declaration, and the idea that this will quiet our title seems to me to be absurd. I think perhaps this is the object of the committee in reporting it, but I think the effect of it is to confiscate the water rights of the Territory and place them under State control, of which local companies, cities, and towns, who have admirable regulations for the use of their water, would be jealous, and would not brook any such interference. If public sentiment ever

comes to the point where they think it is necessary, I think it is much safer to leave that to the Legislature. In relation to the first section that I propose to substitute for it—of the minority report, I will say frankly, that I think this is of no weight and does not increase the value of existing rights, but like the article upon labor that we persisted in putting in the Constitution, I will say in the language of the advocates, that it can do no harm; that seems to be what we are trying to do here; instead of putting something into the Constitution that will do some good, we want to put our fads in that will do no harm. This is one of them, and I am willing to vote for it. It is short; it only consists of two lines.

Mr. FARR. Mr. Chairman, I arise to a point of order. I understand that no person should speak twice on the same subject until all the rest have got through. I am not much acquainted with rules; I have served as a member of the Legislature for twenty-eight years, but we always had the rules in our own heads and never run against anybody. Now, I want to know what the order is and when they all get through I want the privilege of speaking again, if that is the order; if not, I will speak now. This water subject, I want it distinctly understood is one of the most important subjects in my estimation that there is or has been before this body of men. It is something that we get our living from and without which we cannot live. There is no state or territory in the United States, I presume, that has as much to do with the control of water for irrigating purposes as Utah. Wyoming—they have been at it twenty odd years, Colorado, and Idaho, they have got their laws; all their laws are similar; in substance, the same as this, but not like it. The substance is the same and they all provide that the water shall be the property of the state. Well, now, it is very plausible that the government owns the water—that is that the water is unappropriated. The United States have already ceded by law all the appropriated water. They have said in so many words that those who get the water first have the first right to it. The United States has acknowledged that in their statute. Now, there is a great deal of water that may be appropriated. Now, who is going to take charge of that water? That is the question. Who is going to try to have control of that water, and who is the State? The gentleman has asked who are the State. The people are the State. Now, the people want to provide some way that this water can be controlled without difficulty. What is the best way to control this water? We have got it all under control and that is very wisely—that is very well said. I say all that.

I do not presume there is a man in this room has any more to do with water than I have. That is all very good and well said. The question is, who shall control the water and who shall be arbitrator? We want to get the water business in a settled, tangible manner, so that we can understand how it is. There will be lawsuit after lawsuit if there is not some way settled to control that water. It must be done. Who are the parties? This committee has started out to try to point out some way to find out how the water shall be controlled and who shall control it. This one cannot say it shall be so and so. I am entitled to so much water, and a great many will say "I will be damned if you have any at all." That won't do. We have got to have some laws and some recompense by which that water can be controlled without this strife and this feeling of animosity. But how is it to be done? This committee has tried to point out how it shall be done. That is, that the Legislature shall prescribe means how that shall be done. This provides: (Reads,)

That has all been conceded, and when

the President of the United States signs this Constitution then they have conceded it. It becomes the property of the State as far as that is concerned; but why do we say that it is the property of the State? It belongs to the people of the State. We say that in order that the Legislature shall provide laws to govern this water and control it and there shall not be any question in regard to that, there shall not any man say it is mine. Who is to discharge that duty? We decided that; we wish to make a law how that water shall be distributed and it will be decided when it comes to the court. Here it says: (Reads.) Now, that has been the case all over this Territory. You must not give away this water, and when they read the law of Wyoming and Colorado, why they do not like it. They say the reason why they do not like it is because they do not understand it. They say that it should not be given to the State, that each one must retain his own water, but who is to decide that question? That is the question. Why, they say, we place the control of it in the hands of the people, and who are the people? Why, this Convention are the people to-day; next year the Legislature will be the people; but we want to fix some landmark by which that matter can be settled without having so much litigation. I think this water question is going to be a source of a great deal of litigation, and a great deal of trouble, if we do not fix it on some firm basis here. This matter has all been talked over by the soundest lawyers in the nation, Colorado, Wyoming. It has been submitted to some of the soundest lawyers in the nation; and they say that that provision of the law is sound. There is not a man here that pretends to say to the contrary, only he gets up and makes an assertion. He does not use any logic or any reason whatever. Somebody should take charge of this water. We must have some sort of arbitration, that the rights of water can be disposed of satisfactorily, and for this reason, why we have brought this forward. Now, if you can give any better reason we are willing to hear it, but I do not want them to lose sight that we must prescribe some way. We want a board by which water can be—the right can be put on record somewhere. That there can be a final decision without having so much litigation, and you will find that we have got to have a board or somebody in charge of this water.

Mr. HAMMOND. Mr. Chairman, it is true as has been said a number of times that this is a very important subject that we are discussing. Much latitude has been given. Now, I do not want to say very much. I have not got wind to do it. That is all that shuts me off is the lack of wind, or else I would wear you out. I have been a user of irrigating water ever since this Territory was formed, in fact before it had a name. My friend from Weber, Honorable Mr. Farr, claims he is the oldest citizen; I do not know but he may be. If so, it is only a few days or a few months in the use of water and I am satisfied and have been to leave this matter entirely in the hands of our Legislature, and for that reason supported the proposition to strike out. Now, I have had some experience also over in Colorado, our neighbor state. And a grand old state she is too, but when she came to go into this irrigating business and copying after Utah she made a plumb muddle of it. Why? Why, in this provision here a state board—a high toned engineer living where? At Denver, and his deputies located around in every county. That reaches where I own property there, the southwestern corner of Colorado, several hundred acres of land there. I supposed when I went over there that water, like it was in Utah, was a piece of personal property. We could sell it, we could trade it, we could swap it, we could loan it to our

neighbor, but sir, when I got over there and bought out a half interest in a large irrigating ditch I supposed I had some title to the water, but it turned out when we came to adjudicate and litigate our water rights, that my farm, lying near the tail end of the ditch—that prior proprietors of the water before it reached my spot took my priority rights away from me and instead of being one, as I supposed, on the ditch, it turned out I was number seventeen, when they came to get the water rights numbered off. Well, now, it has been in constant litigation from that time. They claim the water is the state's. The state says, when you have done with the water—someone proposed here that the surplus could be used. Now, sir, not in that country at all; if it goes back into the natural stream again, as soon as it is done by the user, and this is some of my experience in the water right. Now, I want in my heart to trust it to our Legislature. I believe a good portion of them will be people of Utah, that have had experience in this matter, and we need not worry ourselves over it.

Mr. BARNES. Mr. Chairman, I do not favor the adoption of this section under consideration for various reasons. In the neighborhood where I hail from, water rights have acquired a commercial value. They have been bought and sold, as is other property, and a right to use it is transferred from one individual to another. I think that it would be doing a very great injury to the people of my neighborhood to say that the rights which they believe they are entitled to—many of them by virtue of paying out their money for it, shall become the property of the State.

Mr. NEBEKER. Do you understand that if this Convention should declare that the water of the State should become the property of the State that that means an interference with vested rights?

Mr. BARNES. I am afraid so. That is the point with me. I am afraid so.

Mr. NEBEKER. We would have to climb right over the Constitution of the United States, if it were a fact.

Mr. BARNES. As to that I do not know. We get along very nicely to-day in the use of our water. Our streams are small; we have no difficulty with anybody, and we claim the water as it comes from the mountain that flows in the various creeks. We claim it by right of usage, by right of appropriation. As I said before, we buy it, sell it, and transfer it from one to another. Now, to come up and say that we no longer have that right and that the water belongs to the State, is something more than I can do, and then I cannot vote for the adoption of the article under consideration. I do not favor the entire article. I think the entire article is wrong, and that the whole matter should be left to the Legislature.

Mr. MURDOCK (Beaver). Mr. Chairman, as it has been often remarked here this afternoon, this is a very important question. And while we may think it so difficult that we don't want to take hold of it here, in what better condition would the Legislature be to take hold of this mattter? Now, there seems to be a head to all things, and there should be in this great State. This interest is perhaps one of the most important that we have to meet, and if this body of experienced men that are here upon this floor are not able to take hold of this matter and dispose of it in a proper way, why I cannot conceive that the Legislature that are no greater experienced men than this body is can take hold of it and do that that would be satisfactory to the people. Now, I think that the water should be disposed of in some way.

Now, continually waters are running from one state to another and if we acquire the right to the use of the water that is running into this State from

other states, why that right would be established if it was conceded to by the general government. Now, we want the experience of other individuals; if it be of any strength to us, or of any use to us, we should use the experience of other parts of the country. While I am willing to admit that Utah is in the lead in the experience of water, and I may be as tenacious upon my rights as any man possibly can be, I have been using water in this Territory for forty-five years myself, and I am tenacious on my own rights, and when my rights are well guarded, I say that every man's right is guarded. I say that provides that no priority right shall be interfered with. Of course if that be so, then it guarantees to every man that holds a water right. It is confirmed, but it simply is placing the water that the United States may obtain and hold at the present time—it converts it, it confers it upon the new State, and then the new State will dispose of it through its Legislatures, which this section provides. Now, we have the experience that has already transpired in the other adjoining territories, and they seem to work very excellently. Now, here is a law that I will read, which will be a part of what I have to say. It is from Governor Richards, of Wyoming. It seems that the governor of the Territory has applied to him for his opinion in regard to the water question:

To His Excellency, the Governor of Utah, Salt Lake City:

Dear Sir:—I am in receipt of your esteemed favor of April 9, in regard to the state control of water. I can give you no better information upon the question than that contained in the report of the state engineer and my message to the legislature, copies of which I mail to you to-day. We are very well satisfied with the working of our water laws, including the constitutional provision relating thereto, and no changes that could improve it occur to me at the present time.

Very respectfully,
WILLIAM A. RICHARDS,
Governor, Wyoming.

Now, that is his experience and here is the Wyoming law of the water, and he reports it as being excellent. I have also here a report of the engineer. (Reads.) Now, we don't want to treat this, gentlemen, lightly. I think that we want to shift a great labor and a great burden off of ourselves and put it on to somebody else that is not a bit more capable of disposing of this matter than we are. Now, there is not a feature in the bill that has been presented to the committee that takes away priority rights from them, but it is strictly guarded—strictly guarded. And I say emphatically that everything should have a head to it, and now you leave this to go on in the confused way—some parts may not be disturbed with this confusion, but I know many parts are confused, and men who are original owners are entirely deprived of their water rights. For what reason? Because there has not been a proper control made of the waters, and it is getting worse. We leave this matter for a few years more and the complication is increased. Now, we want to adjust this matter so as to put this water to the best possible use to the general whole. I do not wish to monopolize while I may have a priority. Men think that they own the water that they use. You might just as well claim that air that goes through the air and that you use as to say that you own the water. There is not a man that owns the water. He only owns the use of it where it goes from one to the other and passes by us as the air does, and there is not a man—I am strong on that point, that there is not a man that owns the water; he owns the right and perhaps through the custom that has been established here, he can transfer the right from himself to his neighbor.

Mr. ELDREDGE. Mr. Chairman, I am aware that there is no question that will come before this body that is surrounded with so much importance as the one we have under consideration,

and I am of the opinion that we can say nothing in this Constitution which will give any increased right to the State of Utah to the water that it would not have if it did not even mention it in the Constitution, nor should we say anything here that would detract from rights that have been acquired by the use of water. One advantage that the Legislature would have in dealing with this question over this Convention would be this, that if the Legislature should make an error in providing for the mode in which the water should be controlled, they could correct that error far more easily and more readily than what this Convention could have it corrected, should they make an error in the Constitution. Then there are different classes of rights we acquire to water; there are certain rights we acquire which only constitute a right to the use of the water, as for illustration, there may be a mill situated upon a stream and that is permitted to divert the water from its channel, carry it down and over its wheel and pass it back into the stream, and thus not infringe upon the rights of any person that may have acquired a right to the use of the water or even a right to the absorption of the water below them. Now, that is one class of right. Another class of right would be a farmer. He takes a stream of water upon his land and he exhausts that stream. There is not one particle of it that passes off from his farm to go on to afford its use for somebody else, hence, there are two different modes in which the rights to water attach. Then, should we appoint a board and that board should prove unsatisfactory to the people of the Territory, it would then become very objectionable and be very difficult to change, but if we leave the appointing of a board or even the creating of a board to the Legislature, it is then in shape that it can be properly handled. There are a great many questions will arise in regard to the water. For instance, you can take one class of land and it will require perhaps only one-quarter or one-half as much water to produce a crop as what some other class of land will and it would be impossible to say to a person that so many miner's inches or feet, as the case may be, of water that you can have to this twenty-acre or that forty-acre tract, and apply that rule to some other twenty-acre or forty-acre tract. All these obstacles will come up and present themselves to a board that undertakes to have anything to do with the water question, and therefore, as one, I am fully in favor of leaving the question to the Legislature to handle, and if we put anything in this Constitution, it would simply be the two lines that were presented by the minority report that all existing rights to the use of any of the waters of this State for any useful purpose shall be recognized and confirmed. I agree with the gentleman from Washington County upon that proposition, that it will not add any increased right to a person that has acquired a right either to the water or to the use of the water. There are some instances where they have acquired a right only to the use of the water, and in other instances they have acquired a right to the water and they use it absolutely, and therefore I think that we should leave this question unto the people that would be able to adjust it.

Mr. CORAY. Mr. Chairman, I would like to say two or three words. I will say that we wrestled with this question—that is, the committee did, three or four weeks and there was only one man that held out and that was Mr. Larsen, from Sanpete, and I notice in the substitute that he offers here to-day that he has come right around to our way of thinking. I will just read it for your benefit. It is very short. (Reads.)

Mr. LARSEN. I did not offer it.

The motion of Mr. Snow was agreed to.

Section 2 was read.

Mr. VARIAN. Mr. Chairman, I move to strike out the entire section. Now, Mr. Chairman, I will consider this section in three subdivisions. First, priority of appropriation for beneficial uses shall give the better right. In a certain particular and to a certain extent, that is the existing law. There are, however, rights growing out of riparian ownership which are equal to the rights given by the law existing as to prior appropriation. A declaration of this kind certainly could not interfere with vested rights, and if it could I should not vote for it, and I do not believe this Convention is willing to vote for it.

The second clause, that no appropriation shall be denied except when such denial is demanded by public interest, that looks towards confiscation. A man has a right by prior appropriation. It is just as much his property as if he had gained it in any other way. I do not think we ought to attempt to put any such confiscating clause as that in. The third clause, that the right of eminent domain shall extend to land and water rights, is entirely unnecessary. We had better leave that law of eminent domain just where it is. It is determined by well known principles. Courts are familiar with it. Legislatures are familiar with it. It is simply declaratory of what exists anyhow.

The motion was agreed to.

Section 3 was read.

Mr. THORESON. Mr. Chairman, I move we strike out section 3.

Mr. JOLLEY. Mr. Chairman, I move that we substitute section 2 of the minority report for the section.

Mr. RICHARDS. Mr. Chairman, I am opposed to the substitution. And I am in favor of the motion to strike out, because the Legislature would have all the power that they need in the premises without any such declaration. I think it is entirely unnecessary, and the section ought to be stricken out, in my judgment.

Mr. THORESON. Mr. Chairman, I think this section should be divided and these two sections treated upon different terms. I move to strike out section 3 of the majority report, which relates to the appointment of a State board and a State engineer, and I think the question should be divided and then afterwards vote on the substitute or the section of the minority report.

The motion to strike out was agreed to.

Section 4 was read.

Mr. BARNES. Mr. Chairman, I move that section 4 be stricken out.

The motion was agreed to.

Mr. JOLLEY. Mr. Chairman, I now move you that we insert section 2 of the minority report. As was stated by the gentleman from Salt Lake, this could be left to the Legislature. I agree with him that it could be, but there is an unrest in the minds of the people that I would like to see settled by this body and upon this floor, and I think that this section should be voted for. It will do no harm and it will satisfy them and give them something to rely upon.

Mr. HART. Mr. Chairman, if we are going to leave this whole matter to the Legislature, I think that we should do so. The word "shall" is in there, and this would require the Legislature to have a board of control. Inasmuch as we have decided not to pass upon the question here and leave the matter to the Legislature, I am in favor of leaving the whole thing to them, not directing that they shall do certain things.

Mr. MALONEY. Mr. Chairman, Mr. Jolley speaks of the unrest in the minds of the people. It strikes me that section one of the minority report, which has already been adopted, will set that at rest. I agree with the gentleman from Salt Lake that this is wholly unnecessary. The Legislature may provide for all those things. I hope the motion will not carry, that section 2 will not be adopted.

The motion of Mr. Jolley was rejected.

Mr. CREER. Mr. Chairman, I move to strike out section 1, as the article now stands.

Mr. RICHARDS. Mr. Chairman, I am opposed to putting anything into this Constitution that does no good, and the argument simply that it will do no harm is not persuasive to my mind. Now, if any gentleman in this committee can tell me of any good that can result from placing that article in this section in the Constitution——

Mr. JOLLEY. Mr. Chairman, I call the gentleman to order. We have just passed on section 1 and took a vote on it.

The point of order was sustained, and the motion of Mr. Creer was ruled out of order.

Mr. HART. Mr. Chairman, I move to reconsider the vote whereby we adopted that section.

Mr. ELDREDGE. The gentleman that moved to reconsider—did he vote in the affirmative?

Mr. HART. I do not know whether I was present when that was voted on or not.

Mr. JOLLEY. Then, Mr. Chairman, I object.

Mr. HART. That was introduced at the time section 1 of the original section was stricken out, was it?

The CHAIRMAN. Yes.

Mr. HART. I voted in the affirmative.

Mr. IVINS. Mr. Chairman, I have not participated in the debate thus far upon this article. Now, if the question of reconsideration is before us, I do want to say just a word. I think that that part of this section which was adopted is very proper and ought to stand, and that it ought not to be reconsidered. It simply confirms all existing water rights and provides that from this time on there shall be no law passed which might condemn water and extend this right of eminent domain over it by which people may be deprived of existing rights. I would like to see that remain anyhow.

Mr. HART. Mr. Chairman, I will withdraw my motion by the consent of the house and let the matter go on to the third reading.

The CHAIRMAN. The question now is on the article of forestry.

The committee proceeded to the consideration of the article of forestry.

Mr. CHIDESTER. Mr. Chairman, I move that when we do arise, we report and recommend that this article be adopted.

The motion was agreed to.

The committee of the whole then proceeded to the consideration of the article entitled education.

Sections 1 and 2 were read.

Mr. MAESER. Mr. Chairman, I move that on line 5, in section 2, the words "and high" be stricken out so that it reads, "the common schools shall be free."

The reason for my making this amendment is the same that I stated before; the status of common and high schools is a different one. Common schools are mandatory. They extend the right to every child of our people to be educated, and every child has a right to demand that kind of education that we shall designate by the term common school education, but high schools are a privilege for any one of our youth that desire to avail themselves of it, and now we are entering upon a statehood with increased taxation and we have to see that our common schools are provided for first in educational matters; that there is nothing done that in any way may infringe upon the full development of our common schools.

Thus far experience has demonstrated that in many parts of our Territory our common schools have not been able to run through all forty weeks which is considered the regular full school year. Very few school districts have been able to reach that under the present condition of affairs, and in some counties

schools have not been able to run longer than three months in the year. We all are willing to acknowledge that three months' schooling cannot furnish the child a common school education. It must be unsatisfactory. We must try to build up the common school system of ours so that all the children in our country districts have the privilege of a thorough good education—a solid foundation—there is a tendency, too much so, of over education. We are not educating for professions alone. We are educating our people, our farmers, our mechanics. We have to provide for those, but a tendency has been somewhat created that wherever some smart little children are found in the schools, they are pushed on, passed on—a kind of hot-house education has been developed. As a natural result of the condition of affairs, teachers are engaged for the year, or in some instances only for a term or a number of terms. They want to show off how much they can do in that short time, and press each force forward, and then it is as if the common schools only were arranged and organized that they may feed high schools and so on. Our common school system is a self-existing one. It is there for its own sake, it is not there for the sake of feeding high schools. It is a system in itself. Three-fourths of our school population get their education in our common schools and close up with that; then they depend upon mutual improvement associations and Christian endeavorers, and Christian societies, and so on, for further information of a general nature, but it is the common school education which I would like to have secured. I have been accused to my face that I was opposed to high schools, but I wish to say that I am not. I am in favor of high schools. I desire as many high schools to be established in Utah as we possibly can do, and as the means and the communities will allow. I am most anxious to see these, but it must not be done at the interest of our common schools. I would like to see them well established first—our country districts be brought in such a condition that they run their schools all the year around. That means forty weeks, which is the proper school year, and teachers that can stay there and not travel around the country for one term after another, but be able to stay and make their home there, and establish a character in the community and stamp their impress—their character upon the minds of the rising generation. It is not only knowledge, it is the building and cultivation of the character of our children that we want to have established. Therefore, I desire that these words "and high" be left out and provision be made by this Convention for the high schools. Someone else will take up the subject of high schools, I trust. I here only advocate the interests of our common schools and the high possibility.

Mr. PIERCE. Mr. Chairman, I hope the motion will not prevail. It seems to me that the purpose of this article is to define the public school system, and that is more essential than it is to specify exactly how the various branches of the school district shall be supported. We first outline a general plan. Now, if the Convention will turn to the latter part of section 3, I think they will see that Professor Maeser's argument is answered. That is a provision made so that the State school tax and the State school fund shall be used for the benefit of the common schools. That is as far as we have gone and that is all that we have provided. We have provided that all the fund that we raise shall be devoted for the support of the district school. Now, it seems to me that whenever a boy or a girl in a high school reaches the age of fourteen years and shows a special aptitude in studies, that the State owes as a duty to see that that boy or girl is permitted to enjoy education beyond

that, and if it is not so, the result will be to thwart the ambition and crowd them down, and I believe we should leave this matter in there, and leave it so that the Legislature can provide for the support of the high school in such way as they shall see fit to do. Now, why should not we do this? If it is not going to sacrifice the interests of the common schools in any respect whatever? And this bill is so framed that the interests of the common schools will not be sacrificed in any way, because the State school fund and such other additional taxation as the State may provide for shall be devoted to the district schools, and let it go there. Leave the common schools—if the Legislature provides a law for establishing them, leave them free.

Mr. SNOW. You refer to the saving clause, which provides that the school fund, with other means that the Legislature may provide, shall be distributed to the several school districts, according to the residents therein between the ages of six and twenty-one years. Now, the question I want to ask you is this, if the words "and high" are stricken out, will not this saving clause allow any school district which has sufficient funds to establish a high school with what surplus they may have that goes to these residents between six and twenty-one?

Mr. PIERCE. I am not certain but what you are right in regard to that.

Mr. SNOW. I think I am. Another thing, I think if you will leave "and high" there, that the free part of the school will be mandatory.

Mr. PIERCE. Well, I think it ought to be mandatory. That is my view of it.

Mr. SNOW. Well, if it is mandatory, you will have to provide taxes to make it so.

Mr. PIERCE. Exactly.

Mr. SNOW. The idea is this, we want to go according to our means, and by all means have the common school free.

Mr. PIERCE. My own idea is that the common school by all means should be free at all times, and that we should put that down as the foundation stone. Then, above that, that all high schools, at all times supported or provided for by the Legislature, should be free. Let the Legislature define it, that high schools can be established and become free even if they are supported by local taxation.

Mr. SNOW. Then it is clear to your mind that if the words are stricken out it will not prevent the establishment of free high schools?

Mr. PIERCE. I do not know; it is not entirely clear. You may be right upon that proposition.

Mr. PETERS. Mr. Chairman, I make a motion to strike out the entire section.

The question being taken on the motion of Mr. Maeser, the committee divided and by a vote of 47 ayes to 34 noes, the motion was agreed to.

Mr. VARIAN. Mr. Chairman, I want to offer an amendment, to insert after line 7, in section 2, "provided in all cities of the first and second class high schools may be maintained as a part of the free school system."

Now, Mr. Chairman, this is the same ground which we went over two or three weeks ago. For some reason or other there seems to be an antipathy to high schools in the minds of gentlemen here in this Convention. I confess I do not understand myself why it exists. To hear a gentleman at the head of a great private school—an ecclesiastical school, numbering eight or nine hundred students, making an attack of this kind upon the high schools is something that I cannot understand.

Mr. RICHARDS. As you understand this section 2, would not the Legislature have the power to provide for high schools, as a part of the common school system—free schools? I call your attention particularly to the last two lines, where it says that the other de-

partments of the school system shall be supported as provided by law.

Mr. VARIAN. Yes, sir; they might have that power. I doubt whether they would have the power to make them free, but what is the use of beating this thing around the bush in this way? If the intention is to let us have our high schools as we have them now, why not say so? If the intention is to deprive Salt Lake City of its high school, let us understand it. This proviso does not interfere now with you gentlemen from the outside. You have got the section as you want it, striking out the provision making high schools free and doing away with all competition that they might make to your other schools. That I apprehend is behind all this.

Mr. CREER. I desire to ask the gentleman if the provisions here in lines 6 and 7 would not be sufficient and that would cover not only cities of the first and second class, but cities of the third class?

Mr. VARIAN. No; that is the question asked of my colleague from Salt Lake City, but the object of this proviso—there is nothing concealed in it, so far as I am concerned. I want it understood that I want the high school of Salt Lake City maintained free. I presume the gentlemen from Ogden want the same as to their schools. Now, as I took occasion to say upon a former occasion, we have builded up a great school system here; we have a large number of first class school houses; we have incurred a large indebtedness; our people are willing to stand it; we may have to incur additional indebtedness. We shall, in the near future, want a high school building. Our school is increasing by hundreds every year. It is one of the features of our school system; it is doing as much as anything possibly can to bring into line all the children in this city, and they are all looking forward to that high school, one and all.

Now, the simple statement, it seems to me, ought to be sufficient to give us this proviso. The school here and the school in Ogden are now maintained free. This is a permissive proviso, it does not say the Legislature shall do so; it says that the high schools of cities of the first and second class may be maintained free; nothing that I could say, gentlemen, would add to the force of the argument. Time is too precious to go over the ground of argument we went over two or three weeks ago. I simply ask you what you have got to do with it? Why should anybody object to this proviso being carried?

Mr. IVINS. Mr. Chairman, I believe that the members of this committee are laboring under a misapprehension as to the present school system in this Territory. We have no free school system here, such as I understand this proviso of the Constitution that we now have under consideration will create. The Legislature appropriates a certain amount of money to assist the schools of this Territory, and then it provides laws by which the counties and the school districts may, if they wish, make those schools free. But there is no free school system. If a county does not wish to vote a tax for schools, the schools in that county are not free today. Now, as I understand this provision that we are about to place in the Constitution, it requires that all common schools in this Territory shall be made free by general taxation, and that is just exactly what I want, and then if there are to be high schools maintained free, let it be by local taxation in the districts, cities, or precincts, where those high schools are located. And if the gentleman will amend his amendment so that it will read that high schools may be made free by local taxation, I should not object for a moment, but I believe that under that provision high schools in Salt Lake City could be maintained by general taxation of all the people in this Territory, and that I do not think is right.

Mr. VARIAN. Will the gentleman permit me to ask him two questions? Does he not know that the schools in Salt Lake City are free, all of them?

Mr. IVINS. Yes, but they are made free by local taxation.

Mr. VARIAN. And second, what difference does it make to you or to the school fund whether that is in or out of the proviso? We do not get any more money from the State than we would have if the school was not free. In other words, we distribute that fund as we choose, and then if we require anything more it must of necessity be by local taxation.

Mr. IVINS. I wish to impress the gentleman that I do not object at all to that condition being continued, but I want to try to impress the members of this committee with the fact that under section 2, we are creating a free school system, and it will be supported by general taxation, so far as the common schools are concerned, and that there will be but one school fund and that will be the territorial school fund. Now, if we want to establish higher schools, let it be done by local taxation, after the pupils of this district have received their proportion of the general fund who are between the ages that are designated here as the school ages. I believe that that amendment, if it is adopted now, would authorize the assessment of taxes on property in Washington County to help maintain the high schools in Salt Lake City, and I do not think that that is right. We are willing to bear our proportion of maintaining common schools in Salt Lake County and in Cache County and in all other counties, and wherever high schools are wanted, let them be maintained by local taxation, just as they are now.

Mr. SMITH. Mr. Chairman, it seems to me that Mr. Ivans is laboring under a misapprehension in regard to the free school system in this Territory. I am not certain in regard to that matter, but the impression in my mind is that the schools in the Territory are at present supported by taxation. Suppose that the children of this city, as an example, were taken of the ages named here in this proposition and appropriations were made for the public school system, and the city itself established a high school in connection therewith—children only of the ages named who would be permitted to attend there, and we would only get our proportion of the money as any other section would, if they saw fit to do the same. I trust that this proposition of Mr. Varian's will carry. I am decidedly in favor of it, because it is a matter of justice and right to the people to be able to use their money in that way.

Mr. RICHARDS. Mr. Chairman, I am decidedly in favor of Salt Lake City and Ogden and any other city in the Territory that is able to support a high school as a part of the common school and free school system, to have that right, and as I understand it, they would have the right under this section, as it now stands. That is the difference between myself and my colleague from Salt Lake City. He seems in his argument to imply that if this proviso is not adopted, the Legislature—that we would not have the authority to continue these high shools. Now, I do not understand it that way at all, and the reason that I asked the question of the gentleman was not to interrupt him, but to try to get some light on the subject, but I did not succeed in getting the light that I usually get from interrogations from that source.

Mr. VARIAN. Will the gentleman pardon me if I treated him abruptly; I did not mean to. I will endeavor to answer any question.

Mr. RICHARDS. I did not understand that the gentleman did intend to treat me abruptly, but I did not get any answer to my interrogation.

Mr. VARIAN. If you will allow me, I will try to answer.

Mr. RICHARDS. I have no question to ask now. I desire to say something myself. Now, if it is true that this section 2 would prohibit Salt Lake City or Ogden City, or any other city, from maintaining a free school system, or maintaining high schools as a part of the free school system, and it is necessary to have this proviso in order to make that clear, I am for the proviso, but I want to know first that it is necessary. Now, what does this section say. The first section says, "The Legislature shall provide for the establishment and maintenance of a uniform system of public schools," etc. By section 2, high schools are included in the public school system. "The common schools shall be free." Now, if it stopped there, there might be a question about the power of the Legislature to make high schools free, because, under a familiar maxim of law, that an expression of one thing excludes other things, it might be doubtful—in fact, I should say that they would not have that power, but this section goes on and makes it clear by saying, "the other departments of the school system shall be supported as provided by law."

Now, the Legislature has a right to enact laws providing for the establishment of high schools throughout the Territory, and the maintenance of high schools throughout the Territory. Are we to argue that the Legislature will not do this? Are we to assume that the next Legislature will provide that high schools that are now in existence in this city and in other cities of this Territory shall be discontinued? I do not think we ought to indulge in any such presumption as that. If we provide that in cities of the first and second class high schools may be retained as a part of the school system, then I say that it is objectionable, because in line with the very maxim that I have quoted, the expression of one may exclude others. Then it would be impossible for the Legislature to provide for high schools elsewhere, except in first and second class cities. It might be that high schools might be desired in other places besides in the first and second class cities. Now, I want it distinctly understood, Mr. Chairman and gentlemen of the committee, that I want this thing made as clear as any member of this committee. I desire the right retained for Salt Lake City and for Ogden, and for every other city that now has it, but I desire also that the same right and privilege may be extended to every other city, and not only to every other city, but to every county in this Territory, if the time should come that it should be considered wise and expedient that that provision should be made. And so as I understand it, I cannot favor the amendment. If an amendment is necessary it can be drawn in such a way that it will not and cannot possibly operate as a restriction; then I should vote for it, but as I am now informed, I cannot vote for the amendment, because I think that instead of extending any privilege in this regard, that it is restrictive in its character.

Mr. CREER. Mr. Chairman, I do not wish to repeat over the argument of the gentleman from Salt Lake, Mr. Richards, but that is the way the amendment occurred to my mind, that using the expression of cities of the first and second class, it would exclude others, because the Legislature would be directed by that provision. Now, I think it would be perfectly right and proper—in fact, necessary that high schools may be established in other cities, besides those of the first and second class. We have cities approaching in numbers cities of the first and second class and we have high schools there. I was opposed, not to the principle of sustaining high schools free, but I was opposed to the amendment, because I believed it would be too narrow; it was circumscribed so that other cities could not be benefitted by that.

Mr. CHIDESTER. Mr. Chairman, as I understand the amendment, I could not support it, but if it goes on something like this, I could support it, "the common schools shall be free and the high schools of first and second class cities may be free by local taxation," then I think I could support it.

As I understood the argument on this question when it was in the Convention before, that was the contention, that they wished to have high schools and pay for them themselves. Now, I do not object to that, but I do object to making these high schools free and having them a part of the free school system.

Mr. EVANS (Utah). It seems to me, Mr. Chairman and gentlemen of the committee, that this matter is certainly strong enough. As I view it, I believe that if it is left just as it is now, it is within the power of the Legislature not only to establish high schools, but I go further, and I believe that the Legislature could make a law whereby high schools could be maintained by territorial taxation. I believe that they could provide by law that kindergarten schools should be made free from the same source. I believe that they could provide that the university could be made free from the taxes of the people throughout this Territory, but I am willing to trust that part to the Legislature. If the time shall ever come that they believe it shall be a just system that high schools should be established in this Territory and that the finances of the Territory are of such a nature that they could be established by general taxation, in addition to the maintenance of the common schools, I am willing to leave it to the Legislature, or if peradventure in the history of the State it should be found that we were able by the resources that accrue to the university, and those that accrue to the common schools—that by making a reasonable tax in addition to that, that very system in this Territory could be maintained free, I would not object to it, and I believe that is exactly the condition of this section as now left. Therefore, I am opposed to the amendment. I think it is strong enough as it is; that it will cover every situation that will arise and it may go to the extent of making every school in this Territory free by any way that they may provide, either by local taxation or general taxation.

Mr. PIERCE. Mr. Chairman, if this section is left as it is, we are liable to meet or may meet with this condition of affairs. I do not say we will, but we may be. The very next Legislature that we may have may say that the pupils of the high school in Salt Lake City shall be charged tuition. That is the trouble. That is what the gentleman from Salt Lake City desires to get over. His amendment is that the high school shall be a part of the free public school system, and it seems to me that it is eminently proper that this amendment should go into the Constitution, so that in cities of the first and second class it would never be possible for the Legislature to charge tuition.

Mr. EVANS (Utah). Are you not willing to trust to the honesty of the Legislature—have you not got sufficient confidence in them to believe that if any district or any locality are willing to be taxed for the purpose of maintaining a high school, that that Legislature will provide a law whereby they may do it?

Mr. PIERCE. I do not want to insert that question when this Convention strikes the words high schools out of the free school system.

Mr. MORRIS. Mr. Chairman, I am in favor of Mr. Varian's amendment, for a free high school. I cannot see why outside districts need to interfere whatever as long as we are willing to sustain and support our own high schools. I favor a free high school for the benefit of hundreds of widows and children that are just as bright as those that have an abundance, and to say that the

high school is to be paid to go in, they are deprived for want of means, and for that reason I favor free high schools, as long as we are willing to sustain them ourselves, and I rather think it comes with poor grace for those in the outside districts to think that we charge them or that they would be taxed to support our high schools, when we in Salt Lake County are supporting all of the public schools, to the amount of about eighty per cent.

Mr. VARIAN. Mr. Chairman, the argument of my friend from Salt Lake and from Utah County is a little disingenuous, as to the construction of this section. First, we are told that if this proviso will be adopted they fear that the Legislature would be prohibited from establishing high schools. They overlook the fact that you have already declared that high schools shall be a part of the public school system. They overlook the fact, or at least ignore it, that you have just stricken out the clause which would authorize the Legislature to make the high schools free anywhere. Whether the proviso is adopted or not, as long as this Constitution shall stand in this way, every lawyer here must know that the Legislature would be prohibited at any time or under any circumstances from making the high schools free. Now, it is in that way that we want this proviso adopted.

Mr. RICHARDS. Do I understand you to say that the striking out of the words "high school" as it stands now with common schools free, that the Legislature would be prohibited from making any other schools free?

Mr. VARIAN. Upon the principle of construction that Mr. Richards announced approvingly a few minutes ago, I should say yes. The Constitutional Convention was dealing with that question as to what schools shall be free. It has declared that the common schools shall be free. By implication, none others are to be free.

Mr. RICHARDS. That would be unquestionably true, if it were not for the section that follows. I ask you what this means, "the other departments of the school system shall be supported as provided by law?" That is as I understand it, the other departments except the common schools.

Mr. VARIAN. I understand that; they shall be supported not as free schools, but supported by taxation in such a way as may be provided by law. It is subject to that interpretation, but passing that let us see what effect this clause has upon your high schools elsewhere. It simply provides that high schools in cities of the first and second class may be maintained free, as a part of the free public school system. How can we get any money from the people outside, other than the money that we would get whether we have a high school or do not? Your Legislature will create a levy for a school fund, it will be so many mills on the hundred dollars; it will be distributed in the different counties and districts of the State, according to the school population, so that it is not the number nor the character of schools that will determine that, but it is the number of people within school age, who are authorized to draw the school money. We will illustrate by saying supposing we get twenty-five thousand dollars a year or fifty thousand dollars a year for a school fund, how can it concern you gentlemen, whether we distribute that money among the common schools and the high schools, or give it to the common schools alone? The result is the same, when we have exhausted it, we are bound by the levy, we can get no more money from the State treasury. We will do as we are doing to-day, levy a city tax, which in large degree we rely upon to support this system of schools that we have here. It is not true—it is a mistaken idea, if gentlemen will just look into it, they will see that it will not add to your burdens one single cent. It is simply providing that we may still

maintain our high school here in Salt Lake and our high school in Ogden, as a part of the public school system. It is torturing language. It is a misconstruction and misapplication of the meaning of words to assume any such construction as is put upon it by the gentleman. We do not wish to interfere with that. If any gentleman here is going to vote against this proviso because "supported by local taxation" is not there, why don't he offer it as an amendment and help me to perfect this, if he is in line, and not endeavor to kill it absolutely? If there is that question in it, offer the amendment and let the committee vote upon it, if they want to perfect it in that way, but I trust that you will not vote down this proviso under the circumstances.

Mr. RICHARDS. To make this matter clear and beyond doubt, will you accept this amendment to that amendment:

Provided that in cities of the first and second class and such others as may be provided by the Legislature, high schools may be retained as part of the free school system.

Mr. VARIAN. Certainly. I will be very glad to.

Mr. IVINS. If Mr. Varian will allow me, I have his original motion here and I want to put three words in it that will satisfy me. I want to move this as an amendment. Your motion is, "provided in all cities of the first and second class high schools may be maintained as part of the free school system." I have added, "provided, in all cities of the first and second class high schools may be maintained by local taxation as part of the free school system." I move this as an amendment to the gentleman's motion.

Mr. THORESON. Mr. Chairman, I offer as a substitute for the section and the amendment:

Provided that high schools may be maintained free by any county, city, or district, by local taxation.

Mr. CHIDESTER. Mr. Chairman, I would like to offer an amendment to make it conform to the suggestion I made awhile ago, by adding three words, "by local taxation."

Mr. VARIAN. Mr. Chairman, if that can be added so that if a necessity should exist for it, there would be no objection to it, but to confine it entirely to local taxation might preclude the use of the moneys that the city is entitled to or any part of them, although it might have more than enough for the common schools, going to the high schools. I do not think the gentleman means that, however.

Mr. IVINS. Would not the latter part of section 3 protect every city in its right to its proportion of the school money?

Mr. VARIAN. Yes, it would protect the city in the right to the proportion of the school money, but to make a limitation as to what they should do with it is what I am complaining of.

Mr. IVINS. I do not understand that you can provide how the trustees shall use that money after it comes into their hands.

Mr. VARIAN. Your suggestion is that we must confine this high school system to local taxation. Leave out "local taxation," or if you put it in, put in also, "if it shall be necessary," and give us the benefit of what we do get from the State.

Mr. IVINS. We want you to have that.

Mr. THORESON. Mr. Chairman, my idea of the substitute is simply this, that we have now provided in the section for the common schools. We expect to provide money sufficient and sufficient only for the common schools of the State throughout. Now, more than that, my substitute here provides that any city or county or district may have a high school by a local taxation over and above that of the common school system, and the money appropriated by the State for common school purposes. Now, it would be confined

not merely to cities of the first and second class. I object to that, because I happen to live in a city of the third class, and we want a high school, and I believe the people in the cities of the third class are willing to be taxed, but I do not believe it would be proper for the State to appropriate money to that high school, taking it away from the common school system. I believe it should be provided for throughout the State at the expense of the State, and no more money should be paid than is necessary for those schools, but over and above local taxation, should provide for the high schools.

Mr. ROBERTS. Mr. Chairman, I am not in favor of the substitute offered by the gentleman from Cache. I can conceive, sir, that in compact settlements, and large cities, such, for instance, as Salt Lake, that when that city shall draw the amount of school fund that is due to the city by reason of its school population, that they would have, perhaps, an excess of money over and above what is necessary to run their common schools, and in that event, for one, I would be perfectly willing to see such an arrangement made that that surplus means might be used in aid of running their high schools free. I think that the gentleman from Garfield, if he would accept an addition of one or two words to his amendment—to Mr. Varian's amendment, would cover the entire case. I ask the gentleman to state his amendment to the amendment.

The CHAIRMAN. The amendment is not before the house.

Mr. ROBERTS. No; I understand it is not, but I wish to get it clearly.

Mr. CHIDESTER. To add the three words, "by local taxation."

Mr. ROBERTS. Now, I understand that objection is made to that, because it would prohibit these cities from using any surplus school fund that they might have in aid of their high schools. Now, the gentleman from Salt Lake suggested that if it were so arranged as to say "if necessary," he would accept such an amendment as that. Now, I ask the gentleman, could he not make that addition?

Mr. CHIDESTER. I understand that they would be entitled to their per capita of money and that they could use that, and then the balance, of course, would have to be raised by local taxation. I do not understand that we could deprive them of their proper amount of the school fund.

Mr. ROBERTS. I understand that, but the idea is to give them the authority to use that surplus in sustaining their high schools.

Mr. CHIDESTER. Any arrangement that could be made that would allow them to use that money, I do not care where they use it, I have no objection to.

Mr. RICHARDS. Would you have any objection to passing this section for the time being in order that by morning we may prepare such a section?

Mr. VARIAN. I join in that.

Mr. ROBERTS. I will be very glad if that arrangement can be made.

Mr. VARIAN. Let the Salt Lake delegates see if they cannot make it satisfactory to the members of the house.

Mr. LUND. Mr. Chairman, I think we can dispose of this. I do not believe that the outside districts desire that Salt Lake City, if it prepares a child for the high school at thirteen years of age, which was the remarkable statement of our commissioner—I do not think that the outside counties desire that Salt Lake should not apply the pro rata that follows that child into the high school. It certainly would be unfair if we are educating children in the outside districts until they are eighteen years of age in the common school, that because a child in Salt Lake City was able to go into the high school at fifteen or any age younger, that he should not have any benefit of the State school fund. I believe the outside districts would be willing to accept, if an arrange-

ment could be made, that word "necessary," when it can be made to show that they had no opportunity for their high schools, that the high schools shall not be free in the same way that the common schools are free. I believe that the pro rata should follow every child as a duty of the State to that child until he is twenty-one years of age, no matter what school he may attend, and I should be in favor of accepting any arrangement that would let a part of the State school fund be used for those who are under twenty-one and are studying in the high schools, that it should follow them—that pro rata.

Mr. RICHARDS. I desire unanimous consent to have this section passed over until to-morrow. I am satisfied that we understand each other. The only question is to put it in proper form so that when it is presented here it will express the proper idea.

Mr. RICKS. Mr. Chairman, before that goes over I want to offer another amendment in line 4; after the word "university," insert the following, "Fifth: And agricultural college."

The CHAIRMAN. The amendment would be at this stage out of order.

Mr. EVANS (Utah). Mr. Chairman, I move you that it be the sense of the house that this matter go over until to-morrow.

Mr. KERR. Mr. Chairman, I am opposed to this motion, first, because this same section came up some time ago and was referred back to the committee. The committee has reported again and now the committee of the whole is unable to act upon it. We have been in session six hours. I move we arise and report progress.

The CHAIRMAN. That is not seconded.

Mr. PETERS. Mr. Chairman, I trust that this motion will prevail to let this go over until to-morrow, and I am satisfied that after each member has considered this section carefully, he will come to the same conclusion I have, that the evolution that is going on in the school system—that a binding down proposition should be offered in this Constitution, is a little surprising to me. Here we are trying to fix a system, which is to remain for this State. I do not think you can find a system set forth in any constitution—with the evolution that is going on in educational matters, it strikes me that the whole matter should be left to the Legislature, and the remarks that I have heard this afternoon have confirmed me to that fact. We cannot agree, it seems like, on any proposition. If it goes to the Legislature, I think they can legislate according to the progress of the new State.

The motion to postpone was agreed to.

Section 3 was read.

Mr. BOWDLE. Mr. Chairman, I wish to offer an amendment to that section as follows: In line 15, after "with," insert "the State school tax shall be distributed among the several school districts of the State in proportion to the number of children in each of school age, as may be provided by law."

I want to say just a word about that amendment. In the section as reported by the committee, we have fixed the school age, as far as this section is concerned, between six and twenty-one years of age. That is, the distribution of this fund shall be according to the number of persons residing in the district between six and twenty-one years of age. I think the wiser thing for us is to leave the Legislature to determine the age, and for us not to legislate upon that question, and therefore, I submit my amendment.

Mr. EVANS (Utah). Mr. Chairman, I move as an amendment that the words "twenty-one" be stricken out at the end of line 19, and that the word eighteen be inserted in lieu thereof. My reason for offering this motion is this, that the greater that we shall make the

age wherein the common school fund is to be distributed, the less per capita will the fund be to the children of the State. Now, sir, I submit to you, that while I believe that the State owes to the children of the State a common school education—I believe, sir, that the age of eighteen will reach every purpose that is anticipated by the common schools. For an illustration, supposing the common school fund accruing from the sale of lands or interest thereon together with such taxes as may be levied for school fund purposes shall amount to one thousand dollars, I submit to you that if that shall be distributed between the children or among the children between the ages of six and twenty-one, that you decrease just one fifth from the purpose and the object of our school funds, if my proposition be true; that we want to educate the children with a common school education, and eighteen years of age will accomplish that object. Perhaps I might illustrate it better by saying to you that if there were only four children and they were entitled to one dollar each they would be entitled to one dollar each by reason of being four. Adding to that the difference of one more, it would reduce it down to eighty cents each for those five children. Now, this is the situation that confronts us in regard to these advantages, for the reason from six up to eighteen divided by four constitutes three in each department, adding on to the eighteen, three more, makes twenty-one, thereby being one-fifth of the age between six and twenty-one. I submit to you, gentlemen of the committee, that I have no objections to going just as far as we can in the education of the children of this State, but, sir, I desire to say that I think that the duty incumbent upon us first is to educate those between the ages of six and eighteen, and, I believe with the system that we have to-day that there will be no children who have a desire to attend school that will not have concluded the eighth grade in the common school system and be ready to advance into some higher departments. If, upon the other hand, there shall be one or there shall be a hundred within this Territory when they attain to the age of eighteen who have not attained to that position in the school system, they either will never attain to it, or else they will be of that class that are sufficiently ambitious, if that spirit shall take hold of them, that they will be able to assist themselves. For these reasons I am in favor of the words twenty-one being stricken out and let it be confined to the age of eighteen, that our common schools may receive the support necessary to carry into effect the object that I believe this Convention designs to carry out.

Mr. BOWDLE. Mr. Chairman, I am opposed to fixing any age in this Constitution. It is unusual to do so. If the Legislature can be trusted upon any proposition, it seems to me they ought to be trusted upon the proposition of saying between what ages this fund shall be divided, and I am in favor of leaving it right there. The question of age is a question now that is agitating the people throughout a great many states of the Union. Some states are looking upon it at one age and some at another, and if we say here what the school age shall be and provide by that means of educating the children—and we thereby in fact fix the age, we ought not to do that. We ought to leave it so that if it shall become necessary to make it eighteen, make it eighteen. If it becomes necessary to make it sixteen, make it sixteen, or whatever age may be necessary for the Legislature to fix it, and I am opposed for us here to put any age whatever in the Constitution.

Mr. CREER. Did you vote for the militia law that a person should serve from eighteen up to forty-five.

Mr. BOWDLE. I objected to that.

Mr. THURMAN. Mr. Chairman and gentlemen, I agree with the gentleman

from Salt Lake, as to the question that this matter should be left to the Legislature, of determining the ages. The Enabling Act provides on page 3 that provision shall be made for the establishment and maintenance of a system of public schools, which shall be open to all the children of the State and free from sectarian control. There is a question in my mind as to whether we have a right to exclude from the public schools anybody that is under the age of majority, under that Enabling Act. It clearly says that the schools shall be open to all the children of the State, and everywhere in this country and other civilized countries males at least are considered in law minors until they are twenty-one years of age. But aside from what the Enabling Act says upon the subject, why is it not safer to leave this matter to the Legislature? Should we progress as we hope to do in our school system, the time may come that we will find that we have reached that degree of perfection or advancement that the children everywhere in the Territory at sixteen will be out of the common school or ready to advance, and should we reach a condition of that kind we might want to get away from this proposition that the age shall extend to eighteen or twenty-one. In any event, it is one of those questions in which it is absolutely safe to leave it to the Legislature to determine, as suggested by the gentleman from Salt Lake, and they may want to vary it from time to time. They may want to run a few years one age and change the age within which they are proper to be admitted to the free schools, and for that reason I favor the amendment proposed and I cannot see that it can do any harm and may be productive of great good.

The amendment of Mr. Evans of Utah was rejected.

Mr. PIERCE. Mr. Chairman, it seems to me that the amendment offered by the gentleman from Salt Lake, Mr. Bowdle, would be rather crude. Would not it be better to have it this way, "Shall be distributed among the several school districts according to the school population residing therein?" The article here would fit in better than Mr. Bowdle's amendment, because it says, "Such other means as the Legislature may provide." The Legislature may provide other means in addition to the school tax. For instance, I would like to suggest one. Line four of this article says, "The proceeds of all property that may accrue to the State by escheat or forfeiture." That is one of the means, or perhaps they might provide for a military tax. There are lots of ways in the different constitutions where they provide that whatever there is no other place for, goes to the school fund.

The CHAIRMAN. Do you offer that as an amendment?

Mr. PIERCE. I offer that as an amendment to the amendment, that the words "number of persons" and the words, "between the ages of six and twenty-one" be stricken out, and that in the place of "number of persons," the words, "school population," be inserted. Then it leaves it for the Legislature to determine who are the school population residing therein.

Mr. BOWDLE. I have no objection to that. It reaches the same point exactly. I will accept it and withdraw my amendment.

Mr. EICHNOR. Mr. Chairman, I am opposed to the amendment or amendments. When my friend, Mr. Thurman, said that he believed according to the Enabling Act the Legislature could not deprive any person under the age of twenty-one from attending the public schools, I think he spoke exactly correct, but I am in favor of standing by the report of the committee. I think Mr. Thurman is absolutely correct. Afterwards he seemed to wander off in different directions, but his first statement is sound.

Mr. EVANS (Utah). Why do you think it ought to be twenty-one?

Mr. EICHNOR. For the very reason that Mr. Thurman stated that all male persons of the age of twenty-one were considered in law children.

Mr. EVANS (Utah). What about females—would you deprive them of it at eighteen years?

Mr. EICHNOR. No, sir; this fixes it at twenty-one.

Mr. THORESON. What about the children under six years of age, according to the Enabling Act?

Mr. EICHNOR. A child under six years cannot testify in court. There is a legal term for that. It is a legal definition.

Mr. THORESON. Are there children under six years of age?

Mr. EICHNOR. No; they are babies, I suppose.

Mr. BOWDLE. Do you state, as a proposition of law, that a child six years of age can testify in court?

Mr. EICHNOR. Yes, when they are intelligent enough.

Mr. BOWDLE. You cannot find that in the territorial statutes.

Mr. EICHNOR. You can put that construction on it and if you have not read it, you had better go and look up the fundamental principles.

Mr. EVANS (Utah). I would like to ask if they can at seven?

Mr. BUTTON. Mr. Chairman, I would like to vote on part of Mr. Pierce's amendment each time. Divide that.

The CHAIRMAN. I would rule that the question is indivisible.

Mr. BUTTON. The question of the population I think ought to go in. If it is a part of the amendment, I do not want to vote for it. I would want to vote for school population in the place——

The CHAIRMAN. The committee has the right to have it divided.

Mr. BUTTON. And the age I think is right.

The amendment offered by Mr. Pierce was agreed to.

Mr. RICKS. Mr. Chairman, I move we rise and report progress.

The motion was rejected.

Section 4 was read.

Mr. SNOW. Mr. Chairman, I move to strike out section 4. My object for moving to strike it out is this, that all the rights, immunities, franchises, and endowments that the university now enjoys will be ratified and perpetuated in the article on schedule, and it is unnecessary to repeat it here.

The motion was rejected.

Mr. RICKS. Mr. Chairman, I move an amendment, to strike out, in line 2, the words "of Utah," and in line 5, "unto said university," and insert in line 2, the following, "and agricultural college." As the article now stands it implies a union of the university and agricultural college, and I believe that every gentleman on this floor will recognize that if the union takes place it would destroy the efficiency of that institution, and I believe that we ought to so arrange this article as to provide for a permanent separation of these two institutions.

Mr. IVINS. Mr. Chairman, I am opposed to the amendment offered by the gentleman from Sevier, for the reason I think the two institutions ought to be united, and for the further reason that when the next section 5 is reached, I have a plan of union which I wish to propose. I do not know that I need at this time to enter into any debate upon the question, as I shall desire when section 5 is reached to give my reasons for the position I take.

Mr. PIERCE. I would like to have your plan developed before we vote upon this.

Mr. IVINS. If the committee wish it, I will give them my proposed amendment to section 5. I will do it as a part of my remarks. I expect when section 5 shall have been reached to introduce an amendment which I will read to fill

the blank, in line 7, with the following, "Logan, Cache County, until July 1, 1898, after which time it shall be located at Salt Lake City." I believe I have some very good reasons, gentlemen, for opposing the motion of the gentleman from Sevier and in support of my proposition to unite these two institutions as proposed in this amendment, which reasons I shall be pleased to state more at length when the time shall arrive to offer this.

Mr. SQUIRES. Mr. Chairman, we have come up now to the consideration, as I understand it, of the most important part of this whole article of the committee on education. We are worn out with a long day's session, and not in proper condition to discuss that matter. I therefore move that we rise and report progress.

Mr. THURMAN. Will you withhold that a moment? I desire to state this in opposition to it, if there is any motion to be made with reference to section 5, that we may know and understand what it is before we adjourn.

Mr. SQUIRES. We all know. Mr. Ivins has read it.

Mr. THURMAN. I do not know.

Mr. HART. Mr. Chairman, if the gentleman who made a motion to rise will withhold it one moment, I suggest that section 4 has not anything to do with the union question, and I am opposed to the amendment offered by the gentleman from Sevier, for the reason that that section, as it stands, is all right, and if, after considering section 5, the Convention should decide not to unite, a similar provision could be brought forward with reference to the agricultural college. I suggest that we do not rise now; that we vote down Mr. Ricks' amendment and then come to the question.

The question being taken on the motion of Mr. Squires, the committee divided and by a vote of 45 ayes to 30 noes, the motion was agreed to.

The committee then rose and reported as follows:

Your committee of the whole have had under consideration the article on irrigation and agriculture, including the report on forestry, and report said article for third reading. They also have had under consideration the article on education and school lands and report progress.

The Convention, then, at 5:26, on motion of Mr. Creer, adjourned.

FORTY-EIGHTH DAY.

SATURDAY, April 20, 1895.

Convention was called to order at 9 a. m. President Smith in the chair.

Roll call showed a quorum present.

Prayer was offered by Delegate Maeser of Utah County.

Journal of the forty-seventh day's session was read.

The following petitions were presented asking that the question of prohibition be submitted as a separate article to a vote of the people:

File No. 372, from the presbytery of Utah, representing 28 ministers, 44 elders, 56 teachers and 1,000 church members, by Miller, of Sevier.

File No. 373, signed by John Tingey and 31 others, from Salt Lake, by Raleigh, of Salt Lake.

File No. 374, signed by W. Kellogg and 38 others, from Salt Lake, by Button, of Salt Lake.

File No. 375, signed by Wm. Sargeant, Sr., and 39 others, from Hoytsville, asking that an equal suffrage clause be placed in the Constitution, by Thurman, of Utah. Ordered filed.

The Convention then proceeded to the third reading of the article on water rights, which was read as follows:

Section 1. All existing rights to the use of any of the waters of this State for any useful purpose shall be recognized and confirmed.

Mr. CORAY. Mr. President, I move that that section be stricken out. It is purely legislative. I think it is perfectly worthless and I move it be stricken out.

Mr. L. LARSEN. Mr. President, I hope this motion will not prevail.

Mr. PIERCE. Mr. President, I arise to a point of order, that it is not in order to move to strike out on the passage of a bill.

The CHAIRMAN. Is there an article on forestry?

Mr. PIERCE. They are different articles. They will be passed by separate votes.

The PRESIDENT. The point of order is well taken.

Mr. PIERCE. The question then is simply the passing or rejecting of section 1 as read.

Mr. MALONEY. Mr. President, this is a constitutional recognition of existing rights and I hope every member on this floor will vote for it.

Mr. JOLLEY. Mr. President, that is all I had to say.

Mr. VARIAN. Mr. President, I move to fill the blank in the title by inserting the words "water rights."

Mr. FARR. Mr. President, I hope that section will be voted down. As reasonable men and rational men—that has been presented in the article of the majority report—the very substance and in almost those very words, it has been voted down. Now, why should we sustain it without some reason for sustaining it?

Mr. THORESON. Mr. President, I do not know as these remarks are in order, but I believe with the gentleman from Weber that the irrigators throughout this Territory are asking that something be inserted in the Constitution acknowledging the rights that they paid so dearly for and which they prize so much, and being as we have put in several other clauses that have little weight that are favorable—for instance the labor article that was proposed was merely to satisfy the labor organizations. Now, this will satisfy the irrigators of this entire Territory, acknowledging their right.

Mr. THATCHER. Mr. President, I trust that the section will not be stricken out. It certainly can do no harm. I think it will do much good for the reason that it is a recognition by this honorable body of rights that already have been questioned. They were questioned in the bill which was voted down by this house yesterday. I am in favor of retaining that clause so that the farmers will know that this Convention wished them to retain acquired rights.

Mr. VARIAN. Mr. President, I want to call attention to the wording of that section in the second line. I think the word "of" in the second line, after the word "waters," ought to be changed to "in;" of course there are no existing rights in anybody to the waters of the State—that is belonging to the State. The intention is "in" the State. I move to strike out the word "of," and insert the word "in," after the word "waters," in the second line.

The amendment was agreed to.

Mr. HART. Mr. President, after the word "useful," in the second line, I move to insert the words "or beneficial."

The amendment was agreed to.

The PRESIDENT. The secretary will call the roll on the adoption of the article.

The roll was then called with the following result:

AYES—74.

Allen	Lemmon
Anderson	Lowe, Wm.
Barnes	Lowe, Peter
Bowdle	Low, Cache
Boyer	Lund
Button	Maeser
Buys	Mackintosh
Call	Maloney
Cannon	Maughan

Chidester	McFarland
Christiansen	Miller
Coray	Morris
Corfman	Moritz
Crane	Page
Creer	Peters
Eichnor	Peterson, Grand
Eldredge	Peterson, Sanpete
Engberg	Preston
Evans, Weber	Raleigh
Evans, Utah	Ricks
Farr	Roberts
Francis	Robertson
Gibbs	Robison, Wayne
Hammond	Ryan
Hart	Sharp
Heybourne	Snow
Hill	Squires
Howard	Stover
Hughes	Symons
Ivins	Thatcher
James	Thompson
Jolley	Thoreson
Keith	Thurman
Kerr	Varian
Lambert	Warrum
Larsen, L.	Whitney
Larsen, C. P.	Williams.

NOES—6.

Green	Pierce
Haynes	Shurtliff
Murdock, Beaver	Van Horne.

ABSENT—26.

Adams	Kimball, Salt Lake
Brandley	Kimball, Weber
Clark	Lewis
Cunningham	Murdock, Wasatch
Cushing	Murdock, Summit
Driver	Nebeker
Emery	Partridge
Goodwin	Richards
Halliday	Robinson, Kane
Hyde	Spencer
Johnson	Strevell
Kiesel	Thorne
Kearns	Wells.

The president declared the article adopted, and referred to the committee on compilation and arrangement.

Mr. FARR. Mr. President, I wish to explain in making a motion to strike out and then voting aye—I vote aye for the reason that on organizing the State you must provide so many of these things to please people. I voted aye to please the children.

Mr. PIERCE. I would like to know what children he means.

Mr. FARR. I have said all I wished to say.

The article was declared adopted.

The article entitled forestry was then read as follows:

The Legislature shall enact laws to prevent the destruction of and to preserve the forests on the lands of the State and upon any part of the public domain, the control of which may be conferred by Congress upon the State.

The roll being called on the passage of the article, the result was as follows:

AYES—73.

Allen	Lowe, Wm.
Anderson	Lowe, Peter
Barnes	Low, Cache
Bowdle	Lund
Boyer	Maeser
Button	Maloney
Buys	Maughan
Call	McFarland
Cannon	Miller
Chidester	Morris
Christiansen	Moritz
Coray	Murdock, Beaver
Corfman	Page
Creer	Peters
Eichnor	Peterson, Grand
Engberg	Peterson, Sanpete
Evans, Weber	Pierce
Evans, Utah	Preston
Farr	Raleigh
Francis	Robertson
Gibbs	Robison, Wayne
Hammond	Ryan
Hart	Sharp
Haynes	Shurtliff
Heybourne	Snow
Hill	Squires
Howard	Stover
Hughes	Symons

Ivins	Thatcher
James	Thompson
Jolley	Thoreson
Keith	Van Horne
Kerr	Varian
Lambert	Warrum
Larsen, L.	Whitney
Larsen, C. P.	Williams.
Lemmon	

NOES—1.

Green.

ABSENT—32.

Adams	Kimball, Weber
Brandley	Lewis
Clark	Mackintosh
Crane	Murdock, Wasatch
Cunningham	Murdock, Summit
Cushing	Nebeker
Driver	Partridge
Eldredge	Richards
Emery	Ricks
Goodwin	Roberts
Halliday	Robinson, Kane
Hyde	Spencer
Johnson	Strevell
Kiesel	Thorne
Kearns	Thurman

Kimball, Salt Lake Wells.

The president declared the article adopted and referred to the committee on compilation and arrangement.

The PRESIDENT. Motions and resolutions are in order.

Mr. EVANS (Utah). Mr. President, I desire to call up the motion that was made yesterday right after our recess, in regard to the reconsideration of the article taken upon the report of the committee on accounts and expenses. I desire to say in regard to that matter that I want to be fully understood by this Convention in my position on that question. In the first place, it does appear to be child's play the way this matter has been dealt with. I think the committee went beyond what they were asked to do in the resolution, and by reason of that they incorporated into their report what the Convention did not expect. It was passed without half of the members perhaps knowing what it contained—the latter part of it. My position upon this is that this matter shall come fairly and squarely before this Convention. They have decided that upon a vote of reconsideration once by more than three quarters majority vote, as I understand it, and if this Convention, after this matter shall be fully understood, desires that the vote that was passed yesterday is their will, I shall bow in submission to it, with the very best of feeling, but I individually am opposed to that question. It has been stated by gentlemen upon the floor that these officers are our servants. That is true, but I ask myself the question whether the servant is greater than the master. It has been said that we hired these men and we ought to pay them. That also is true. My position upon this question is that when we shall be unable to pay them, they ought to be promptly notified that the funds from which there is any assurance that they may receive their pay have been exhausted, and if they shall feel then that they are willing to continue their labors in connection with us, taking their chances upon receiving a compensation, then we may retain them and do it with honor. I want to say to you, Mr. President, that it is not in this instance a question with me of a few dollars and cents, but it is the way in which that scheme was passed by this Convention, that as I said before, three-fourths, as I remember it, of this Convention, decided they did not want to pass upon and rejected it. There were dozens of men in this Convention yesterday that did not understand that report. They did not hear it at all. They supposed they had confined themselves to the subject matter of the resolution that had been referred to them, and I want to say to you that after the money shall have been exhausted under that appropriation, I am here to stand with this Convention if it takes the whole of this summer, but I

am not willing that men should receive their pay here that live in this city. Their expenses are nothing to what the country members in maintaining themselves here by way of living, and I am not willing that a portion of that appropriation should go to them and these men who have to pay their board be deprived of their part. I submit to you, sir, that there is just as much inconsistency in any gentleman upon this floor voting away the money that justly and rightly belongs to his colleague for the purpose of paying these officers as there is to ask the officers to accept in common with us their compensation and take their chances with us. Now, this is the way I view this matter. I think it is a question of fairness and that only. No more and no less. It is not a question of a few paltry dollars, and I am in favor that this matter shall be reconsidered. Then, if this Convention on calm deliberation shall say that they are willing that the appropriation should be applied for these specific purposes, and if anything shall remain that they will take that, then I have no more to say.

Mr. EICHNOR. Do you mean to say that the delegates that live in Salt Lake City draw pay when the outsiders draw no pay?

Mr. EVANS (Utah). No, sir.

Mr. HART. Mr. President, I am opposed to the reconsideration of this motion. I think we have already spent altogether too much time on this small matter. We have spent more time represented by value than this whole item of compensation amounts to for officers of this Convention, from now to the close of the Convention. I do not think, Mr. President, that there was any trick in that report of the committee on accounts and expenses. I do not think any trick was intended. If I remember correctly, the Convention listened to the reading of that report and there was certainly sufficient order maintained for every member present here to hear that report, and if there is any misunderstanding about it, it is entirely the fault of members in not paying attention to the reading of the report. It is a very small matter and I am in favor of paying the officers. The total amount for them from now on would not amount to one day's pay of the members.

Mr. JAMES. Mr. President, I support the remarks of the gentleman who has last spoken.

Mr. BARNES. Mr. President, I desire to offer a few remarks to the question at issue. So far as the committee being censurable for doing that which they were not required, I will say if that is the feelings of the gentlemen on this floor, why, I for one bow in humble submission to their will, but, sir, we were required, as I understood it, to report upon a certain matter. That was as to whether the officers of this Convention were all needed at the present time or not. We did our best to find out as to whether they were needed or not and we made a report in accordance therewith. So far as there being any trick in it, I denounce that entirely. It is as far from the idea of the committee to interpose any trick in that regard as the light is from the darkness. There was nothing of the kind; and if we exceeded our authority it was because we desired the matter to be properly understood. We desired the feelings of the committee to be properly understood and not misunderstood. I claim, gentlemen, that these individuals that we have employed are to all intents and purposes servants of this Convention. We have agreed with them to serve us for a stipulated per diem, and I for one cannot go back upon the agreement made with them. Upon investigation we found that possibly some of the employes could be dispensed with, the amount probably of five to ten dollars per day, and when we came to consider that in all probability this Convention will be through in about ten days or probably less—ten times ten, putting it in at the utmost

figure, would only be a hundred dollars. What difference will it make to any member of this Convention, the paltry sum of one dollar per day? Gentlemen, it is too late to commence to study economy. We should have thought of that seven weeks ago when we engaged these men and these ladies that are employed, but having employed them, I say let us pay them honorably whether we get another cent or not. My feelings with regard to that are that it would be dishonorable to discharge them at this late hour of the day—at this late hour of the proceedings, and rather than cast dishonor upon this Convention and upon the gentlemen who compose this Convention, for one, I would rather pay them myself. That is exactly where I stand. Let us pay them honorably and if there is anything left let us divide it. The recommendations of the committee were made in good faith. We believed that you asked something of us and that we were not mere figureheads, but that you desired information from us, and we gave it according to the best of our judgment and ability, and gentlemen, as I said before, if we have erred in our understanding of what was required of us we humbly bow to your will and submit to the censure, but I ask the gentlemen to express themselves plainly with regard to this matter. If we are in the right, say so, if we are in the wrong, say so.

Mr. SQUIRES. Mr. President, I do not care to take up the time of this Convention but simply to call attention to one thing, and that is that the committee who engaged our stenographer made, as I understand it, a written contract with him, and I do not see how we can possibly violate that contract. In any event a provision should be made to pay him for his services.

Mr. THURMAN. Will you please move the previous question while you are on the floor?

Mr. SQUIRES. While I am on the floor, I move the previous question.

The previous question was ordered.

The motion to reconsider was rejected.

Mr. CHIDESTER. Mr. President, I now move that we resolve ourselves into committee of the whole.

The motion was agreed to and the Convention then resolved itself into committee of the whole with Mr. Ivins in the chair.

COMMITTEE OF THE WHOLE.

The CHAIRMAN. Gentlemen, you have before you for consideration the article on education, section 4.

Mr. KERR. Mr. Chairman, I believe section 2 went over until this morning.

Mr. HART. It was passed. We were to take up that after we finished the article.

The CHAIRMAN. There are no amendments here to section 2. Section 4 was under consideration when you adjourned. What is your pleasure, gentlemen?

Mr. PIERCE. Section 5.

Mr. ROBERTS. Mr. Chairman, I move as an amendment to section 4, in line 2, after the word "Utah," to insert the words, "and the agricultural college," and then at the end of the section, after the word "university," in line 5, add the words "and agricultural college."

Mr. RICKS. Mr. Chairman, I moved an amendment exactly like that yesterday and it was voted down.

The CHAIRMAN. Section 2 is not what Mr. Ricks referred to.

Mr. KERR. Mr. Chairman, I made the amendment to section 2—a similar amendment, and it was passed together with that section, and it is still before this committee. It was not voted on.

Mr. RICKS. I also made this same amendment to section 4 that has been proposed and it was voted down.

Mr. KERR. It was not voted down.

The CHAIRMAN. The chair, from his recollection of the proceedings last night, thinks that the amendment of Mr. Ricks was not voted down. It was

before the house, but no vote was taken on it. Mr. Roberts' amendment is in order, gentlemen.

The amendment of Mr. Roberts was agreed to.

Section 5 was read.

Mr. EVANS (Utah). Mr. Chairman, I move to amend section 5, in line 7, by filling the blank with the words, "one place."

Mr. ANDERSON. Mr. Chairman, I move as an amendment to the amendment the striking out of the words "and agricultural college," in line 4.

Mr. KERR. Mr. Chairman, I am opposed to the motion. The section provides for the union of the higher educational institutions of the public school system. If this amendment should prevail, the State normal school, State school of mines, and other departments of higher learning of the public school system will be connected with the university, while the agricultural college would remain a separate institution, and I desire before a vote is taken on this amendment to state briefly my position on this subject. As is well known, I, for the last three years, have been in favor of a union of our higher educational institutions in Utah. During the last few years I have visited the leading colleges and universities of this country and Canada, and have studied the results of a union of the higher educational institutions in some states, and in others the results where the institutions have been maintained separately, and while upwards of a year ago, I was at that time connected with the university of Utah, I was in favor of the union of the agricultural college and the university—I am still in favor of the union of these institutions, though I have no direct personal interest in either of them, being connected with a private school. But the argument in favor of a concentration of our higher educational institutions, it seems to me, is incontrovertible, and in the interests of economy in the educational institutions of our State, I believe that our higher educational forces should be concentrated, that all the institutions of higher learning in the State should be under one management and be located upon the same site. I shall not take up much of the time of the committee in explanation of my position, but I desire to state briefly my reasons for advocating a union of these institutions. In the first place, I find that during the years 1890 to 1894 there was appropriated to the agricultural college, the university of Utah, the insane asylum, and the reform school, $1,061,602.

Mr. GOODWIN. May I ask you a question? Do you see any good reason for including the State normal school with the university? That is, in your judgment, if the State was rich and able to support outside a normal school for the fitting of teachers for the public schools of the Territory, wouldn't it be as well or better to have that normal school situated in some other place than where the university and agricultural college were?

Mr. KERR. If the State were rich, many of the objections to a separate maintenance of all of these institutions would be removed. I shall state my reasons for at present advocating the maintenance of the normal school as part of the university as I proceed. The territorial indebtedness at present, as I understand, is about eight hundred thousand dollars. The agricultural college and the reform school were established and all of the institutions which I have named have been maintained during the last four or five years mainly by increasing the State indebtedness, and I desire in this connection to call attention of the committee to the fact that under the State government it will be impossible to contract a debt in excess of two hundred thousand dollars—with the result that all the burden of maintaining the State government and the several public institutions will have to be borne by the

people of the State; that these institutions and the several departments of the State government will be maintained only by the taxes of the people.

Mr. RICKS. You state that these institutions are to be maintained by taxes of the people?

Mr. KERR. If you will wait until I get through I think I shall answer your question. It is true there has been a land grant to a number of the departments of the university and also to the agricultural college. There has also been a large grant of land to the common schools, but at best it will require several years to dispose of the school lands and invest the money and realize any return. All the lands which have been granted to the several institutions of higher learning in the State will have first to be located, then they will have to be sold, the money will have to be invested, and this will require several years, during which, I say, these institutions, the common schools, as well as the departments of the State government, will have to be maintained from the direct taxes of the people, a burden which, gentlemen of the committee, I believe the people are unwilling to bear. I believe furthermore they are unable to bear the burden which we will place upon them if we attempt to maintain all of these institutions of learning as separate institutions. From a financial point of view, these institutions should be united and placed upon the same site.

The question arises as to what will be saved by the maintenance of all these departments of higher learning upon one site. In the first place there must necessarily be in each institution departments of English, mathematics, modern languages, chemistry, physics, and so on, and in the university to-day the classes in the advanced subjects of English, mathematics, and these other departments, are very small, indeed many of the classes contain but from three to six students. In the agricultural college the same is true. If we were to unite these two institutions the two classes, numbering say five and three respectively in the two institutions, could be placed together, a single professor could do the work then which now requires the time of two, and the salary of one professor in one department would thereby be saved. This applies to nearly all the departments of general instruction in the two institutions. I estimated, a year ago, the saving that would result from a union in the department of mathematics alone. By uniting the two departments, there would be saved the salary of one professor, the difference between the salary of an assistant professor and a first grade instructor, the difference between the salary of a first and second grade instructor, which would aggregate in that department alone about twenty-eight hundred dollars a year. The same is largely true in the department of English, the department of physics, the department of chemistry, and in all the general departments of the two institutions, mathematics, English, and the general sciences, from the foundation work in all of these departments of higher learning.

On page 35 of the report of the board of regents of the university of Utah for 1894 to the governor, are the following statements:

The number of students in Anglo-Saxon history, three; Greek history, four; Roman history, five; third year Latins, three; advanced botany, four; biology one; Chaucer and middle English, one; advanced chemistry, two; civil government, six, and soon, bearing out the statement which I have just made with respect to the number of students in the different classes in the university, and the same is true also of the classes in the agricultural college. The main saving, however, would be in the cost of equipment. For example, the most expensive work in our higher educational institutions to-day is in

science and engineering. Thousands and hundreds of thousands of dollars are expended in the great universities of our country in the equipment of laboratories, machine shops, and workshops. Now, there are not to exceed in Utah, I have estimated, about two hundred students who are prepared for college work. All the students of the Territory for years to come could use the same laboratories in physics, chemistry, mineralogy, geology, biology, and so on. Thousands of dollars have been expended in the university for apparatus in these laboratories; thousands of dollars have been expended in the agricultural college in the equipment of the same laboratories. In the department of mathematics two years ago, I expended about fifteen hundred dollars for mathematical models and instruments. In the agricultural college, for the same work, the same models and instruments would be required at another expense to the Territory of fifteen hundred dollars. And yet, gentlemen of the committee, the students who are doing higher educational work in the Territory would only have fifteen hundred dollars' worth of apparatus to assist them in their work, whereas if the institutions were united and placed upon one site, by expending just one-half the means all the students doing this work would have the same facilities that they would have for double the expenditure where the institutions are maintained on separate sites.

As to the fifty thousand dollars for library in the university of Utah, you would have to expend another fifty thousand dollars for the same library in the agricultural college; thus requiring one hundred thousand dollars of the taxes of the people, in order to provide fifty thousand dollars' worth of library facilities. The students would have no greater advantages for the expenditure of a hundred thousand dollars, fifty thousand dollars to each of the two institutions on separate sites, than for the expenditure of just half that amount, fifty thousand dollars for a library in one institution, if the departments were all placed on the same site. Now, a museum, which is very essential in the work of higher education, is very expensive and costs hundreds of thousands of dollars. One museum would do all the departments of higher learning as well as any one, and thereby save again thousands and thousands of dollars to the State. Conservatories—we cannot do work in botany, arbor culture, and so on, without our conservatory. One conservatory would serve both institutions as well as to have one for each. In this connection, I desire to state that Congress, by the Enabling Act, grants a hundred thousand acres of land to the school of mines which shall be connected with the university. Now, in order that we may do the work in mining and in mining engineering in the university, or that it may be done, there must necessarily be a workshop. There must be a machine shop; there must be a blacksmith shop, the foundry, and all the facilities that are required for the engineering work in the agricultural college, in mechanical engineering, electrical engineering, and civil engineering, through a large part of the work of the process. In the Enabling Act it is provided that the mining school must be connected with the university. If we maintain these institutions as separate institutions, we shall have to spend in years to come hundreds of thousands of dollars of hard earned money of the people in equipping these workshops, machine shops, and laboratories, because the work of mining engineering cannot be done without the facilities that are required in the work of mechanical and electrical engineering, which, in accordance with the laws creating the agricultural college, must be maintained in that institution. Then, hence, in that one respect alone, there would result in

years to come a saving of hundreds of thousands of dollars to the people of Utah. If we shall concentrate our higher educational process, then when the lands which have been granted to the several departments of higher learning in the State shall have been sold, the moneys invested, and the revenue used for the maintenance of the institutions all upon one site, when we expend fifteen thousand dollars for books, the students in all the departments of the university will have access to these books, instead of giving three thousand dollars to a normal school, in one part of the State, five thousand dollars to an agricultural college in another part of the State, three thousand dollars probably to a school of forestry, or some other institution of higher learning in another part of the State, the students in these several departments having access after all, notwithstanding the expenditure of fifteen thousand dollars of the people's money, to only two, three, four, or five thousand dollars' worth of books. As a result of the centralization to which I refer I need call attention only to North Dakota. In the Deseret News of Salt Lake City, April 12, 1895, is the following statement:

North Dakota is in rather a bad fix, for her chief educational institutions. It is stated that for the next two years the state university and two normal schools will have to remain closed, because of lack of funds. The state has expended so much in the past that either borrowing or raising sufficient money by taxes is out of the question, so the schools must close for the time stated.

What have they done in North Dakota?

In order to satisfy the clamor of the politicians of the several counties of North Dakota, an institution of some kind has been given to nearly every county. They have a university, they have two normal schools, in different counties, a school of forestry in another, an agricultural college in another county, a scientific school in another still, and a school of technology in another. Now, gentlemen, this is the result of attempting to maintain schools of higher learning in different parts of the state. As stated here, they are all closed. The schools exist only in name, and the state has, through decentralization, deprived its sons and daughters of the opportunities of higher education. Again, I take the following from the Salt Lake Tribune of April 5, 1895, in reference to Montana:

The state board of examiners has commenced the work of cutting down the allowance appropriated by the last legislature for state institutions. The legislature appropriated about one hundred thousand dollars more than the revenues of the state this year. This will necessitate a great reduction in the expenses of the state. The legislature appropriated fifteen thousand dollars for this year's work on the agricultural college and this was cut off entirely. The thirty thousand dollars appropriated for the eastern state prison was also cut off, and the board decided to discontinue work on this institution this year. The appropriation of fifteen thousand dollars for the state university was reduced to seventy-five hundred dollars. And the deaf and dumb school was cut from fifteen thousand to six thousand dollars, which it is thought is enough to pay operating expenses for the present year.

Here is another example. We have the institutions maintained in different parts of the state in Montana, with the result that there, too, they have to-day no opportunities of higher education, and the young people of the state of Montana who desire opportunities of higher education are required to go into other states. The moneys granted to the agricultural college by the government, the appropriation here made to the universities, if the institutions were combined, could do a little work, but as it is, the seventy-five hundred dollars granted to the university is barely enough to take care of the property of the institution, and entirely inadequate for the work of the institution. This is the result of supporting

the institutions in the states adjoining Utah, in the states of North Dakota and Montana.

As an illustration of the results where the institutions are all united I need refer only to Illinois, Wisconsin, Minnesota, and Nebraska, and in this connection, I desire to read a short extract from a statement made by President Jordan, of the Leland Stanford Junior university. He says:

The best results in any line of education cannot be reached without the association of all others. The training of the engineer will be more valuable from his association with the classical student. The literary man will gain much and lose nothing from his acquaintance with the practical work of the engineer. The separation of the schools, founded by the Morrill act, from the state university was a blunder which time will deepen into a crime. With the union of the two has come rapid growth of the universities of Wisconsin, Illinois, Minnesota and Nebraska, where the higher work of the state is all concentrated in one place.

Now, in the state of New York, we have one of the best examples of the results which follow a concentration of effort in higher educational work. Cornell university comprises all the departments of the higher learning of the state public school system of the state of New York. There are the college of mechanical engineering, civil engineering, electrical engineering, and of agriculture, a school of law, school of philosphy, and so on, and in that institution the work has been more satisfactory than in any other institution of the kind in the United States. And in that connection, I desire to meet this objection which has been made to the union of the agricultural college and other higher educational institutions. In the first place, it has been stated that if we unite the agricultural college with the university, we shall thereby deprive ourselves of the government appropriation. First, I desire to read from a letter which I received from Doctor Roberts, director of the agricultural college of the state of New York, connected with the Cornell university. He says:

We had received the twenty-five thousand dollars which is made available by the last act of Congress, and it is divided equally between the colleges of agriculture and mechanical arts, and the fifteen thousand dollars for experimental purposes is also given us, and is under the management of the board of control, subject of course always to the approval of the executive committee.

That is in reply to a letter which I directed to him in December last. Again, in the report of the president of Cornell university to the board of trustees of 1888, on page 25, is this statement:

It should also be noted that during the past year the passage of the agricultural experiment station bill by Congress has provided for giving to the state of New York fifteen thousand dollars a year for the conduct of agricultural experiments. The design of the bill was that this money should go to the institutions established under the Morrill act, in 1862. In accordance with this design the money has come to Cornell university. So that by a union of these institutions, we do not deprive ourselves of the grant which has been made to the agricultural colleges.

Again, it has been stated that an agricultural college cannot be made successful in the shadow of a great university. Again, I call attention to a statement of Director Roberts of Cornell university, in which he says:

I might say that when I came to Cornell it was predicted by all the separate colleges of agriculture that I could not make the teaching of agriculture in the shadow of a great university successful, but after having studied the system practised at the Iowa college, and after having taught there for nearly three years, I thought I saw conclusively that if we had the college of agriculture in New York, it must be a part of the university.

Now, as to the results of that work I quote again from the report of the president of Cornell university to the trustees of 1891, where it was stated—this is by the director of the agricultural college in his report to the president:

It gives me great pleasure to report that the agricultural college is more prosperous at the present time than at any time since its establishment. The honors won by the present class and by the demand for our graduates of agriculture as managers of farms and teachers testify to the high character of the work done by the students. So that the students in the department of agriculture are capable of contesting with the students of art, philosophy, law and so on.

Again, you are well aware that the number of graduates from these two classes of students who have been called to positions of honor and trust is very large (I call your special attention to this); it is not generally known that in the last ten years Cornell has sent out more teachers and experimenters in agriculture and more liberally educated men who have engaged in farming than any other institution in the land, notwithstanding the fact that the agricultural college and the colleges of engineering of the state of New York are connected with Cornell university, under the shadow, if you please, of a great institution of learning, in which departments of art, literature, and philosophy are maintained. I will state that these statements are also borne out in a report of the commissioner of education, that is, that the agricultural college of Cornell university has furnished more teachers to the agricultural colleges of the state and more experimenters in agriculture than any other agricultural college of the United States.

Again, as to the attendance of students in the several departments, where they are all maintained on one site. In the register of Cornell university for 1893-4 page 247, I note the following: "Students in arts 136, letters 117, science 84, civil engineering 115, electrical engineering 322, mechanical engineering 234, students in agriculture 146;" and in the report of the director of the agricultural college to the president of the university and also in his personal letter to me it is stated that upwards of four hundred students of the two thousand students of Cornell have been doing work in agriculture during the past year, and here it is noted that the students in agriculture and engineering number 792, whereas the students of law, of medicine, of arts, philosophy, and letters number only 694. And that, notwithstanding the fact that the college of agriculture and mechanical arts is connected with the university in which, as I stated before, are maintained the departments of philosophy, law, letters, arts, and so on. While a student of Cornell university I observed the results of having these institutions all under one management on the same site. And I am firmly convinced that all the results are favorable and I do not know of any objection that can be raised to a maintenance of these institutions together. And as to the way in which the people of New York regard them, it has been stated that of course a president of the university would advocate that, and of course a director or president of an agricultural college would present as favorable a view as possible of the work that is being done; as to the way in which it is regarded by the people of New York, I desire to quote the following. I have received reports of these officers and this statement is correct. This is a statement of the president to the trustees.

It is also worthy of note that in the course of the year farmers' institutes held in different parts of the State have disclosed a very gratifying feeling of friendliness toward the university; the officers of the state agricultural society have frequently called upon professors of the university to address these institutes and there has been no lack of evidence of a friendly feeling toward the department of agriculture in every part of the state. The farmers are more and more coming to see that at the university there is given the kind of instruction that will be of great benefit

to young men who are to devote themselves to agricultural pursuits. In Cornell university there are students who are doing post graduate work in agriculture, and in conversation with one of these graduate students with whom I am well acquainted, he stated to me that there were many advantages to the students in agriculture and mechanical arts by having all these departments maintained on the same site. He says, as we all who are acquainted with educational work recognize, if the students of agriculture and mechanical arts are in an institution where nothing else is taught, there is a tendency for them to become more or less narrow. They consider everything from a certain point of view, and that is always true of students who are in the classical institution, an institution in which nothing but the classics and literature are taught; but where all of these departments are located together upon one site, the students of agriculture, the students who are making a specialty of chemistry, physics, mathematics, of modern languages—who are studying law, or medicine, all come in contact. While they are dining together they enter into conversation upon different subjects. In their societies, in their clubs, in their fraternities, they associate together, and one of one of the departments gets a great many ideas pertaining to the work which is going on in other departments of the institution, and the result is that when students graduate from any of the departments of an institution of this kind they are broader, they are men and women of greater culture, greater refinement, they have not only a knowledge of a particular subject, they are not only specialists in one particular line, but they are broad; they have a good general education, and after all we know that even though a man may be a specialist, if he is narrow, if he has not the general foundation, after all he is little more than a crank. So that educationally, there are many advantages which come from a union of all our higher educational institutions. Now, as to the question considered from a local point of view. What will be the result if we attempt to maintain our institutions in Utah on different sites, or if we unite them upon the same site? It is urged that the union cannot take place without a loss to the State, because if the institution is removed from Salt Lake City, there will result a certain loss; if it should be removed from Logan, there will also be a certain loss to the State. If removed from both of these cities and located at some other, the loss will be greater. To show the way in which this was regarded by others, I shall read a letter from the president of the Columbia College, New York:

One department inspires another and oftentimes the facilities of one enlarge and broaden those to be found in another. We have faced very much the same question at Columbia in determining whether we would try to keep the entire institution on one site in the city of New York or whether we would allow it to be broken up into fragments, each school finding a location in any part of the state that suited itself. Without a dissenting voice we have chosen the policy of concentration, although is has compelled us to buy a new site for the college at a cost of two million dollars for the land alone. I can make no stronger argument in favor of the policy I have urged above.

That is the way it is regarded there. They, rather than to have the different departments distributed throughout the state upon different sites, give two million dollars alone for land, besides the expense of erecting buildings and providing for the work of these two institutions. And I desire now to call your attention to this fact, if we do not unite these institutions the result in my judgment will be this, the agricultural college can hope to get little more, if any, than that which is granted to the college by the general government. In the aggregate twenty-five thousand dollars for the agricultural college

and fifteen thousand dollars for the experiment station. And as Montana, so far as I have been able to learn, is certainly in as favorable position financially as is the State of Utah or as we can hope that the State of Utah may be, the result would be that the university would have a paltry appropriation of probably two or three, four, five, or ten thousand dollars—merely enough to take care of the property of the institution.

And gentlemen of the committee, we would have in Utah no institution of higher learning. We would drive the young people from Utah into the eastern and western states for the opportunities of education, which they could not get at home. If we unite our institutions, if we concentrate all of our higher educational forces so that whatever available means there may be for higher education may be put into the one institution, so that whatever revenue there may be from the grants of land which have been made to the State for higher education can be used in this one institution for the respective purposes provided for in the act of granting the lands, then we can equip an institution which can grow as the people grow and which will provide the facilities necessary in order that our young people may obtain the higher education that they require, and obtain it here at home. There are thousands upon thousands of dollars being spent annually by our young people who are in eastern and western institutions, and I grant you that had the money which has been put into these two institutions as separate institutions for the last five years been put into one institution we would have had, gentlemen of the committee, to-day an institution of higher learning in the State of Utah which would have been a credit to the State and which would have obviated the necessity of many of our young people going from home in order to obtain these educational opportunities. One point further. That is, that after all, the great institutions of the United States and of the world do not become great through the appropriations which are made by the state government. They grow mostly by endowment, which is made by wealthy men. Rockefeller has endowed Chicago university with about four millions of dollars; Sage, of Ithica, New York, has given to Cornell university in the aggregate upwards of a million and a half; Stanford has founded and endowed the great university in California, the Leland Stanford Junior university, and so on. The wealthy men of the age are making grants endowing institutions, founding institutions, in order that they may provide facilities for the young to obtain higher education. And I desire to state in this connection that no man of wealth can afford, neither can you induce any man of wealth to put his money into an institution that is not permanently established. No man will put his wealth into an institution which is struggling for a mere existence. If a man has fifty thousand dollars which he desires to put into an institution for the purpose of perpetuating his name in that institution, he will go to an institution in which the people take pride, and an institution which will be an honor to the people of the state and an honor to him to have his name connected with.

A man would not to-day give to either institution a ten thousand dollar library, neither would he erect for either institution a twenty-five or fifty thousand dollar laboratory, for the very reason that should he do so, probably the Legislature two years hence would move the institution and thereby waste the money that had been contributed by the party who was interested in the work, so that until this question is settled, gentlemen, we can expect no assistance from the wealthy men of our State; and I am pleased to state that it seems that it has become fairly the fash-

ion of the rich men of our day to found and endow educational institutions of higher learning. And what a magnificent fashion it is. It is as if, gentlemen of the committee, the commercial age has become vividly aware of the terrible extent to which we are sacrificing our sons to the Moloch of wealth, as if it were turning even now eagerly to the more beautiful worship of the Apollo of science and education as a means of uplifting men and making life really worth living. Gentlemen of the committee, there is not a population in Utah which warrants an attempt to maintain several institutions of higher learning. There is not the wealth in Utah which will enable us to maintain even one institution of higher learning, without the aid of the wealthy of our State, and we cannot hope that the wealthy men of Utah will put their money into starving institutions; but should we concentrate our efforts, should we place these institutions on one site, then, whatever available means there is in the State can be used to the greatest possible advantage and the wealthy men of the State can be induced to put their money into the institution, to endow chairs, to purchase libraries, to erect laboratories, and to assist the institution in various ways for higher educational work. Gentlemen of the committee, the question confronting us in this, are we willing now to take hold of this question and settle it, or do we want to perpetuate the wrong that has been done the people of Utah by leaving it to the Legislature, year after year, to fight the old battle over and over again, while the people are being drained in an effort to maintain the institution? Do we want an institution of higher learning in Utah? I believe the history of the people of Utah bears me out in the claim that we do. If we do, there is but one honorable course before us and that is to take hold of this question, unite these institutions, place them upon one site, and thereby lay the foundation for an institution in Utah, which will be the pride of the people and to which our sons and daughters will go for the purpose of preparing themselves for the battle of life. Are we not adequate, are we not capable of grappling with these problems, as well as will be the Legislature? Settle it in the Constitution, and it is settled for all time, and remember, gentlemen of the committee, that this is a question which not only interests us to-day, not only is of interest to the people for the next year or two, but which is of interest to the people and of concern to them throughout all time. Let us take hold of the question and settle it, and instead of dissipating our energies by attempting to maintain schools of higher learning in different parts of the State, thereby depriving the State of any institution of really higher education, let us concentrate our efforts, let us unite our educational institutions. Let us place them upon one site, and fix them there so that future legislation may not interfere with the foundation work upon which we may build and which will enable us to develop and build up in Utah a system of education that will be a credit to the State.

I have forgotten to answer the question that was propounded by the gentleman from Salt Lake. In a few words I will state in answer to that, this, if the State were wealthy and had plenty of means, one or two normal schools could be maintained in different parts of the State, but by having a normal school connected with the university, all the students of the normal school, first, have access to the library of the university—the great university library, whereas, if the schools should be on separate sites at best we could hope to have but very few books of reference, at least for years and years to come, because the State could not provide the means with which to procure the books. Second, the students of the normal schools do all their work in general sci-

ence, mineralogy, geology, biology, physics, chemistry, etc., in the laboratories of the university, thereby having the benefit of all the equipment in these different lines in the State university. If the schools were located upon separate sites for years to come there would be practically no facilities for the work in general sciences because the State has not the means and we cannot hope that they will have for years and years to come.

Again, they, too, have the opportunity of associating with the college students, students in the college departments, in letters, arts, and science, and if the institutions are combined in the different engineering courses and also in the course of agriculture, and this tends to broaden their views, because we believe the teacher should be the most learned and the broadest in his or her views, and not be narrowed down to a view of subjects which must be taught in the common school. We could not hope, if we had a normal school separate from the university, or a public institution of higher learning, to have the facilities for the work which would be required. And there are many arguments in favor of keeping the normal school with the universityeven if we had plenty of money, but especially as we have not the means, and cannot hope to have, at least for the next generation or two. I do not see that there is any argument in favor of separating the normal school, but there is a very great argument in favor of keeping it with the State institution of higher learning. [Applause.]

Mr. GOODWIN. I would like to ask the gentleman a question or two. Is it not a fact that teachers in the normal schools are not there simply to take an academic or a collegiate course, but rather that they are sent there simply to be drilled in a way to communicate what they already have learned, is not that the real object?

Mr. KERR. To a great extent that is true. The work, however, extends over some of the college courses and although this work is elementary in a great many sciences, they require laboratories for the work.

Mr. GOODWIN. If the State should become rich, as possibly it will be rich at some time, and the State might then want to change and make an outside State normal school, why include it in this constitutional provision at all to prevent that?

Mr. KERR. I personally should not object at all to an amendment which would make that possible. I think for years to come—probably the next twenty years, the normal school will be sufficient. It is possible that at the expiration of that time a school would be established separate from the institution. I would not object to an amendment to make that possible.

Mr. GOODWIN. Until otherwise provided by law.

Mr. KERR. I would not want that to apply to the normal school now.

Mr. GOODWIN. No. In the present normal school is there anything but very simple apparatus?

Mr. KERR. No, sir; not that I know of; nothing but cabinets and libraries. In a high school of course they have to have facilities for scientific work—laboratories.

Mr. ROBERTS. I would like to ask Mr. Kerr a question. I did not catch from the first part of your remarks whether you were in favor of locating these institutions at Salt Lake or not.

Mr. KERR. Well, I said nothing about their location.

Mr. ROBERTS. You spoke merely then to the question of union somewhere?

Mr. KERR. Yes, sir; I did not discuss the question of location at all.

Mr. ROBERTS. The reason why I am obliged to ask the question is that I missed the first part of your remarks and I did not know whether you favored the location at Salt Lake.

Mr. KERR. Personally, I am in favor

of considering this question of union by itself, on its merits, and then let the question of location come afterwards. That is why I did not refer to the question of location at all in my remarks.

Mr. THURMAN. Do I understand you that if a state were rich and able to bear it, you would favor a separation of these institutions?

Mr. KERR. No, sir; under no circumstances would I favor a separation of these institutions. Every argument from an educational point of view is in favor of a union of all these institutions and there can be so far as I know no argument against it. I stated that there would not be so great an objection to attempting to maintain these institutions as separate institutions if the State were wealthy and able. In other words, instead of considering from the point of view of finance and education, we would consider it only from an educational point of view.

Mr. GIBBS. Can you give us in round numbers the savings that would be obtained each year?

Mr. KERR. That depends entirely upon the amount of appropriation, in other words, upon the amount of means the institution has. If the two institutions should have one hundred and twenty-five thousand dollars a year, I have estimated that (of course this is only an approximation) there would be at least thirty thousand dollars a year saved.

Mr. ANDERSON. Mr. Chairman, I hope this motion will prevail to strike out the words, "the agricultural college." The agricultural college is already established at Logan and I think that it should remain there. I do not think that the difference in the expense of running the institutions if they are separated will be as great as indicated. After our State becomes populous an agricultural college will be filled with students, and I think that it would cost nearly as much to run them if they were united as it will separately. I think that the line of education is altogether different—that is, the line of education taught in the agricultural college is somewhat different to what it is in the university, and I think that the farmers of our country do not want it united.

I think that if it is united that the university will have a tendency to overshadow and make it of secondary importance, and I think that when the government made the appropriation and authorized these colleges to be instituted throughout the different states, I think that it intended that they should be separated. I would not be in favor of going to the extreme as Dakota has done and divide all of these institutions of learning, but I would be in favor of uniting the university and all of the other institutions of learning, except the agricultural college, and have them located at Salt Lake City, but I am in favor of the agricultural college remaining as it is now located in Logan.

Mr. MAESER. Mr. Chairman, I am opposed to Mr. Anderson's amendment. I think there are two sides to this great question. There is an exclusively professional and an exclusively financial side to this. If we would consider only one at a time, we may arrive at a different conclusion, as for instance in Europe, in the old established governments and states, they keep separate institutions for forestry, for surgery, and other institutions, separate entirely from the university. I call the attention of the committee for instance to the polytechnic school of Paris, and the great clinic in Vienna, and the normal schools of Berlin and Dresden, all of which are of world renowned fame, entirely separate from the universities. But we are not in such conditions. That is the only point wherein I would differ from Professor Kerr. When he says in answer to my friend from Utah County, Mr. Thurman, that under all circumstances he would be voting for a union, I disagree with him.

If we were so constituted in our Territory that we would not need to be under the necessity at all to take financial consideration, I would then say let the agricultural college be separate, as for instance the celebrated school of forestry in Saxony. It is attended by students all the way from Lisbon to St. Petersburg, from South America and Australia. They gather from all parts of the world to that institution, entirely separate from the university, but the government never considered the expenses that it took. It simply established them. It could not have attained to that distinction if it had been united with some university; but we are not under that condition. We have to consider the financial conditions of our people, and I am a strong advocate of a union of the university with all these institutions. I sustain the position of Professor Kerr entirely.

Mr. EICHNOR. May I ask Mr. Evans, of Utah County, a question?

Mr. EVANS (Utah). Yes, sir.

Mr. EICHNOR. Where is the university to be located when the two institutions are to be united?

Mr. EVANS (Utah). Wherever this Convention decides. If they decide they shall be united first, then they shall determine the place afterwards.

Mr. LUND. Mr. Chairman, I sincerely hope that the amendment striking out the words "agricultural college" will prevail. They are separate institutions. They are under separate boards and they have separate objects and ends and aims in their instruction. The agricultural college in its instruction is preparing its students for industrial professions—for trades. A few years ago, in this country, it was seen by those who were educating the youth of our land that there was a great wrong in the idea of education and it was this, that all who had a chance for any higher education or other education than the common schools aimed at professions. They desired to be lawyers or doctors, or professors of some kind, and they thought it eminently necessary to establish these schools throughout our land, where the trades would be made a little more popular than they are at present or than they were at that time. And if you will notice all of our tradesmen nearly that we find, the tailors, the blacksmiths, etc., are men that come to us from Germany, from England, and from places where these trades are more popular than they are in the United States. When the Legislature established the agricultural college, it did not see fit to place it alongside of the university, and the reason beyond a doubt was that if it was placed near the university, and especially placed under the same board, under the same supervision, the object of the agricultural college would be thwarted. Students would not be prepared for their trades, but they would be prepared for the university. I do not think that we need any more broadening influences to be brought to bear upon these students who are in that education than those that are taught at the agricultural college. If you will understand it, German, music, and languages of different kinds and a great many branches of higher instruction are given already at the agricultural college. I believe that by the union of the two we will thwart the object for which the agricultural college was established, and consequently, Mr. Chairman, I am very much opposed to their union.

Mr. RICKS. Mr. Chairman, this question seems to be of very great importance and one that we ought to consider very fully before voting upon. The question of union was fully discussed in the Legislature last winter, and after it had been discussed and investigated from every point of view the Legislature decided that it would be unwise to unite the institutions. I will read an extract from the report of the board of directors of the agricultural college that was made at that time. (Reads.)

Now, Mr. Chairman, it seems to me that much of the arguments of the gentleman from Cache would have no weight with this assembly. There is one point that he refers to in connection with the Cornell university that seemed to me to be the strongest argument that he made in favor of the union of these institutions that I think should be ventilated a little farther. He conveyed the idea that the agricultural college of New York was similar to the agricultural college of Utah and was attached to and became a part of the Cornell university. Now, Mr. Chairman, that is not true. The agricultural college of New York is a part of the university at Ithica, but it is not an agricultural college in the sense that the agricultural college of Utah is an agricultural college. The college department at Ithica only relates to agricultural training, and the other training such as is taught in the agricultural college at Logan is taught in the other departments of the university at Ithica, so that really the whole institution at Ithica is just exactly in the same ratio and in the same line that we desire the agricultural college of Utah to become when the finances of this State will justify a college of that kind. So, Mr. Chairman, the associations and the benefits of associations with other students and the broadening of the minds of the agricultural students and the other students in Cornell university can be accomplished at the entire university at Ithica, New York, to-day. There is another point that seems to me ought to have greater weight with this assembly than any other. As has been stated by the gentleman from Sanpete, in the agricultural college industrial classes or studies predominate. It was the hope when the Legislature created that institution to make it a school for the industrial education of the masses of the people of this Territory. They believed that in locating it in an agricultural district it would be better adapted to the accomplishment of the desires which they wished to accomplish, and I believe, sir, that every gentleman upon this floor, especially those from the country districts to-day, if he had a son to put into a college he would put him into a college, not only where he could learn English, literature, science, and the other branches of what may be called a classical education, but where he could also acquire an industrial education, so that when he went out again into the world, he would be able, if he failed in one branch to succeed probably in another. Suppose, sir, that if a hundred graduates from the university of Utah as it is to-day, were to be turned loose upon this community and another hundred graduates of the agricultural college, where they had received an industrial education, they understood mechanism, they understood agriculture, they understood blacksmithing, shoemaking, and carpentering, and all the various branches of an industrial education, which one of those two hundred students would be of the greatest value to this commonwealth? Would it be those that had received no training except a classic education, or would it be those who had gone through all the departments of an industrial education? I say, sir, that the value of the industrial education would be incomparable in comparison with the other, to a community like this is at the present time. It has been stated that to-day we are educating none in the industrial sciences, but on the contrary, every man that we want to fill a position as a machinist, as a carpenter, as a shoemaker, is brought here from some other place—probably some of the old countries. In twenty years or fifty years from now, if this condition is to continue, we will find in Utah a dearth of that kind of material in our commonwealth. They are the wealth producers of the country, and unless we do something to encourage them and to maintain them in our community, I will tell you, gentlemen,

that we will become poor indeed. Now, as regards the financial standing, I believe myself that in our present state of finances that we ought to be economical in every department, as economical as we possibly can be and not destroy the efficiency of our schools, but I believe, sir, that with the advent of statehood, we will be made able to maintain and build up the institutions, so that they will be of great value to this State from the funds that will be made available to the new State. The agricultural college will receive two hundred thousand acres of land. A movement is on foot now to have Congress allow that land to be sold or reserved to the State out of the Uintah and Uncompahgre reservations, when they are thrown open to settlement. If that is so, we would be able to receive from them two hundred thousand acres of land, of at least five dollars per acre in value. It will at least be able to sell for that amount. That would bring a fund of one million dollars which, invested at the rate of five per cent., would bring a fund or an interest of fifty thousand dollars a year to the State institutions. The agricultural college received from Congress twenty thousand or twenty-one thousand dollars this year, and in two or three years it will have reached twenty-five thousand dollars a year, They received from other sources several thousand dollars a year which would aggregate altogether at least seventy-three thousand dollars a year. a fund entirely adequate to pay all the expenses of that institution and make it self supporting and put it upon a level and in fact somewhat in excess of any of the institutions of this entire intermountain country. I believe, sir, that the fund that the university of Utah will receive from the sale of its lands, which undoubtedly will be reserved, that a fund will be produced or obtainable, which will be able to maintain that institution—that is, especially the university part of it, which I understand at the present time has only thirty-one students, and at least the fund of fifty thousand dollars a year ought to go to maintain the thirty-one students of the higher education, that has been spoken about by the gentleman from Cache, for many years to come. The State normal school and the school of mines have each an endowment of their own, which will maintain them without any help from the territorial treasury, and I believe, sir, that it will be good policy on the part of this Convention to locate permanently—I do believe, sir, that they ought to be located permanently, so that this fight and this uncertainty may be settled, but I believe, sir, they ought to be located permanently and maintained separately, and I believe that this growing State will yet be able to maintain two institutions, one of the higher learning, where our sons and our daughters can receive a classic education, if they desire, and one independent and separate, where they can receive a collegiate education and an industrial education also.

Mr. KERR. I understood you to state that the statement I made with respect to the agricultural college in New York was not true.

Mr. RICKS. No, sir. I did not make that statement. I said that the impression that had got out here was not correct, from your statement. Your statement would convey the idea, sir, that the agricultural college of New York was similar to our agricultural college and had been united to the university at Ithica, but the agricultural college at New York does not comprise the departments that our agricultural college does.

Mr. KERR. Pardon me, perhaps I misunderstood. The fact is that the agricultural college of Cornell university is the one founded by the Morrill bill, just as ours is, and the studies are agriculture, mechanical arts, and so on, just as they are here. They are identically the same.

Mr. RICKS. That is correct, but we have added to our agricultural college departments not embraced in any other agricultural college.

Mr. KERR. I have only one object in this and that is to be absolutely fair. I do not think that we should have a wrong impression get out. Did you state that there were only thirty-three students in the college?

Mr. RICKS. No, sir; in their collegiate work—the educational work. I think it was thirty-three last winter. What it is now I am not able to say, but somewhere near thirty.

Mr. KERR. Do you mean by university work, work which is a post graduate work?

Mr. RICKS. I mean the higher education.

Mr. KERR. That then includes all students in the college?

Mr. RICKS. No, sir. I understood there was a difference between the higher education and the college education.

Mr. KERR. By using the word higher education, I had reference to all collegiate education. We have elementary education, including kindergarten, primary, and grammar grades. Then we have high school and academic education, including the next four grades, and then a collegiate education. A university is an assembly of colleges. That is the way in which I use those terms. That is why I asked the question so that I may not be misunderstood.

Mr. CANNON. I desire to ask Mr. Ricks a question. I understood, Mr. Ricks, that you stated the number of students doing university work was thirty-one, at the university. I call your attention to the fact that the students of the university number 449. I desire to know how you classify them and why you should make the distinction you do—upon what ground do you make such a distinction?

Mr. RICKS. I hold in my hand the classification made last winter in the report of the regents of the university: Juniors, 24; sophomores, 14; mining students, 9; normal students, 217; preparatory students, 49.

Mr. CANNON. I call the gentleman's attention to the fact that there is nothing there that states that these normal students or others would take a collegiate course. As a matter of fact, I was informed myself the other day that 75 of the normals were taking college or university course.

Mr. RICKS. I understand that the normal department is entirely a separate and distinct institution, and while they are taking college courses, I understand that the university students, before taking the higher department, which I understand would be above the normal grades, would only be about thirty-two or three students. I am not posted enough to know anything about that.

Mr. CANNON. I do not wish an erroneous impression to get out concerning that, because it is not true.

Mr. GOODWIN. Mr. Chairman, I thought when Professor Kerr finished his argument that that settled the question. I did not think any gentleman here would have the hardihood to get up and propose anything different in the matter of connecting these two institutions. The truth is this, there is a great staff of professors at the university; there is another great staff at the agricultural college, and they are teaching precisely the same science almost. That is, through nearly the whole course of education, it is exactly the same. Why they should be in two separate institutions in as economical a State as this is going to be under the guidance of this Convention I cannot understand. I see a little cropping out of old fashioned prejudices here. For instance, the higher education that is referred to as the university course in contradistinction to the course in the agricultural college. In point of fact the agricultural college ought to be the higher institution. That is the institution that comes nearer imitating the Creator than

any other; if we believe the good book the Creator has been engaged in making worlds for years. There is no record that he ever studied Latin or Greek. There is no sense in the world in separating these institutions in our country. There is every argument to show that they ought to be together. A great many boys go to school intending to take a scientific course, others go intending to take a classical course. When they get there, they find that they have not the aptitude to follow out what their mothers or their fathers or some other relation intended they should follow.

It is perfectly natural for a pious old lady who has a son to think first that her son is the smartest boy in the world. Second, that if the right thing is done, he will be made a clergyman, and preach salvation to a sinful world all his life. He gets to the school, they give him the classics to study, and he sits and feels like a fool, looks like a fool, and wishes he was dead for four years. He finally works through because the old lady saves her means and pays his way and then he is afflicted on some community to preach. The result is that that community grows wickeder every day [laughter], while he wades through a couple of hours from first to sixteenthly. I do not believe there has been a greater mistake in handling of this university than in religion of that kind, and if paradise is to be an eternal continuation of that, they had better take the other chute. But that same boy can take a shingle and a jack knife and in half an hour can have a water wheel running in the ditch and enjoy it, and all the boys gather around, and all the girls, and they admire it, and the notice was given right there that that boy was intended to be an engineer, that instead of trying to save souls that are not worth saving, he ought to be handling nature's great forces. Now, you group these boys in a college or university where all these things are taught, and the boy will get the right place before he has been there a year. Then the only real difference in the education is to direct the brains of boys in the channels where they can be of use to this world. Again, the expense is the thing we have got to consider now. We cannot increase the indebtedness of this State more than two hundred thousand dollars. I expect my friend from Utah will still ring in a little proposition to reduce that seventy-five per cent. There is no sense under those circumstances to keep employed three or four staffs of learned professors. There is still another reason. A man is nothing after he loses his self respect. A school is nothing unless it can command the respect of the people about it, and of the State around it, and the parents of children, and the children themselves. We are told that the boys and girls in this Territory are going east and west to obtain education. That is true. I know some gentlemen that would gladly educate their children here, but they have the impression that the education is slipshod; that it is not on high ground, that it is not the higher education, and that all comes through poverty. You know, Mr. Chairman, that if you were the brightest man in the world and were to make a business suggestion and the gentleman beside you had ten millions of dollars and was to make a business suggestion, the rule of the world is to put such men as you aside and to believe the man beside you because he has a metallic backing. It is just so with schools. I think there are some people that always will be sending their children away, but I would like to have established in Utah an institution that the people of the east would send their children here to be educated, considering the climate, considering the capacity to study in this air, considering the reduction in the risk of disease, and it

is that kind of an institution I want to see builded up, and I want all departments in it to be complete.

I know several gentlemen who I believe are going to die one of these days, although they have given no signs of it yet. I believe some of them have no children and that there is growing up in their hearts a belief that the possession and accumulation of money amounts to but very little after all, unless it can be put to some use. I believe they will begin to endow the university of Utah after awhile. We want to only get it off its wheels and get it on a firm foundation. I have in my mind's eye one now that I know is hesitating where he will put his money and it is a very large amount. It is enough to build a great university, and I believe if this thing could be settled and the right idea could be put before him, that inasmuch as he made his money in Utah he ought to build for himself a monument here; we would hear from him, if not in this life, after he has left it—one of those post mortem communications which are pleasant to receive from these crusty old fellows, who are not much good in this world, but prove after awhile that their work is not in vain. If I had my way, I would put an inheritance tax in this Constitution, so that when that sort of men die in this country and left no families the State would stretch out its hand and say, "we protected you while you were making your fortune. We have been charging you up what is due on your insurance, and we want such a per cent. as will educate our boys and our girls, and for the current expenses of this State, where we can make no indebtedness." So my judgment is that if any gentleman here undertakes to dispute the ground that Professor Kerr laid down so strongly, the sergeant-at-arms ought to be instructed to take him out [laughter], with the single exception of this normal school. That is not in its true sense a higher education. That simply is utilizing the education already obtained, and hence when it comes, I propose to strike out the State normal school, in line 5, and add it to line 8. It will cover every present emergency and give the Legislatures of the future a little chance to act. I do it for the purpose of giving the Legislature by and by a little something to do, because I am satisfied that when we get through here, for the next eight or ten years all that the Legislature of this State will be able to do will be to pass an appropriation bill. I hope this amendment of my friend from Utah will not be entertained. I have been watching him, Mr. Chairman, and I do not wish to be personal, but of late I have taken him as my guide on most measures, to find out how he stands, and then, in the language of a certain class of gentry who follow a profession of which I know nothing, "I copper it." I am going to copper the amendment of my friend from Weber and then I am going to urge mine.

Mr. CREER. Mr. Chairman, perhaps the gentleman may call upon the sergeant-at-arms to put me out, but for all that, I desire to say just a few words on this proposition. The gentleman stated that he did not see how any person could propose anything different. Now, I do not know whether the gentleman was a resident of Salt Lake City at the time the agricultural college was located at Logan or not, but I do know this, that there was not a sentiment, there was not a single word from any member of the Legislature that proposed at that time to have them united —the university and the agricultural college together. Nothing that came from the professors of the university. There was nothing that came from any gentleman of Salt Lake City or elsewhere as to the locating of these educational institutions separately. And it seems to me, Mr. Chairman, that it is a great reflection against the intelligence and judgment of not only that Legislature, but subsequent Legislatures who

have voted a great amount of money that the gentleman has indicated here in his speech to-day for the establishment of these institutions. I do know distinctly one thing, the father of the gentleman, Mr. Lund, from Sanpete County, was the chairman of that committee, and he distinctly portrayed to the Legislature the object of the agricultural college, which was to introduce and to cultivate industrial and mechanical arts distinct from the higher branches of education. If that has been a failure why then has the Legislature from time to time appropriated so much money for the establishment of that grand college at Logan? While I listened very attentively to the intellectual speech—but it is on just such speeches as this that we have appropriated hundreds of thousands of dollars in this Territory, until to-day we are involved by these useless appropriations, and I would be pleased if I could conform my judgment to the sentiments of the gentleman from Cache, but I cannot in view of past experience, because it does seem to me that it would cost a great amount of money to unite those branches of education together. It is simply following up in the same line which you have been going right along—simply make experiments. Perhaps after they had been united for some time then they probably would not work satisfactorily and from a financial standpoint—I have seen some of the results from the agricultural college. We have had citizens go to that from our town, who have returned greatly benefitted. I am satisfied, so far as I can see from results of the labors and the management of that agricultural college, but I do not propose to cast my vote in favor of uniting them and expending a great amount of money, it seems to me, for a useless purpose. I believe that they should remain as they are to-day, and it seems to me that going back less than a decade—only 1888, there are two members on this floor that were in the Legislature at that time, and not a single sentence or voice was raised against establishing that independent from the university. The same reasons then it seems to me would appear as do now. Therefore, I shall sustain the amendment.

Mr. PETERS. I would like to ask the chairman of the committee on education a question. It is in connection with the Enabling Act, section 8. The idea with me was whether this grant would follow, providing that the union of the schools was made and it was known as a university?

Mr. PIERCE. I do not think there is any trouble there. The idea of a university is that it is composed of the various departments. The university itself is the combination of colleges. The agricultural college is one department; the school of mines is another department; normal school is another department; the psychical and scientific school is another department and, whatever they are. The fund derived from the sale of the land appropriated for the agricultural college would be devoted especially for the building up of that department, and all united on the same site so that, as Professor Kerr said, it will enjoy the benefit of the library and course of instruction.

The committee then took a recess until 2 o'clock.

AFTERNOON SESSION.

The committee met pursuant to adjournment at 2 o'clock.

Mr. SQUIRES. Mr. Chairman, I listened with a great deal of pleasure this morning to the eloquent speech of the gentleman from Cache. I was charmed by the graces of oratory and delighted with the argument presented, but not convinced. I am not as well assured as the gentleman is that we should do wisely disturbing the present condition of the university and agricultural college. There are many questions that go to make up this case,

as I understand it. I believe with him in a higher education. I come from a state which I believe is one of the best examples that can be furnished by any state in the Union of the advantage of education to its people. The state of Massachusetts has a system of education which I believe is unparalleled in all the states of this Union. We have an agricultural college and we have a college of higher learning, but the two are kept separate and distinct and my own belief is that it never was intended when agricultural colleges were first established that they should be attached to universities or to colleges where the classics are taught. I believe that the intention of those colleges was to have a school for the common people, a school where education, as indicated by the title, could be acquired, without the time of the student being taken up in the study of what is known as the higher education. I still believe that that is a fact. I believe with the gentleman, however, to this extent, that if we were just about starting, if no provisions had been made for an elaborate site and an elaborate plant for an agricultural college, in one section of the State, and a long tried university in another section of the State, that it might be wise to so consolidate these institutions as that if they were not to be upon the same site they might be in the same community, and under the same general guidance and direction.

There is one reason which has come under my observation and especially in connection with the schools the gentleman spoke of so eloquently this morning, the agricultural college at Cornell university, at Ithica, New York, and that is that the students at that university, who go there to take the agricultural course, are looked down upon with a sort of scorn and contempt by those who are there for another purpose, in the pursuit of higher studies, and there is not that unity of feeling between the agricultural students and the other students of the university, which the gentleman would lead us to believe. I do not think that the association of these students with their fellows would broaden them in that social sense of perfect community and harmony of feeling. I know that when that college was first started that was one of the great objections had against a young man going there to acquire an education, that it required a great deal of moral courage to go there and face the contumely and contempt which was showered upon those students by their associates in other branches. However, if we were about starting—if we had no college and no university, I might favor the location of these institutions, as I say, in the same community; even then I should want them separated, and only placed under the general control. As we are now situated, however, we have, at a considerable expense, established a magnificent institution in Cache County. The gentlemen of this Convention who visited the institution the other day must have been impressed with the fact that with no niggard hand has the foundation of that college been laid. There is no parsimony in the manner in which it has been prepared for the work of usefulness which is before it. Something like one hundred and fifty thousand dollars, so I was told by the president of the board of trustees, has already been expended there upon the main building, and the other necessary buildings upon the grounds. I am not prepared, Mr. Chairman, as the gentleman from Cache indicated this morning, that he was, to pass upon the question first of union without considering what that union might entail upon this State in the way of cost. A union of these two institutions in Salt Lake City would simply necessitate the giving up of the great plant which has been prepared at Logan. I am informed that the title to that plant is in the city of Logan. The ground upon which the buildings have been placed is in the

city of Logan and the county of Cache, and a serious question might arise if any attempt was made to use those public buildings for any other purpose than for the purpose of an agricultural college and an experiment station. I believe it would be a practical loss to the Territory or the State, that there would be no power in the Legislature to sell these buildings, to convert them into cash, for the purpose of removing the college to another section of the State. On the other hand, we have a building here in Salt Lake City, which probably will answer for all the purposes of the university for some years to come, or until a proper plant can be placed upon the sixty acres on the eastern edge of our city.

Now, Mr. Chairman, I believe that an agricultural college should be located in an agricultural community. I believe that if we should place this college now upon the grounds indicated in the eastern portion of this city, during the next ten years the city would so grow up around that college that we should have that anomalous condition of an agricultural college situated in the heart of the most populous city in our State. I do not believe it would be wisdom to do any such thing as that. On the contrary, I am not in favor of sending the university, which is now located in Salt Lake City, so far away from the center of population. I believe that the university, as it is now situated, is properly located. I believe that it belongs right where it is in Salt Lake City, and therefore, I am in favor of having it remain there. The original purpose, as I believe, of the agricultural college, was to educate the sons of the common people in the mechanical arts, in a knowledge of farming, and of irrigation, and of all those things which go up to make the successful agriculturalist. If we have strayed away from that first principle, if we have undertaken in our college in Utah to combine that course with a classical course, then I believe we are doing what was not authorized or intended when the college was established. We have furnished or do furnish in this article a system of common schools in this Territory, up to the grade of a high school, which will furnish the ordinary young man or young woman with all the education that they will need in any walk of life which they may be called upon to fill. In addition to that education, which comes through the common school and the high school, the son of the farmer, the son of the mechanic, may go to the agricultural college and acquire a still further practical knowledge of the affairs of life. It will take the place to them of the old system of apprenticeship, that used to be in existence in this country, but which, I believe, under the prevailing influence of the knights of labor and other labor organizations, has been practically blotted out, and in these days it is very difficult for a young man to go and get through the ordinary avenues of trade and practical knowledge in any mechanical pursuit. I believe that that is the intention and purpose of the agricultural college, and I do not consider it is necessary to attach an institution of that sort to the university. The university will be complete without it. We have a number of institutions of learning in these United States, whose fame is world wide, whose influence for good, and for the educational interests of this country is well established and well understood, and they do not seem to need any agricultural colleges connected with them to make their course of higher education complete. I do not understand that it is necessary or essential that we should add the course of agriculture or mechanical school to our university course here.

Let me ask, gentlemen of the committee, what is going to be the expense of building upon the sixty acres suggested for this combined plant in Salt Lake City of an agricultural college and

university, with all the different schools that would in that plant be provided for? We are limited, as has been said this morning, by articles of the Constitution already adopted, to two hundred thousand dollars additional indebtedness for any purpose. Does any one think that we could go to work and build a suitable building for this combined purpose for any such sum as that? I doubt whether it could be accomplished, and until I can see a way wherein that appropriation can be made or those buildings put up, I should be very averse to any change whatever.

A great deal was said this morning about the cost of maintaining these institutions separately, and I understood the gentleman from Cache to make the statement that at least thirty thousand dollars a year would be saved to the Territory or to the State in case a consolidation could be effected. I cannot quite see where he gets his figures for a saving of thirty thousand dollars a year. I hold in my hand, Mr. Chairman, the report of the board of trustees of the agricultural college for 1894, in which, upon page 8, an estimate is made for the expenses of the college for the biennial period ending December 31, 1895.

Mr. KERR. If the gentleman will permit me, I would like to state that in answer to a question by the gentleman from Salt Lake, Mr. Goodwin, this morning, I said the amount that would be saved each year would depend entirely upon the amount appropriated to these different institutions. If the institutions received a small appropriation, the saving would be small; if a large appropriation, the saving would be correspondingly large, and I stated that if the institutions had one hundred and twenty-five thousand dollars, the approximate saving would be about thirty thousand dollars, but it was based upon the amount that the institutions would receive.

Mr. SQUIRES. Based on an appropriation for the two institutions of one hundred and twenty-five thousand dollars a year?

Mr. KERR. Yes, sir; if the institutions were united, they could do as much on twenty-five thousand dollars appropriation as they now do. By uniting them, we could do practically the same work for ninety-five thousand dollars, that is the estimate.

Mr. SQUIRES. I want to get at the actual cost of running this agricultural college. I want to understand, if I can, how heavy a burden it has been or is likely to be upon the coming State. This estimate which I hold in my hand calls for two years' expenses, amounting to $46,448, that would be $23,224 a year; but I notice, Mr. Chairman, that in this amount a great portion of it is for the purpose of supplying apparatus, furniture, building of a propagating house, for testing machine, for machinery, and supplies, for mechanical engineering, for the museum, for the library and reading room, for cases for the museum, for bath rooms, for students, for miscellaneous funds, for painting, and sundries, stand pipe and hose, electric lights and telephones, so that less than half this amount is really appropriated for the regular expenses of such an institution. The salaries of teachers, only twelve thousand dollars. Expense of the board of trustees, three thousand dollars, including the clerk, foreman, janitor—thirty-five hundred dollars, and for printing catalogues, reports, and stationery, one thousand dollars. I venture to say that every other item in that report is something which is not an annual expense. I understand also that in spite of the estimate made by the board of trustees, the appropriation was made fifteen thousand dollars for the two years or seventy-five hundred dollars a year, Now, I do not consider that that was a very great burden upon the State. I do not consider that that would be any great

hardship upon this people. I do not see where the argument for economy is going to come in provided we hold this institution to the purpose for which it was created, and any attempt to establish a classical school there, as well as at the university, which may be located somewhere else. I am not in favor of wiping out one hundred and fifty thousand dollars' worth of property in order that my friend from Cache and other advocates of a higher education may have their particular fad introduced into this Constitution and perpetuated upon the new State.

Mr. THORESON. Mr. Chairman and gentlemen of the committee, I am opposed to the union of the two institutions. I favor the motion to strike out the agricultural college in the section now under consideration. I always have been told from childhood up—in the first place by my parents and later by a great many good and wise men, to always let good enough alone, to leave that which is prospering to leave it prosper and not disturb it. We have an institution in the county from which I come and represent in part, that is a flourishing institution, that is a credit to our Territory, and will be to our State if it is let alone, an institution — the agricultural college—that in its growth is superior to any agricultural college in these United States, that is popular—not only in the State of Utah or the Territory of Utah, but in all the surrounding states and territories. The information and the knowledge that has been obtained through its experiments and through its advancement has reached thousands upon thousands of the households of the farmers of this intermountain region, and even gone back into our eastern agricultural states, for their benefit.

In what few remarks I make I want to come down to the practical workings of this institution. I have held a position in that county of surveyor during a period of two years. During that time, students from that college time and again would say, "Can't we go with you out into the field and work?" They are not of the kid glove fraternity, but they wanted to go right down and learn the practical workings of their education, and they were willing to go with me out in the field and drag chain or do any other work. I have watched the mechanics in their labor upon buildings, I have seen them enter shops and have carefully watched the mechanic in his handling of tools and in producing the results of his avocation. I tell you, that it is an institution that nine-tenths of the people of this Territory and the surrounding territories demand and want. At the time that this institution was located, it was not then considered of very great value. The people then of Salt Lake, and the people of this entire Territory looked upon it as an inferior institution, and almost any county in this Territory could have had it.

Mr. EICHNOR. May I ask the gentleman a question? Is Salt Lake County trying to take the college away from Cache County?

Mr. THORESON. Yes, sir. I will answer you plainly, that I have heard many men state that if it is a union, it means a union in Salt Lake. I am talking against that proposition. It means taking away from that county or the disturbing of that institution, which has been located there by the unanimous consent of the people of this Territory. I talked to the governor in this Territory at the time that bill was passed. I have talked with several members of the Legislature, at the time it was located and established. There was not an educator in the Territory, or legislator, or a statesman, but what said it ought to be separate and apart from the university of the State, and I tell you now, gentlemen, and I think that the facts will bear me out that there is not a farmer in the Territory of Utah that would send his sons and his daugh-

ters to this city or to any other great city for the purpose of learning them agriculture or giving them an industrial education. At least, it proves to the contrary, they do not do it, and I want to tell you, furthermore, the results of the union of the two institutions would be putting the agricultural and industrial departments in the shade, because they would look up to those that were further advanced in the classics—in the higher education, and when they come into cities of this kind, they will look to the seniors in the institutions of learning and they will follow them in the fashion, and they will follow them in all their advancement and they will forget from whence they came, and when they return to the old homestead, they will be worthless to their fathers, that expect them to go out into the field and earn their living. They would be spending the money to the disadvantage of the aged father that expected support in his old age. I tell you, that institution up there is making men, not dudes, and I tell you it ought to be left just where it is, and it ought to receive the small pittance and the continuance of it that it has for the last few years. We do not ask for the university; we do not ask for any advancement; we are perfectly willing to take the natural advancement that we have had for the last few years.

We will promise you, gentlemen, if you let us alone and continue appropriating the small pittance, or a little advancement, if you can afford to do it, we will make an institution there of which every member on this floor will be proud, inside of five years, and I tell you that the entire State and surrounding states will be proud of that institution. I believe that the gentlemen in visiting that institution—every one that I talked with, were surprised to see the results, and I tell you that they only made a beginning, but the roots of that institution have been planted and it has gathered in it the right kind of material and is giving them the instruction they need and that the people demand. I notice on the other hand, when I meet my friends that come down to your university here—meet them upon the street, that they do not look upon labor with that respect that I desire that they should do, and am sorry to say I see them led astray under many circumstances, and I know when they return that they are not what their parents expected them to be, and I tell you, gentlemen, that we can afford to back up that which has been demonstrated by the course of the institution that I refer to for the last few years; we can afford to leave good enough alone; we can afford to continue that institution, and I tell you that the saving to this Territory, the saving of the morals, of the manhood of our youth, should be more than a few dollars' consideration, and the making of practical men that are interested in the mechanical pursuits and in the industrial pursuits, in the improvement of the farm, of the home, and the building up of our new State and industries thereof, are the kind of men that we want to make, and we do not need so many with a classical education, and in fact we do not have them. I am informed here that a student will be taught in the institution of high learning in this Territory—students are being taught Greek by a professor receiving twelve dollars per day. I do not know whether that is backed up by facts or not, but I am informed so. Gentlemen that are taking the other side can perhaps prove to the contrary. I met a gentleman on the street during the noon recess, and ascertaining that I was a member of this Constitutional Convention and that this subject was before us, he said, "Our state, the state of Ohio, had such an experience. We once had an agricultural college of which we were proud, but we amalgamated with the university and our farmers now send their sons away to get an agricultural or in-

dustrial education. They come back and say that there is no such thing connected with that university. It is entirely gone."

We find them in Idaho similar. The two institutions have united. What is the result? Why, they have neither, and to support the higher education of that state it is rumored that they have to take the money appropriated by the general government for agricultural pursuits and for the agricultural college of that state, and that they are now liable to lose the support the general government would have continued to give them, had they kept the institutions separate and apart.

We find in Wyoming, where the union has taken place, what has been the result. In the last Legislature a bill was introduced to separate them, that the one might not overshadow the other and ruin it. These are the conditions of things. Go to the great institutions of the world or even of this country, outside of Cornell, what do you find? Do you find an agricultural college attached to any of the great universities? I say no, you do not find them encumbered with it, and they did not want it a few years ago. It seems to me, gentlemen, the growth of this institution is the enemy of some certain agitators in this Territory—the growth of the agricultural college, and they think that by its growth added to the university in this city that they could compete with the great institutions of learning in the world, but I am afraid, gentlemen, that we cannot carry the burden. I am afraid that we cannot undertake the job, and I do not believe that for the next twenty, thirty, forty or fifty years, we can either united or separated compete with the great institutions of learning in the east, and I say if we encumber the university—the educational institute with agricultural colleges and with all these other things, we will get an animal upon our hands that we cannot handle at all. I say, gentlemen, let us consider the things in which we find ourselves. Let us look at this from a practical standpoint. We have an institution that is progressing gradually, that is growing in influence and popularity, and that is doing a good work, and at a limited expense, and now let us leave that alone, let us continue its good work, as it is, and we will all be satisfied.

Mr. KERR. I would like to ask the gentleman who has just been speaking, if it is not true that the agricultural colleges of the states of Illinois, Wisconsin, Nebraska, and Minnesota, are connected with the universities? I understood him to state that in no institution in the United States, except Cornell was such the case.

Mr. THORESON. I made the statement of the prominent universities of this country and also the old countries, that such was not the case, that they were not united except Cornell.

Mr. KERR. Is not the university of Nebraska prominent?

Mr. THORESON. No.

Mr. KERR. It spends two hundred thousand dollars a year for its work. The university of Wisconsin at Madison is one of the leading universities of the United States. The universities of Illinois and Minnesota are also among the leading institutions.

Mr. THORESON. Will the gentleman allow me to answer him? I will name some of the institutions that do not have agricultural colleges connected with them: Oxford, Cambridge of England, Edinburgh, Leipsic, Berlin, and Paris, and American institutions of Harvard and Yale.

Mr. THATCHER. Mr. Chairman and gentlemen of the committee, I have no notion of attempting to discuss this question at length for I neither have the strength nor have I devoted the time necessary to a lengthy discussion, but I shall vote for the amendment to strike out the words, "agricultural college."

What I desire to say more specifically

upon this point is that I do not think my friend from Cache Valley represents the feeling of the northern delegation. As I understand matters, when the agricultural college was first established, it was accomplished by the generous vote of the majority of the delegates from Salt Lake County. I may be mistaken in that, but I do not think I am, and in giving the location of that college to the north we had also the generous vote of delegates from the south and from the west, and while I do not believe that my colleague from Cache County intended to throw reflection upon those who have thus treated us generously, unfortunately, his language would be subject to that interpretation, I desire to say to this honorable body and to you, sir, Mr. Chairman, that I do not endorse sentiments of that kind. Indeed the people of northern Utah have very greatly appreciated what was done by the action of that Legislature, and I have never discovered the sentiments to which he made allusion. I find the same generous and broad sentiment among the delegates of Salt Lake on this floor that was discovered in the Legislature at that time. I have found the same generous feeling upon the part of the delegates from the south, the west, and the east, and I desire to say, gentlemen, that if it shall prove to be the wish and the will of this honorable body to permanently locate the agricultural college separate from the university, we shall appreciate that act, as we have other generous acts of the same nature. If, on the other hand, in the interests of economy, it is thought to the best interests of the people of Utah that they should be united, we shall bow to the majority on that question. I was an advocate of union, but I must confess that the speech this morning of my friend from Cache weakened me slightly in his reference to the connection of the agricultural college with the university of Cornell. I apprehend now, after these references have been reviewed, that the dangers pointed out by the delegate from Salt Lake (Mr. Squires) are very grave. I have known men who would face danger and death in every form without a blanch upon their cheeks, or without a quake in their knees, that would go like whipped curs under the infliction of a sneer, and I now have grave doubts as to whether the farmer boy whose face is blacked with the smut of the forge would feel very much to associate with a son of a rich man, who, as my friend on the left referred to, has the cut and fashion of the dude—whether that would encourage that which we want in this Territory, industrial, agricultural education. This, gentlemen, is all that I feel that I should say upon this matter. I am connected with the university of Utah and my sympathies are with it. Much means have been expended upon it since the year 1850, and I have expressed on several public occasions that which was expressed by the honorable delegate from Salt Lake (Mr. Goodwin), this morning, that I hoped to live to see the time when we should have educational institutions in the new State that would draw from the east and the west, that our lovely climate and health giving location would draw that class of students and make Utah foremost as an educational centre. First then, after all the arguments that I have heard I am in favor of the agricultural college where it is, and I am in favor of building up the university of Utah in this city, if this body so desires, and so expresses it by their vote, until we shall make it worthy of the name of university.

Mr. RICHARDS. Mr. Chairman, I have not had the advantage of hearing all that has been said on this question, but while the speeches that I have listened to have been very interesting and instructive, it seems to me that we are spending time in discussing a question that ought not to be before this

Convention. I do not understand that a motion to strike out would now be in order. If it were, I should move to strike out section five, because, as I understand the duties that devolve upon us in the forming of this Constitution, this is a matter that ought not to be incorporated in the Constitution, and whether the majority of the members of this Convention believe in union of these institutions or believe in the separation of the institutions, it matters not to me. I do not know what the consensus of opinion of the Convention is in relation to the matter, but I think I do know that it does not belong in this Constitution. It is unusual. I have looked in vain in other constitutions for this kind of legislative matters. It is usual and proper that such institutions as these should be provided for and that the maintenance of them should be arranged for, but to determine whether they shall exist as one institution or more, where they shall be located and things of that sort, they belong pre-eminently to the legislative body, and I think, gentlemen, if you will examine the constitutions of other states, as I have done, you will find that those constitutions are silent upon these questions. The delegate from Cache, who recently spoke, called attention to the fact that the union of the university and agricultural college of Wyoming was not working satisfactorily, and that a proposition was before the legislature to have them separated. Now, this is a question that ought to be left to the Legislature. If it is desirable to unite these institutions, let the Legislature unite them, and then if it should become desirable at any time for them to be separated, they can be separated without going through the long, tedious form and expense of procuring an amendment to the Constitution. I say, gentlemen, that this matter has no place in the Constitution of this State. I say it ought not to be there. I say that if we put it there, we hamper the Legislature, we undertake to look forward ten, fifteen, twenty, or fifty years, and determine what the good of this State may be. How do we know but what in the next ten years our population may increase ten-fold and the conditions existing then may require an entirely different management and arrangement from that which would seem wise and proper to us to-day? And so, without entering into the question as to whether these institutions would be better united or separated, I say that that section ought not to be there, and at the proper time I shall move to have it stricken out.

It does seem to me that if you gentlemen concur with me in this view that this time, however pleasant it may be and however instructive it may be on general principles to listen to the arguments and speeches which the gentlemen are making, and which are very interesting and instructing, still, it seems to me that it is not proper at this late period of the existence of this Convention to indulge in such discussion, if indeed we do not want that matter in the Constitution. And I say we do not. No matter what the opinion of this Convention may be on that subject, whether it be for union or division, it ought not to be there, but it ought to be left to the Legislature to determine this question from time to time as the benefit of the State at that particular time may require. If it comes to a vote on the question now before the Convention, I shall vote for striking out the words "the agricultural college." Because I am not prepared to say at this time, it is best that these two institutions should be united. I doubt very much if the majority of this Convention will say that, but I say we ought to be silent upon the subject and say nothing, and therefore, this provision ought to come out eventually.

Mr. RALEIGH. Mr. Chairman, the institutions, as I understand it, that

have been established in this country have been located by men of judgment, intelligence, and understanding. My policy is to accord to men that have done these things all that is due to them for establishing these institutions, and while it is understood most distinctly by almost everybody I suppose that if a person has a patch of potatoes in Logan and another patch in Salt Lake, and the patch is only so large as will require one man's labor, that they can cultivate it at half the price by having the two together that they could if they were separated. That is easy enough to be understood. There is where comes in this thirty thousand dollars a year that my friend has spoken of. Now, I did not have to go to Logan to understand why that agricultural college was established there and to reason in my mind why it ought to stay there. The same principle and the same hopes, gentlemen, that placed these streets in Salt Lake City eight rods wide, that everybody admire now—if they had not seen forty years ahead—if they had been here forty years ago, would have said they were altogether too wide, and they were altogether too long, the city was too large, it only required a small commercial center to start on, and then we could follow out by the cow paths and establish these things after awhile; but the same intelligence that did this one thing that I have alluded to for illustration, has done these other things that are away ahead of the times, and all the trouble is in the matter now at present, the financial condition of our people in this country, which is universal all over the United States. The trouble is we have built ahead of the times and we only need to let our buildings stand, except so far as to protect them and carry on what they will admit of—what business they will admit of, and I not only speak of colleges, the places of learning, and so on, but many other things, and wait until our financial condition becomes changed. It will change. It is only a question of time when these lines come into market, or the results of them that we can manage, then the time will have changed so far as the financial condition is concerned, and we can carry them on separately, just as well, and to my understanding, better than though they were consolidated, and as to the remark by the gentleman from Salt Lake, Mr. Goodwin, I am in favor generally of uniting, but there are some things that I prefer to have separate, such as hair and butter, and there are some other things that will bear separation [laughter], and I believe they are situated in the right place and that if we will be patient and be economical and prudent, and these educational gentlemen will bear with a little less salary, so that they do not have to come down to raising potatoes, like some of the rest of us, I think it will be all right in a short time—two or four years at the most.

Mr. SNOW. Mr. Chairman, as a member of the committee on education, I take the ground that this matter ought to be left to the Legislature. I have never changed my mind in relation to that, and it may be principally because I did not like to meet this issue, but there are other good grounds as stated by the gentleman from Salt Lake, why this matter should be left to the Legislature. One of the principal reasons that I want to call attention to here and now is that I believe that if the delegates here will stop and ask themselves how much they know about this question, how far they have consummated a deliberate judgment upon the propriety of uniting or keeping separate these two institutions, they will come to the conclusion that they are between doubt and fear. They are unacquainted with the merits and demerits of uniting and keeping separate these two institutions. It may be true that one or two legislators who have wrangled over this question in the last Legis-

lature have made up their minds upon this question and are prepared to act, but I take it in talking with a majority of the delegates they are not satisfied in their own minds as to just what is the proper thing to do. I believe that the doubt arises principally from a question of economy, and they do not know whether it will be for the best interests of the students or not to keep these institutions separate, but the doubt, I think, will be in favor of uniting them purely from a question of economy. It is all very well for Logan to have the agricultural college and Salt Lake City to have the university, but when you come to think of saving thirty thousand dollars a year that fact seems to be almost incontrovertible when the two institutions are running to their full capacity and doing their utmost good, it is a serious question with the great majority of the outlying counties who will have to share in the burden of taxation. It is nearly the expense of the judiciary, and it is to be a permanent thing. It is the permanency of this question that I direct your attention to. If you permanently locate the college in Logan, the university perhaps at Salt Lake City—it is in the Constitution and if economy should dictate the absolute necessity at some future time of uniting them, you are handicapped by this constitutional provision. Also, you have no precedent for it, and it seems to me to be a matter that should be left to the Legislature, where they will have more time at their disposal, can get more information, and have time to mature a more deliberate judgment on the question of whether they should be united permanently or separated permanently. It is a question principally I take it, with us, of economy, and the Legislature will know more about the finances of the State and our ability and power to do than this body of men, and for these reasons I believe and am in favor of leaving this matter to the Legislature.

Mr. RICKS. I want to ask Mr. Snow a question. I would like to know how the State could save thirty thousand dollars a year by the uniting of these two institutions, when if we strike out the agricultural college altogether, the State would only save seventy-five hundred dollars, for the reason that the State appropriation for the last two years was only fifteen thousand dollars, or seventy-five hundred dollars a year? How then, could you save thirty thousand dollars a year?

Mr. SNOW. I respectfully refer your statements—the same statements have been made by Professor Kerr, who spoke in favor of union. They are not my statements. I said I qualified the same as Professor Kerr, when they are doing their proper work.

Mr. SQUIRES. I just want to call attention of Mr. Snow to an item. The Legislature appropriated for 1894 and 1895, for the university forty-five thousand dollars, for the college fifteen thousand dollars, that would be sixty thousand dollars or thirty thousand dollars for each year, and I do not see how thirty thousand dollars is going to be saved out of thirty thousand dollars, if you run either one of the institutions.

Mr. ROBERTS. Mr. Chairman, I understand that the pending amendments are that in line 4, the words "agricultural college" be stricken out, and that the blank in line 7 be filled by the words, "the same place." My understanding of the import of this amendment in line 4 is that it intends to take out what was intended to be a department of the university, namely, the agricultural college, and that of course looks to the establishment of these institutions as they exist now by law, separate and apart from each other. As a matter of theory, if neither the agricultural college nor the university exists, it would not require much argument to convince me that it would be a good thing to establish them together, but in this instance, it is a

condition that confronts us and not a theory. We have an agricultural college. We have a university, and a union of these institutions contemplates very grave financial sacrifice to the State, and I am of the opinion that the benefits accruing from the union will not compensate for the sacrifice that would be required to obtain the benefits. From this, gentlemen of the committee, it will be seen that I would favor the separation or the continued separation of these two institutions. Another proposition is that we pass by this troublesome question and that we leave it to the future Legislature. That I confess would be an easy solution of the problem, so far as this Convention is concerned, but I apprehend that grave mischief would result from the uncertainty that would continue in regard to these institutions of learning. There is nothing that can be so mischievous to either the university or the agricultural college as to continue this state of uncertainty that has existed for a number of years now and which would be agitated for years to come if left to the Legislature, and in order to be rid of this uncertainty and to fix these institutions upon a basis that they can work upon with some assurance, I think the time to settle the question is right here and right now. If we do not wish to settle it by the amendments that are now pending before this house, I think we could settle it by a slight amendment in section 4 and in such way that would remove the objections that some gentlemen have urged as to taking action on this subject. For instance, if the proposition of my friend from Salt Lake should finally prevail, and he should succeed in getting section 5 stricken out altogether, then I should favor so amending section 4 as to make it read as follows:

The location and establishment by existing laws of the university of Utah and agricultural college is hereby confirmed, and all the rights, immunities, franchises, and endowments heretofore granted or conferred are hereby perpetuated unto each of said institutions respectively.

I insist that this Constitutional Convention, being a representative body and perhaps more especially and a better representative body than our Legislature will be for sometime, not in the way of throwing disparagement upon future Legislatures or anything of that kind, but what I mean by it as being a more representative body, is that it is a more numerous body, and every part of the Territory is better represented as to numbers at least on the floor of this Convention hall than will be the case in a future Legislature, for some time to come. And if gentlemen object to fixing permanently these institutions in the Constitution for the reason that other states have not done so, I wish to call attention of the Convention to at least one precedent for such a proposition as I have stated to the Convention, and that is in the state of Idaho. In the state of Idaho, language very similar to that to which I have referred as a possible amendment to section 4 occurs:

The location of the university of Idaho as established by existing laws is hereby confirmed.

We simply go one step farther when we shall say that the university and agricultural college as established by existing laws is hereby confirmed; that is, the location of the university and agricultural college is hereby confirmed. I understand the provision in the Wyoming constitution is similar to this in Idaho. It was said by the sage Franklin that two moves (that is as to your domicile or your place of business) are as bad as one burn-out. And when I contemplate a destruction of property that is involved in this question of uniting these two institutions, and when I think of Utah just becoming a State and then we undertake to destroy so much property in order to make an experi-

ment of uniting these two institutions, I stand appalled at the prospect before us. I am not in favor of continuing this period of uncertainty in regard to these two educational institutions. I am not willing to make the sacrifice of property that removal of the agricultural college from Logan to Salt Lake involves, nor to try the experiment as to whether these two institutions can get along better conjointly than as separated as they are now, and therefore shall vote for any amendments which look to the fixing permanently of these two institutions in their present locality, whether it is by amendment to section 5, or by striking it out and amending section 4. When I think of uniting the agricultural college with the university here in Salt Lake and wonder where the agricultural lands are to be found in Salt Lake or in any of its immediate environments, where you can place the boys in the agricultural college right on the farm, where by practical experiment and where by practical work they may become acquainted with that branch of industry, the greatest branch of industry, not only of our Territory, but also of our land. They have at present 108 acres of land attached to the college with an independent water right, with shrubs, and orchards, and gardens, already planned out. I understand that there is another tract of land down in the valley that has been appropriated for its use for the next twenty years by the city of Logan, and they have an institution there that has demonstrated that it is a success, and its present achievements are but promises of what it will attain unto in the future. I am sorry, indeed, that it is not located more in the center of our population, but I recognize the fact that it has a numerous population about it, and that it will draw from surrounding states and territories where it is now located. I hope, too, that such shall be our good fortune in manipulating the lands that have been generously appropriated by the national government and by our own increase of population to make of our university here in Utah an institution that will give to our sons and daughters that status of education that shall not make us ashamed of them when they come in competition with people educated elsewhere. As to establishing institutions of learning here that shall draw from the far east and from the west and north and south, from states older than we are and wealthier than we are, that perhaps may be achieved in a hundred years hence, or fifty years hence, but I think it is possible for us to establish now a university separated from the agricultural college, which shall meet the educational necessities of our population for a long time to come.

Mr. HILL. I would like to ask Mr. Roberts, according to the figures I have before me, whether he considers the $211,947.23, which is purported to be the valuation of the agricultural college, located in Cache, would be an entire loss if united with the university which is located in Salt Lake City?

Mr. ROBERTS. I think, sir, that it would be practically a loss to the Territory of that amount. I understand that such are the conditions upon which the lands in Logan are granted to the college, that it must remain where located. If removed from there, those lands revert back to the city or county of Cache, I do not know which.

Mr. HILL. I would also like to ask you whether for that two hundred and eleven thousand dollars, or whatever the proportion might be of loss to this Territory, the Territory could not be compensated for said loss by purchasing land in Salt Lake County, upon which to establish an agricultural college?

Mr. ROBERTS. I understand that the Territory would have to purchase its lands in Salt Lake County or city if it established an agricultural college here, so that would be an additional outlay.

Mr. SQUIRES. In other words, the building at Logan could not be sold and the money turned into the State treasury?

Mr. ROBERTS. No, sir; my understanding is that it reverts back to the city of Logan, buildings and all, and that there is that much loss to the Territory.

Mr. FARR. Mr. President, I am satisfied that the amount of land cannot be bought here that they have there for ten times as much or a hundred times as much as that land is worth. I think the land here would cost from ten times to a hundred times as much here as that land would bring there, if that college was thrown up for farming purposes, but as they have got that land there adjoining the college all brought into proper cultivation, water provided for, everything handy and convenient, why I think that that would be an appropriate place to keep the college on account of the land. I have not but a very few words to say on this. My mind has been fully made up ever since the college was located there. From the knowledge I had of the country and of the people and of the circumstances, I felt as though when the college was located there it was located in wisdom, and by men that were men of wisdom. I have been also satisfied from the beginning that the university, which was established when this Territory was a State—called the State of Deseret, that the college was established here in Salt Lake City. Some minds have been trying to drive the college away—that is the university, to Provo, and some tried to get it to Ogden, and some to Logan. All that is speculation to me—to me it is all child's play or boyism, to talk about that. The university has been located here at headquarters, at the seat of government, the place that was first located for a city when I first came here most forty-eight years ago, and the university should stay here. I am prepared to vote and to do in this—fill up that blank in this article that the university shall be at Salt Lake City; let that be the end of the controversy. I am willing and more than willing and anxious that we settle this point to-day, and that the agricultural college shall be at Logan and not allow it to go to future Legislatures, for if it is left open, you will find there will be petitions and men come to the Legislatures, and the Legislatures will agitate it and detain and handle the body of men composing the Legislature for days trying to get the college away, and they will bring up their philosophy and their arguments to show good reasons, as they suppose, why the agricultural college should be taken away from there. But, as it has already been remarked, that college has been located there by wise men, and I am satisfied and have been from the beginning that it is located in the right place. There cannot be a pleasanter place found in Utah Territory to-day than where that thing is located, and most of the members of this Convention that have been up there lately will bear me witness in that. It is a pleasant, healthful place and there has been between two and three hundred thousand dollars already laid out there, and the question of moving of it away would be attended with a great deal of expense, more than enough to pay the extra expense that is now supposed in running those two institutions separately. That is, the cost of running those two institutions separately, they claim will be more than it would if they were consolidated. Now, my experience in that matter is this, that it is not well, it is not good economy to locate too many things together. We would not want to have the whole United States dumped in here to Utah, it would not be consistent. It would not be reasonable, but on the same philosophy and reasoning the more you get in here the better, but I do not believe in that kind

of argument. I believe when you have got enough, why let good enough alone. It is an old saying, "too many cooks spoil the broth." We do not want too many things together. [Laughter.] In regard to a matter now of economy—the university here is in Salt Lake City; it is understood well by everyone who send their sons and daughters to school, they know what branches are taught in this university, they know what branches are taught at the agricultural college at Logan. They, of course, then send their sons and their daughters to the university to learn those branches that are taught. The branches that are taught at Logan we would not want to crowd them into the school here, nor the branches that are taught here at the university, we would not want to crowd them into the school at Logan. There need not be any extra expense about that.

As has already been remarked, that expense of moving the college from there would greatly overbalance the extra expense of it being kept separate and used for perhaps from one to two hundred thousand dollars in moving that college away. It would be wasted. To me it is too much like boyism, to locate a college there and run it a few years and then say that we have got sick of it and want to move it away. There is no argument, there is no reason why, there is no saving in expense. I tell you out of three or four hundred students that go to school to Logan, and there expense is reasonable—is thirty-three per cent. less there to what it would be to go to school here in Salt Lake City. In board and in lodging, you will find that there would be a great saving in the expense of the students to go to school than what it would be to come down here. It will more than pay the expense of the extra teachers. True, if consolidated, one president would answer for the whole institution, but you would have to have teachers for the different classes if you had them all here, hence, I cannot see that there is going to be much argument in favor of saving expense. In fact, I am satisfied the argument would be in favor of keeping them separate on account of the expense. That is, the boarding of the students that would go to school there and the teachers that would be employed could afford to teach for less because the expenses for boarding, lodging, etc., would be less there. Hence, there is no argument. Now, we are located right here in Utah, we expect to have a university and colleges here in Utah that will take the lead of any we have got in the United States. I tell you we have got in the right place. I recollect a saying of Thomas Benton, the great Missouri senator, when the people first emigrated here to Utah, I being in the first company that came here, I recollect of hearing a saying coming over the first mail; it used to take six months to get the mail through to Utah. We only got it once a year, in the summer season, and when Mr. Thomas Benton had succeeded in getting that disagreeable element out of the states here in Utah, he thought he was going to get them out here among the Indians and they would be destroyed, but when he found out that they were going to locate here in the Great Basin, "why," said he to the senate—he was speaking to them in Congress—"they have got right on to the backbone of the continent," says he, "it is the very key of the continent and all hell can't get them out." Now, gentlemen, we have got here, we are right on the backbone of the continent; we have got the key of the continent, and I tell you we are going to have the key of science, of learning, of literature, and we are going to turn out some of the ablest men in the Union, or in the world. Now, mark it. And we have to patronize these institutions of learning, and I say let the college remain where it is,

and let us fix it, right here to-day, that the college be at Logan and the university here in Salt Lake City.

Mr. HILL. Mr. Chairman and gentlemen of the committee, I have listened with a great deal of satisfaction to the remarks that have been made by those gentlemen who have preceded me. I asked Mr. Farr to come forward so I could hear him. I heard just one remark that he made and that was the question whether we would like the whole of the United States dumped into this Territory or not? I presume that question was directed to me.

Mr. FARR. Not at all, not at all.

Mr. HILL. I will frankly make this statement, that I certainly would like to see the whole of the United States dumped into this Territory. I have had but a limited experience in business. That limited experience has taught me not, as is frequently said by business men, to be certain not to put all your eggs in one basket, but this is a very different proposition. I have listened to the remarks of my democratic friends and my republican friends, in reference to economy, that we in this Territory were poor, and in fact I have often thought from the remarks that have been made here that this was one of the most inopportune times that the government of these United States had offered unto us an Enabling Act. It appears that we have got so narrowed down in our ideas that we are not prepared to sustain statehood. It appears to me that we are in a position to-day that we could not school our children, from the remarks that have been made upon the floor of this Convention. We to-day have got invested in our university two hundred and fifty thousand dollars in round numbers. We have got invested in our agricultural department in Logan two hundred and eleven thousand dollars. It appears to me from the remarks that have been made here, what I consider very consistent, that the uniting of these two educational branches should certainly carry in this house. I make this statement, and I make it boldly, that one man, having the ability, can run an establishment that has a capital of five million dollars equally to advantage to one man who is employed in the same position to run an institution at a salary or rather capitalized at five hundred thousand dollars. It appears to me that the uniting of these two enterprises would reduce our expenses. It appears to me that we are running from one point to another and saying that we are too poor to carry out certain enterprises, but we are to go to work and spread out all over this Territory and have sufficient means to enable us to carry this out. I shall certainly vote in favor of the uniting of these two enterprises. It does not make any difference to me whether they are located in Utah County, in Cache County, or Salt Lake County. It appears to me that the gentleman who has charge of the agricultural college and our university—one man can fill both of these positions, and he can fill it at the same salary that it would require to run the university or run the agricultural college, and if it is economy we are after, if it is after the benefit of the commonwealth and this Territory, why not unite them? When you go to work and say that we have got $211,947 invested in Cache in an agricultural college. I take the position that that property, can be disposed of to advantage. I take the position that the two hundred and fifty thousand dollars that we have invested in this county can be disposed of, and if this Convention says that these institutions shall be united and placed in Cache, I am ready and willing to support such a proposition, but I will tell you right here, gentlemen, it does not make any difference whether we believe it or not, united we stand, divided we fall, and it does not make any difference where we place these institutions of education,

they should be united and they can be run to far better advantage than in any other way.

Mr. MURDOCK (Beaver). Mr. Chairman, I do not want to make any speech, but I want to be informed before I vote, and there are two or three or perhaps four questions can be answered. Perhaps I will be informed, and while I am being informed others will be also.

Mr. RICHARDS. Will the gentleman from Beaver permit me to ask the gentleman from Salt Lake a question, who just sat down? I desire to ask the gentleman how the property now belonging to the agricultural college could be disposed of advantageously, when under the law it would revert to the former owners of the property if the college was removed?

Mr. HILL. Is it not a donation? Has it not been contributed to the Territory as a donation?

Mr. THATCHER. On condition that the college remained there only.

Mr. HILL. Then, I will answer your question, by asking why not take the university to Cache?

Mr. SQUIRES. For the same reason.

Mr. RICHARDS. Then the university proper would revert to the State.

Mr. HILL. Well, then, it will benefit Salt Lake County.

Mr. RICHARDS. But it could not be disposed of to advantage as you suggested in your remarks.

Mr. HART. I would like to ask the gentleman a question. If the figures that he gives include the value of the real estate, or if the values named—$250,000 for the university, as the outlay there in buildings, and if the $211,000 that he named as the value of the Logan property, is the amount that is expended in buildings exclusive of the value of the 108 acres of land?

Mr. HILL. I will read the statement which I believe is authenticated over the name of John T. Caine, that the amount of property owned by the Territory—the university of Utah report of 1893, is $250,327.05, the agricultural college of Utah, report of 1893, is assets $211,997.23.

Mr. HART. Do you know whether that includes the value of the real estate?

Mr. HILL. That, sir, as this report says, is the assets of this Territory.

Mr. HART. Including the real estate?

Mr. HILL. Yes; it is given as such; those are the figures that I have before me.

Mr. MURDOCK (Beaver). I think, as Mr. Snow said, from Washington County, perhaps that is as necessary as any other point that we need to be informed upon—is there any man here that is posted in regard to the college at Logan, in regard to its capacity, in regard to the patronage that it receives? Is there any man here that knows the capacity of it for accommodating students, and in regard to what patronage it now receives?

Mr. SQUIRES. I am informed that the Logan college has a capacity for six hundred students. That during the last winter and up to a short time ago it had three hundred and sixty students in attendance, but that now a large number of them have gone home to participate in the spring work, on the different farms where they belong.

Mr. RALEIGH. Are you not mistaken in the capacity of the building? I understood it to have a capacity of about sixteen hundred and there were now about one-fourth of that number or nearly so.

Mr. HILL. Mr. Thatcher I think is equal to answer that question.

Mr. THATCHER. I think it can accommodate six hundred easily.

Mr. MURDOCK (Beaver). Can you tell me now what are being accomodated at the present time?

Mr. THATCHER. I do not know the exact number there are now, but last winter during the whole winter it accommodated 360.

Mr. MURDOCK (Beaver). I was told

when I was up there that there was less than a hundred. I was told that the boarding establishment which has cost perhaps several thousand dollars was not in use to any extent whatever, but that the pupils were boarding around through the place. Of course that would be an extra expense to keep that up. Can you tell me how extensively it is patronized by the city of Logan and county of Cache—can anyone tell me that?

Mr. THATCHER. Very extensively patronized by both.

Mr. MURDOCK (Beaver). I was told to the contrary.

Mr. THATCHER. You have been misinformed.

Mr. MURDOCK (Beaver). Well, perhaps so. I am only wanting information, if there is anybody that can tell. We can see, gentlemen, that there has been a great expense to the Territory for the establishment of the institution, and I am thoroughly in favor of education, not only in what we may receive from these high schools and universities and colleges. I think that a college should certainly be patronized by the people, but if we go to work and expend ever so much money and we do not get the patronage, why, then, we are at a loss. We are losing money by expending it in that way and I want to know whether the end is reached that was designed when the appropriation was made to establish a college—whether it was in this city or any other city—that is the question, I contend. That is in line with what I shall now say in regard to any educational institution, is that if it is in the reach of the people to patronize, that is high schools, I say very well, have them. We cannot get too much of a high education. Now, I realize that, but it is out of the reach of many people. Now, that institution there is entirely out of the reach of the people of the south—entirely out of their reach, with very few exceptions indeed. Why? Because, it is taking the pupils away from home, and they have to go to a greater expense, that their parents are not able to meet, but if the children were all in that vicinity, or in an institution here in this city, if the children of the Territory were right here in this vicinity and could have access to these high schools, and these places of learning, of agriculture, and other institutions, why, then, I say let us have them, but the lack is patronage and that is the lack in Logan, to-day, gentlemen—is the lack of patronage.

Mr. HART. Mr. Chairman, the gentleman has been misinformed as to the attendance at that college. The fact is that it is very liberally patronized by all of the counties of the whole Territory and by surrounding states and Territories.

Mr. MURDOCK (Beaver). Well, I am glad to know it.

Mr. HART. I do not know the exact number of states and territories that are patronizing it at the present time, but during the last year Professor Sanborn informed me that there were some ten or twelve of the surrounding states and territories that had children there, and besides that, it was very liberally patronized by the different counties of this Territory, and the attendance there was as stated by Mr. Thatcher, between three and four hundred—about 360, or 365; I think 365 was the limit it reached in the years 1893-4, and there are certainly more than a hundred students attending there now. The gentleman was misinformed in regard to that. I could not state the exact number now, but there is quite a falling off from the attendance of 360 pupils, and you will find that the attendance of the college during the last two or three or four years has been about equal to the university of Utah. My impression is that the attendance of both has been in the neighborhood of three or four hundred pupils during the last two or three years.

Mr. MURDOCK (Beaver). Let me ask

you a question. I believe the summer season is the time to study agriculture, is it not—we cannot study that much in the winter, can we?

Mr. HART. Oh, yes. Of course, the study they give there——

Mr. MURDOCK (Beaver.) It seems to me agriculture should be studied in the summer and spring and fall.

Mr. VAN HORNE. Mr. Chairman, I just arise to state the facts given me by a professor of the college. The attendance I think during the winter was exactly stated by Mr. Hart as 365, as the enrollment for the year. The professor told me at the time of our visit that there were 140 now, that others had gone to their homes preparing to put into execution what they had learned in the agricultural course during the winter.

Mr. PIERCE. I would like to ask Mr. Hart a question. Is not it a fact that the agricultural college is used as a great extent as a high school for the pupils of Logan City and Cache County, who ought to be in the high schools of the county, and the district schools?

Mr. HART. No, sir; I think not. I think the agricultural college is giving the sphere that was mapped out for it by the territorial Legislature. I have heard that complaint as to the agricultural college, and I will inform the gentleman that I have heard the same complaint against the university of Utah, and it has been seriously charged, especially against the latter institution, that it was duplicating the ground of the high school. I think there are misimpressions that have gotten out as to the work of both schools.

Mr. BOWDLE. Is there a high school in Logan?

Mr. HART. Yes, sir; there are several, two at least, first class high schools. There is the Brigham Young college there that virtually covers the ground of a high school, that has an attendance of between three and four hundred people.

Mr. PIERCE. Are there any free high schools?

Mr. HART. That is practically free. There is only a nominal tuition, and then there is the New Jersey academy, another sectarian school, that is practically a high school.

Mr. PIERCE. Are not they both sectarian schools?

Mr. HART. Yes, sir.

Mr. CANNON. I would like to ask Mr. Hart, whether the course of the B. Y. college, as it is called, is lower or higher than the course in the agricultural college?

Mr. HART. Well, they of course in part cover the same ground, but the agricultural college teaches a distinct line of studies from B. Y. college. That is a large portion of the work there in the agricultural college, as I understand it, that is not taught in the Brigham Young college.

Mr. CANNON. Is this a fact, as I have been informed, that students of the B. Y. college are from one to two years in advance in higher education of the students of the agricultural college.

Mr. HART. No, sir; it is not true.

Mr. IVINS. Mr. Chairman, had it not been for the fact that during the session of this committee yesterday I had referred to the union of these two institutions, I should not now ask your indulgence for a moment, and if I had known that I should be called to the chair to-day I should not have made the statements that I did yesterday, because I regret that it becomes necessary for me apparently to vacate a few moments, in order that my position upon this question may be fairly defined, because of remarks that have been prompted by the few words that I said yesterday afternoon. In the first place I wish to say that I was a member of the last Legislature of this Territory. I came to that Legislature very strongly prejudiced, as all members from the agricultural or outlying counties of the Territory were, in favor of the college

at Logan. I came very strongly prejudiced in favor of its location there. Immediately upon the session of that Legislature an agitation was begun in regard to the union of these two institutions. Nearly every professor in this Territory or in this immediate vicinity at least, expressed his views either in writing or before committees which were appointed upon this important question, and I want to say now, by way of parenthesis, that I regard this as the most important question that has come before this Convention during this entire session. The committees were arranged, interviews were held, all the leading educators of this portion of the Territory were called before those committees and their opinions obtained. Their opinions were obtained through the press, and it is a strange thing to me now, gentlemen, to see some of the men who most strongly advocated at that time a union of these two institutions, for some reason which they fail to explain, say that it is better that they should remain separate. Now, I only wish to defend my own personal position here this afternoon. The result of my investigation was—and I was careful to inquire, we visited the agricultural college, not merely upon a junketing tour, but in order that we might get information in regard to its condition, we listened to the consensus of opinion by these educators, and I want to say that it was so overwhelmingly in favor of the union of those two institutions that I was converted against my prejudices and in spite of my former convictions. It most certainly was contrary to my own feelings. I knew that if there were any interference with that institution at Logan—if I should even intimate anything that might be construed to be an unfriendly feeling towards it, that I should come in contact with some of the very best and most esteemed friends that I have, but I could not, as a representative of all the people of this Territory, laying aside partisanship, laying aside prejudice—I could not but be converted, that the only proper thing for the people of this Territory to do was to unite those two institutions in one without any regard to their location, gentlemen. What are the conditions that confront us? We have upon our hands these two institutions of learning. Is either of them a live institution to-day? No, it is not. The university came to us and told us that they needed one hundred and twenty-five thousand dollars, that that was the very least amount of money with which they could properly conduct that institution during the years 1894 and 1895. We looked at the finances of the Territory and we found the very best we could do was to give them forty-five thousand dollars, not enough to keep the doors of that institution open, and I tell you now, that unless there be a large deficit, it must close. These are the conditions that confront us. It is no theory. The same applies to the agricultural college at Logan. They asked us, I think, for sixty thousand dollars. I am not certain however in regard to this. That is my recollection.

Mr. HART. Forty-six thousand dollars.

Mr. IVINS. Forty-six thousand dollars, representing to us that that was the very least that they could properly conduct that institution with, in addition to the appropriation that they received from the government.

Our finances only permitted that we should appropriate to them fifteen thousand dollars, a niggardly sum. I voted in both instances to give those institutions more money, because I thought that without more money it was useless to attempt to maintain them. Now, if the members of this committee are not prepared to take action upon this matter, I do not insist upon it. So far as I am concerned personally, my mind is made up. I do not believe that for a generation to

come the Territory of Utah or the new State of Utah will have it in her power, through her limited finances, to establish firmly and properly both of these institutions, but I do believe that she can establish one institution that may eventually grow to be a credit to the people of this State. It has been intimated here that in my proposal, which I made yesterday to unite these institutions, I had been steered by Salt Lake parties, that these were not my own sentiments. Wonder has been expressed that they should emanate from me. I want to say that I consulted with no Salt Lake man in regard to my convictions upon this question. Personally, my prejudices were all in the other direction. They are my convictions, arrived at after deliberate and careful investigation of this whole question. I am open to conviction, but there must be some stronger argument. I submit that the argument of Professor Kerr, which was made here this morning, has not been answered. No attempt has been made to answer it. The gentleman from Utah says that it reflects discredit upon the Legislatures which established these institutions, that we shall now attempt to undo their work. I want to say here, gentlemen, that I never could understand that it was good judgment which prompted that Legislature to bond this Territory for three-quarters of a million dollars, in order to establish institutions in Cache County and Weber County and Utah County, that were far beyond the demands of the people of this Territory. I do not question their intention, but the experience of the past four years has taught us that they looked far beyond the time. The boom spirit had taken hold of them and they simply went crazy on this question. We are bonded now for three-quarters of a million of dollars, that these institutions may be established. Now, if the members of this committee are ready to act upon this question, I am. I am ready to vote for the union of these two institutions, if they are not ready. If they wish to investigate more fully, if they wish to refer this to their representatives in the next Legislature, all well and good, but I do believe that this question of location ought to be settled once for all, that it may be taken out of politics, and that these institutions may be taken off of their wheels and begin to take root in some place or other. Then we may anticipate a healthy growth. I shall not discuss the merits of the two institutions, nor the question of locality at all, but there is something to be said upon that when the proper time shall come.

Mr. CANNON. As has been stated by previous speakers, this question should be carefully considered. The statement has been made that it is not proper for the Constitutional Convention to deal with this question. I believe most emphatically that it is proper for the Constitutional Convention to consider this matter, and if possible to determine what should be done regarding our higher educational institutions. We have precedents for this. Massachusetts has been referred to to-day, by one of her native sons, as being the head in educational matters in the United States. Massachusetts in her constitution, chapter 5, provides for her university and college of Harvard. I am in favor of uniting these institutions, and the question of location is simply a secondary matter. I naturally have my choice. I have a preference for one site or another, but that is not before the Convention. So far as I am concerned, the question should be decided entirely on its merits, as to whether or not it is good for the people of Utah to have one university or to segregate its educational institutions. There could be produced any number of letters from men who have made this subject a study, and I will not take up your time to read more than two of them, but I have here the

opinion of a man who stands at the head of educational matters in the United States, a man who is the president of the leading educational institution in the United States; I refer to President Charles W. Elliott, of Harvard university. (Reads.)

I take it that this gentleman's opinion is entitled to respect. He has made it a life study; he has investigated the conditions that exist throughout the country, and this is his opinion with regard to these institutions for a western state. The loss has been referred to that would be entailed by removal either from Salt Lake City or Logan. The loss, it is true, would be temporarily great in either case, but I believe that that loss would be more than compensated for by the increased advantage that would come from the endowments that would be bestowed upon an institution were it permanently located. I desire in this connection to call your attention to the opinion of a gentleman who represented the United States as a minister to St. Petersburg. In his letter dated St. Petersburg, December 19, 1892, Honorable Andrew B. White, who was then United States minister to Russia, and who was the ex-president of the Cornell university, said: (Reads.)

Mr. Ivins has referred to the aguments which were made before the last Legislature. I was present when the committee held its sessions and listened to some of those arguments, and of the educational men who appeared before the committee; the vast majority of them declared that union was for the interest of the State. Among those who appeared was the president of the agricultural college, and I heard him declare that union should be made and that it should be made at once, that it was for the good of the people of Utah, that those institutions should be united and that they should be established. I ask you, gentlemen, why is it that he should change upon this occasion? If it was good logic then, if, from an educational point of view, it was the correct thing to unite those institutions, why is it wrong to do so at the present time? I claim that if what he said was true, at that time, it is the correct thing to do, and this evidence is borne out by the statements of others. I claim that at the present time a rivalry exists between the two institutions, and it is not a generous rivalry, that the institution which seeks to obtain from the Legislature appropriations, seeks to cast reflections upon the other. I regretted to hear one of the gentlemen from Cache County cast reflections upon the university of Utah and upon the people of this section of country. I, too, visited the agricultural college the other day, and we were treated in a royal manner. We received the best treatment that could be afforded. I was pleased with the people whom we met. I was pleased with the institution which we visited. I was pleased with the teachers, and their methods, who explained to us the various departments which they were conducting. I have no word of reflection to cast upon them, because I do not think that it is for this purpose that we are here—to cast reflections upon one institution or another of a state, but it is to look to the welfare of the State. I call your attention to the fact that the gentleman says students have come to Salt Lake City and gone back and not been fit for anything. I call your attention to the fact, there are delegates here who are graduates of the university of Utah and sit there while he refers to kid gloved graduates, and to the uselessness of men who come back. I should think they would feel it was a reflection upon those men to say that. On the contrary, I wish to say that last summer I visited Cache County on one occasion and there found one of the university of Utah who is an honored member of that community, and when I found him, it was after his summer

vacation. I found him covered with that brown which comes from working in the fields, and as he took me out and proudly showed me the stacks of grain which he had piled up, I say he refuted the statement on this floor that a man cannot come to this city and go back to Cache County, or to any other county, and perform an honest day's work. I trust, gentlemen, when we vote, we will cast aside local preferences and vote for that which will be for the good of the people. I will say now that if I knew union, if effected, would take place at Logan, and not at Salt Lake, although I believe Salt Lake is the proper place, yet I say I would vote that the institutions shall be united at Logan, rather than that they shall struggle along a miserable, half starved existence in the two separate localities.

Mr. HILL. Mr. Chairman, Mr. Richards asked me a question. I am now ready to answer that question. It is this, the teachers' salaries at Logan, thirty thousand dollars per annum, ten per cent. on this amount for seven years would more than compensate Cache County for all their improvements that they have made and the land included.

Mr. BOWDLE. Mr. Chairman, the gentleman who spoke and arrainged the kid gloved aristocracy of the colleges and the dudes and all that kind of thing, referred to Ohio to back him up in his assertions. It is my misfortune—or Ohio's misfortune and my good fortune, that I am a native of that state. Accidentally, or rather by the kindness of a friend, there has been put into my hands this afternoon two papers that are edited in the university of Ohio. I might say that I lived adjoining the grounds of that university for a number of years, and quite close to it for still a greater number of years. I was personally and well acquainted with a number of the faculty of that university and know something of its growth, and of its history, and if the gentleman stated facts to-day, then I did not learn the facts when I was there. I think they were just about as nearly correct as three-fourths of the rest of his statements. The fact, gentlemen, was simply this, Ohio undertook to establish an agricultural college, it did establish an agricultural college, it carried it along for a number of years. It could not make it go, because the students could not be forthcoming to fill its halls. There was a feeling among the persons who wished to go to that kind of a school that they wanted to go to a school where they would come in contact not alone with the one thing they were studying but with all other branches, so that they would have the opportunities, and further, there was this feeling that they did not wish to go to a school that was called an agricultural college, and when they went out and their diploma showed agricultural college, they would say, "yes, you are a graduate of that farming institution up there. It does not give you any standing or anything of that kind." They wanted to go to a place so that when they got their diploma it would be from a first class college, with first class appliances, and then with whatever credit that brought to them. For a number of years that was attempted. The fact was that the university when it quit that business had just about a hundred students. I have, in order to be certain that I was correct upon these matters, consulted with an alumnus of that university since this morning—a professor in a school here, whose name I will not give, but to many of you well known, and he gave me some of the further facts. They abandoned the idea. They opened up a broad course of study, made it a first class university in every respect, they still retain their agricultural college. They had a fine farm and still retain it, and to-day, they have in regular agricultural college course, as shown by their literature here, over a

hundred students in that one department in the college proper. That does not include a great number that are in the preparatory department, and who are not classified, and who are seeking a course in that department in agriculture. I have before me a paper that is published by the students of the agricultural department of that university, a monthly periodical containing some fifteen, twenty, or thirty pages. I do not know exactly how many, but here is one point particularly I want to call attention to, it bears out what was said here this morning by Professor Kerr, this is the paper that is published by the university generally. The other one is simply the agricultural department. I read from the other, "the trustees at their meeting to-day accepted a donation of ten thousand dollars of Mr. Emerson McCune, to establish an observatory at the university, on the conditions proposed."

That is dated April 11, 1895. The fact is now, that that is a strong university. There is a man of means that is beginning the endowment of an observatory, because he can perpetuate his name there. And it is not a university on wheels, with its powers divided, part here and part there, but it is a university where everyone may get whatever kind of an education they want. We do not take any stock in this theory that a boy who goes from the farm to a school of that kind would be ashamed to be seen by the upper class men. Do you not know the fact, gentlemen, that it is from the farms of this nation that men go to the colleges that lead their classes? It is a fact. You may take the history of the colleges of this Territory. You cannot snub a fellow that has got the grit in him. You cannot put him down. You may talk all you please about it, but you cannot do it, and it is the history of the colleges that it is the farm boy that very often is the valedictorian, so I take no stock in that part of this argument. I have learned that old adage a long time ago—it may be wrong—that in union there is strength. If it be true, it seems to me that we will make a mistake if we do not unite these two institutions, place them where you please; I am perfectly indifferent in that regard; of course my interests are in Salt Lake, but place them in Cache Valley, if you wish to unite them, wherever you place them, and make of them a university that will command the respect of the people. But, says someone, economy, economy; we will lose a great deal of property. Suppose you are running two households, one for yourself and one for your wife, over there, you are living a "bach" over here, and she is keeping house for herself over there, and you are running at a loss all the time; you are running at a loss, because it costs as much to keep this household up there as it does that household, for you can live just as cheaply over there as both can live here. You had better give one house away and both move into the same house and then quit this constant expense that is breaking up the institution where it is.

Mr. NEBEKER. Mr. Chairman, I realize the fact that this committee has heard a great deal on this subject this afternoon, and is necessarily tired, but I feel as though I ought to speak to this question. I want it understood that I am against the amendment and for the union of these higher educational institutions. I believe by union that the interests of economy will be looked to first and the interests of efficiency second. I know that some members have expressed their opinions on this floor that if we should unite the university and the agricultural college that the industrial branches would be lost sight of. Now, I do not think that that position is well taken. I must acknowledge that when I served the first representative district in the Legislature in 1892, and the question of appropriation for these two institutions came up, I thought at that time that

the Territory of Utah was big enough to support the two and voted for a very handsome appropriation for both institutions, and I do not think that it will cast any reflection upon the acts of any past Legislature if this Convention at this time sees fit to unite these educational institutions, because I believe that every gentleman who was there acted with the best information that he had on the subject at that time. But past experience, gentlemen, has taught us that we were grappling with a proposition that was larger than we were able to take care of. And it is necessary that if we have an institution of higher education in Utah Territory, in my opinion, that they be at any rate placed on one site.

Now, as to the idea of this dude that has been spoken of. I do not think the gentleman of Cache meant just exactly what he said on that proposition, because he knows that what little education I have I obtained it down here at the university while that was a high school, and he also knows, I believe, that I, while he might call me a dude, can pitch just as much hay, survey just as many water ditches, and assay just as many hand samples, as the gentleman can himself, notwithstanding I received what little education I have at the university. A dude, I think, gentlemen, is something born, not made by education, and is neither male nor female. [Laughter.] I want to call the committee's attention to the position that was taken by the gentleman from Cache who first spoke upon this proposition, and while I was not here during the first part of his remarks, I did not understand his position to be that students who were in the classical department in the Cornell university looked with scorn upon those who were in the agricultural department. Am I right, Professor Kerr?

Mr. KERR. Yes, sir.

Mr. NEBEKER. It has been intimated in this committee, that was the position of the students who were in the classical departments at Cornell. I want to tell you, gentlemen, to appeal to your own reason on this proposition, and I would ask you if those students here together in the same classes, as they necessarily must be, whether they are studying literature, whether they are studying mechanical engineering, or whether they are studying agriculture, if there is sense in possession of the students, if that will not be made apparent? I take it, sir, that if some attorneys that are on this floor had been educated in the school of law under a university in which a college of agriculture had been maintained, they would recognize the fact that laymen possess some sense. Now, the proposition of whether the industrial part of the university, if united, will overshadow the classical part. I want to call your attention to this, it simply depends upon the people themselves. For instance, if there are more parents in this State who wish their children to have an industrial education, of necessity there would be more students in the university pursuing those courses. If, on the other hand, there are more parents who wish their children to obtain a classical education, then you will find more classical students in the university. And I submit, gentlemen, if the people want their children educated in the industrial pursuits, they ought to have them right off. On the other hand, if they want to make lawyers, doctors, or classical professors of their children, they also ought to have that right, and I do not think that that argument is well taken. And I hope this committee will see that it is possible and is the right thing to do to unite these institutions at this time. I do not think it is right to keep the people of Cache upon the ragged edge of uncertainty, to have this question continuously agitated in the Legislature, nor, on the other hand, do I think it is right for the university

people to be in the same uncertain position, and I think it is proper right here and now, notwithstanding there may not be a precedent for us to follow—I call your attention to the fact that if there is no precedent to follow, it is not an argument in favor of the position that we ought not to unite these two institutions, because we are here to be precedent makers, if it is right.

Mr. KERR. Mr. Chairman, I do not desire to detain the committee, but merely to give an explanation. It seems that some misunderstood the statement that I made with respect to the amount that would be saved annually by uniting these institutions. The statement I made was this, that the amount saved would depend upon the amount given to the institutions, for their maintenance. If they received a small appropriation, the amount saved would be small, if large, the amount saved would be correspondingly larger, and if the institutions receive one hundred and twenty-five thousand dollars a year, I have estimated that there would be a saving of about thirty thousand dollars. Of course, it would be absurd for a man to assume that both institutions together could be maintained for less than either requires by itself. I made no such assertion.

Mr. NEBEKER. Is it not a fact that the last Legislature appropriated forty-five thousand dollars to the university?

Mr. KERR. I so understand it.

Mr. NEBEKER. Is it not a fact that that sum was considered wholly inadequate to perform the work that was expected of the university.

Mr. KERR. It was less than half of what would be required.

Mr. NEBEKER. I call Mr. Squires' attention to the fact that the agricultural college received an appropriation of fifteen thousand dollars.

Mr. SQUIRES. That was for two years.

Mr. NEBEKER. And the forty-five thousand was for two years, too.

Mr. SQUIRES. I understand that.

Mr. NEBEKER. Now, that fifteen thousand dollars was considered by those people who represented the agricultural college as insufficient to do the work that was expected of that institution, so that when you are figuring on the last appropriation you must understand that that appropriation was made simply with a view of keeping these two institutions in bare existence, not with a view of their performing efficient work, as they ought to do.

Mr. KERR. The other point I desire to make was with respect to the attendance of the university and the agricultural college. The attendance at the university this year is 453, the attendance at the agricultural college is upwards of 360. So far as that is concerned, I think the people of Utah are very much interested in both institutions, and because of the statement made by my colleague from Cache, I desire to state that personally I have no greater interest in one of these institutions than I have in the other, and I desire to state to the committee that I have absolutely no direct personal interest in either of these institutions, and I stand upon this question, just where I stood a year ago. I would not, if I knew it for a moment, advocate anything that would interfere with the industrial work of the agricultural college, neither would I advocate anything that would in any way interfere with the work of the university. I am interested in both institutions, as a citizen, and as director, that is all. I received my start in educational work from the university of Utah, and while I may be classed among those referred to by the gentleman from Cache, yet I do not think that it can be said that a majority of the students who graduate from that institution—indeed, I would add in this connection, that I know myself of many students of the university, who are

working several hours each afternoon, and spending most of their time on Saturdays in workshops and in the foundries, and at other places, making enough to pay their board bills. They are the poor of this Territory, and, gentlemen of the committee, remember that whatever we do for higher education, we do for the poor. The higher educational institution is a ladder upon which the poor climb. We are not legislating for the rich. We need none; the rich can send their sons and daughters to the east and to Europe, but our poor are those whose interests we have to look after.

Mr. ELDREDGE. Mr. Chairman, this question that we have under consideration, being particularly in the interests of education, would naturally involve at least in an indirect, if not a direct way, all the educational interests of the Territory. I have a few items which I wish to submit briefly to this committee without any extended argument upon the question, that we might realize fully what our educational system has cost us during the last two years previous to the present. We find that the net revenue for territorial and territorial schools, for the year 1892, was $560,597.48. For 1893, it was $530,000, making a total of $1,947,000.48. Of this amount there went to the school fund direct—that is, to the public schools of the Territory, $654,358.49, leaving a balance to meet all other expenses associated with the territorial government of $436,238.99. There went indirectly in the interests of schools—that is, such as school superintendent and expenses connected with the office, to university lands and sundry expenses, which I have here in case anybody wishes to ask questions on it, the amount of $221,487.99, leaving only a balance of $214,751. That is to meet the expenses of the general government. Now, we find that system of procedure was gradually leading the Territory into the condition in which we find it to-day, with a bonded indebtedness of seven hundred thousand dollars and with a deficit of about one hundred and thirty thousand dollars.

It is apparent that we have either got to economize in our system of schools, or that we have got to increase our taxes very largely, because our borrowing capacity is now circumscribed to that extent that we only have two hundred thousand dollars more to go on. Now, let us look briefly into the history of the university. For the year 1892-3, there were normal students attending the university, 203; there were those in the preparatory department, 81; there were those doing university work, 84; making a total of 368 students in the university. There were then associated with the university, the deaf mute department, with 45 students, making a total of 413 students in the university for that year. The Territory appropriated ninety thousand dollars for the expenses of the university for two years. There was received by admission fees, $4,516, making a total of $94,516 to defray the expenses for those two years, which was equivalent to $226.43 per capita for the two years, or in other words, $113.21 to each student that was being educated in the university. The Legislature a year ago now appropriated sixty thousand dollars to the university. Some gentlemen will say that it was only forty-five thousand, but when you add forty-five to the university direct and fifteen to the deaf mute department, it makes the sixty thousand dollars. There were 216 normal students; preparatory department, 49; students doing university work, 81; making 347 students in the university, and 49 in the deaf mute department, making a total of 396 in the university. Now, the Legislature has appropriated sixty thousand dollars for the university, including the deaf mute department; they received in admission fees, $4,164, which gave them a sum of $64,164 to carry

the educational work, which was an amount equivalent to $162 to each student for the two years in the university. Then, they come forth and say that that is only just a meager amount. It is only barely keeping the institution in existence, and it is not sufficient to carry on the work. Now, let us compare the expense of educating one of those students in the university with that of one in the common schools. We find that that same year, according to the territorial school tax, it simply provided an amount of seven dollars per capita for the two years for each student in the common schools. It is, according to all information that I can receive from universities, and according to my best judgment, that it is impossible for the university of the State of Utah to be supported by direct taxation, and it has nothing in sight that we know of by which it is going to receive a sufficient amount of funds to maintain it from that source.

I opposed last winter in the Legislature very vigorously the idea of union, and I had my reasons at that time for so doing and I have them now, and I thought that the proper time had not come to take such a step. I thought that the conditions which surrounded us and the circumstances then that existed would not justify that body to form a union of the university and of the agricultural college, but in the progress of our history, I believe that we have reached a period now that we can grapple with that question satisfactorily, because we are in a position that we can handle other questions which needed, in my judgment, to be handled at the same time that this question of union should be handled, and I am satisfied that the same professors that have been employed there at the university or at the agricultural college could, with perhaps the addition of two, manage all the students that were in both institutions and thus would have relieved the Territory of a very great expense; and viewing it in this light and believing that the time had come that the question can be handled in its broadest sense, and that this measure can be treated in a manner that will meet at least with the approval of the majority of the people of the Territory of Utah, and to the satisfaction of those that are immediately concerned, I am going to cast my vote in favor of union.

Mr. GOODWIN. I would like to ask Professor Kerr a question. I believe there were thirty-six professors in the university and twenty-two in the agricultural college, that makes fifty-eight professors; their salaries last year were about fifty-five thousand dollars. Mr. McCornick tells me that the salaries have been reduced at the agricultural school, so that they will not exceed thirty thousand dollars this year and $22,850 at the university, making $52,850 —$1,400 apiece, in round numbers. How many of those professors could be done away with if the institutions were united?

Mr. KERR. That would be difficult to say, because I have not made a careful estimate. I could, however, in fifteen or twenty minutes make an estimate.

Mr. GOODWIN. I presume of course that some professors at the agricultural college are specialists in particular departments and would have to be employed here. What I mean to get at is how many of the classes of the agricultural school would be taught by the same professor in the university, if they could be combined?

Mr. KERR. I could give you an idea.

Mr. GOODWIN. That is what I wanted. I did not expect to be exact.

Mr. KERR. The classes in both institutions in the third year branch would be conducted by one man. The same is true in regard to third year German, the classes being small. There could be one man in mathematics; there could be one instructor at least in mathematics; there could be one instructor in English; there would probably be one professor

in chemistry, because in the advanced classes there are very few students. If the institutions were combined one professor could now do the work done by two. In history and political science the same would be largely true. I could not tell without having just the number of students of the different classes. There could be little reduction in the instructing forces in the preparatory department of both institutions, because the instructors in these departments have now practically all they can do and the classes could not really be increased. It would be in the advanced that a reduction could be made.

Mr. GOODWIN. Is it not true that preparatory classes are gradually passing away and the high school graduates gradually filling up the university?

Mr. KERR. It is the ambition of the university authorities and I understand also of the college to do away with the high school courses as soon as there are high school facilities. It is only a matter of necessity now.

Mr. GOODWIN. Of course you could not tell how many of these fifty-eight professors you think could be done away with?

Mr. KERR. Well, it would be six or seven, possibly ten.

Mr. GOODWIN. That would mean fourteen thousand dollars a year at the reduced rate they are working for now.

Mr. HAMMOND. Mr. Chairman, before this question is put, I want to state how I stand upon it, if I can tell. When the agricultural college was established at Logan I thought it was one of the finest things that could be gotten up for the education of our girls and boys to get a practical education. I was pleased with it, gratified with it, and at our late visit, as you may have heard of, visited the college and the grounds. We were entertained so delightfully, shown through all the different departments, and everything seemed to be going on so complete that I felt it was a good thing to keep the college there—the girls drilled for us—I felt shocked two or three times when they were going through their manual of arms. I felt committed that was the proper thing to do—keep these institutions separate. But, sir, I have continued in that frame of mind until this morning; when we heard the speech from Professor Kerr, I began to weaken and have kept weakening ever since, until now I am prepared to vote for union of these institutions and have one grand center for the Territory for all the counties to send their pupils and have them educated in the industrial arts, up to their highest point that education may aim at. Therefore, I felt to reverse San Juan for once and vote for union.

The question being taken on the motion of Mr. Anderson, the committee divided, and by a vote of 35 ayes to 34 noes, the motion was agreed to.

The CHAIRMAN. This amendment having carried, it will be unnecessary to put the other from the fact that this would take precedence and determine that question.

Mr. GOODWIN. Mr. Chairman, I move that the words, "state normal school," in line 5, be stricken out and added to the end of line 8, after "stations."

Mr. ANDERSON. Mr. Chairman, I will move an amendment to the amendment, by striking out the words "at one place," and insert "Salt Lake City."

The CHAIRMAN. The words "at one place" are not there.

Mr. ANDERSON. To fill the blank with "Salt Lake City."

The CHAIRMAN. This motion of yours is not at all germane to the motion of Judge Goodwin. Therefore, I will call the question on his motion first.

Mr. CANNON. Mr. Chairman, I am opposed to the motion to strike out and insert these words in the place indicated, for the reason that the state normal school should, I think, be connected with the university. I believe that for

all time, or at least for a great many years to come, the state normal school can be conducted in connection with the university for a very great saving. The cost will not be nearly so great. I think this is in accordance with experience of educators in recent times. I have here the report of the department of the national education association at its recent meeting, in Cleveland, Ohio. I do not desire to enter into a lengthy argument upon this, but this is the trend of modern thought upon this subject. Normal schools are connected with universities and the best results follow in that way.

Mr. GOODWIN. Mr. Chairman, I want to say that there is not an eastern state to my knowledge—there may be one or two exceptions, but I think not, but what have their normal schools by themselves. It is peculiarly a state institution, and my proposition is not to separate these things now—separate the normal school from the university, but to fix it so that if the Legislature, ten or twenty years from now, desire to do so, they can. They do it when they deem necessary.

Mr. SQUIRES. Why not leave the words, "normal schools," where they stand in the section and add the words to the other line?

Mr. GOODWIN. Well——

Mr. PIERCE. Cannot you make a proviso like this, "Provided that branch normal schools may be established in other places?"

Mr. GOODWIN. I do not believe in branch normal schools.

Mr. PIERCE. Well, then, still have it with the university.

Mr. KERR. If you would leave the "state normal school," in line 5, as it was originally, and then add after "stations," in line 8, "and state normal schools," I should support your motion.

Mr. GOODWIN. That is all right; I accept that.

Mr. THURMAN. Mr. Chairman, I move to strike out the section, and upon that I desire to be heard for a moment. I believe that this question ought to be left in its fullest extent to the Legislature. We are about to attempt to provide in this section that the Legislature shall never have any power to establish any department or branch of the university for any place other than the one place that we name here. Do we want to bind the Legislature of the Territory of Utah through all time to establish either department of the university at one particular place with the exception of the state normal school for instance, if that amendment should carry? Do we want to leave it so that the other departments and institutions that may hereafter be established by law shall forever be at one and the same place, where the school of mines is established? The fact of the business, Mr. Chairman and gentlemen, is simply this, we have been by this proceeding here catering to a sentiment that ought not to have had consideration by this body. I challenge the gentlemen on this floor to find any one constitution in the states of this Union, except Massachusetts, whose institution had already assumed vast proportions, amounting in value to millions and millions of dollars, and Idaho on the north—I say I challenge you to find where any other state or people in the United States, at the time of framing their fundamental law, have undertaken to declare that the institutions of learning of the state shall be at any particular place. I further make the point, gentlemen, that you will not find in any of the constitutions anywhere in the United States, anything to warrant the action that we have just taken—that is, to say in the constitution that there should be a separation of the institutions of learning. You will not find in any of the constitutions of the states in the United States that there is anything to warrant the idea that the constitution makers intended that the institutions of learning

should all be at one place or that any considerable proportion of them should be at one place.

The fact of the business is, gentlemen, the constitutions of the several states have left the institutions exactly as they found them, without confirming, without making any declaration that such and so shall always exist, but leaving it to the legislature in whose hands the founders of these states had supposed all the institutions of learning would be absolutely safe. What are we trying to do? We are trying to say here, perhaps centuries in advance, that these institutions shall be confined to some one particular spot of ground within the commonwealth yet to be determined, instead of leaving our Legislature to proceed and establish perhaps the principal branch of its university here in Salt Lake, as there is already a start in that direction, and leaving it in the course of time if it sees fit to establish another department or branch of the university somewhere south as a convenience for the people or somewhere north as a convenience for the people. It is proposed here to say that all of the departments except those that we expressly name shall be located at some particular place. But it has been said we must forever end this dissension between Cache and Salt Lake. The university does not belong to Salt Lake; the agricultural college does not belong to Logan, and it comes with very poor grace for either of those counties or the delegates of those counties to stand upon this floor or in the halls of legislation and assume for a single moment that they own any more rights and privileges in regard to those institutions than any other portion of the Territory. And, gentlemen, that very feeling and sentiment has had a tendency to create a prejudice in relation to this matter, and I want to say to you now, and I say it boldly, if it had not been for the last two or three years a contention going on between these factions in respect to these institutions, no one would have ever dreamed of standing up in this Convention and asking that the particular place for either the university or the agricultural college be named in the Constitution, because, as I have said to you before, you will not find a precedent for that anywhere in the constitutions of the states. The place is not named. The place is left to the legislature and history has shown that the legislature has generally taken the institutions as they have found them, on the ground where they were located before the constitution was formed, and they begin on making their grants and endowments from time to time as those institutions might need them. And so we will do in Utah, if it is left just as it is. The more we appropriate money the more the place takes a firm hold upon the people of the Territory, and the more loth we are to surrender that place, pull up stakes and commence anew. And so I say that this ought to go out, and instead of having this Convention here in order to gratify a sentiment from the north and a sentiment here in Salt Lake—a sentiment, gentlemen, which ought not to exist in relation to these matters. I say leave it to the Legislature and let the Legislature settle it when they get ready to settle it; it is more proper for them to settle it than it is for this Constitutional Convention to settle it, because if we undertake to settle it we are going to bind our Legislature upon this proposition hand and foot, and we will wish some day that upon this vital question we had left the Legislature a little discretion.

Mr. ELDREDGE. May I ask the gentleman a question? Did I understand you to say that the constitution of no state made the location of the university and the state capitol?

Mr. THURMAN. Well, I did not say anything about the State capitol.

Mr. ELDREDGE. The university?

Mr. THURMAN. I thought I excepted

Massachusetts, and I will except, if I did not, Idaho.

Mr. VARIAN. Massachusetts does not do it. It simply confirms it.

Mr. ELDREDGE. How about Wyoming?

Mr. THURMAN. Wyoming says the establishment of the university is confirmed, and we have said that by our vote on section 4.

Mr. THATCHER. Did I understand the delegate to say that there had been a rivalry between Cache County and Salt Lake on these institutions?

Mr. THURMAN. I have understood there has been a contention.

Mr. THATCHER. I have also understood that. Therefore, would it not be the part of wisdom for this body to stop it?

Mr. THURMAN. I do not think so. I do not think we ought to pander to that sentiment. I do not think because some delegates are contending for one thing in one part of the Territory and some have an opposite thing in another part of the Territory, that in order to decide that case between them, we should depart from the regular course in this Convention, in order to determine a squabble between two factions.

Mr. EICHNOR. Mr. Chairman, if it is desired to strike out the section, of course that cannot be foretold; I hope first that the amendment of Judge Goodwin will prevail, because that is in accordance with the Enabling Act, section 11. That presupposes that more than one State normal school should be established. That can easily be accounted for in this way. This Enabling Act is modeled after the various other enabling acts under which the western states have come into the Union. They were mostly prepared by eastern men. In the eastern states, the state normal schools number as high as ten or fifteen in a state. With all due respect to my friend, Mr. Cannon of Salt Lake, I will say, notwithstanding the fight that some men have made against the state normal schools, and I say to-day they are the institutions that are in touch with the people of the eastern states; they are the institutions that furnish the teachers for the states, and no matter what onslaught has been made on them they will flourish for many years to come. And that is the intent of this Enabling Act, when Utah is able to establish more than one State normal school—that is the object of granting one hundred thousand acres of land, and I think Judge Goodwin is right in line with the provisions of the Enabling Act.

Mr. ROBERTS. Mr. Chairman, it occurs to me, sir, that the objections urged by the delegate from Utah County, that the Legislature would be forever tied up in establishing branches of the university or agricultural college in other parts of the Territory, does not hold good if the amendment offered by the gentleman from Salt Lake, as to state normal schools, shall carry. Because if that amendment shall prevail, and I hope it will prevail, the Legislature will be at liberty to establish and to provide for the maintenance of state normal schools in other places than at the location of the university of Utah. I know not in what regard the gentleman from Utah holds the agricultural experiment stations, but my understanding is that they constitute a part and are branches or would be branches of the agricultural college, so that the Legislature would only be restricted in these matters of educational affairs to remove the agricultural college and the main department of the university from the location that this Convention may give them. Now, sir, I am not in favor of his amendment to strike out section 5, for the reason that I think we ought to settle this rivalry, if such you call it, existing between the county in the north and Salt Lake; not in the way of pandering to that feeling, or to cater to the sentiment which provokes it, but I think, sir, that we ought to

settle this question in the interests of our educational institutions, separate and apart from any sentiment of rivalry that may exist between these two parts of the Territory. It is not to mollify or not to meet the wishes of delegates from the north and the people of the north, that I favor settling this controversy, nor to cater to the sentiments and wishes of the people of Salt Lake City, that I wish to settle it, but it is in the interests of our educational institutions, which have been injured and are being injured and which will be injured in the future if this thing is left open to be agitated by future Legislatures, and for that reason I insist now, as I insisted before when discussing these propositions, that the time to settle this controversy is right here upon the floor of this Convention and now, so that these institutions at least may go to work with an assurance that they will be permanently located, and what means they have they can apply in the best manner for the furtherance of the interests of those institutions and can firmly rely upon this fact, that they will not be disturbed as to their location. And I urge gentlemen now to continue in the line that we have begun, adopt the amendment offered by the gentleman from Salt Lake; fill in the blank here as to the university; and also fix the location of the agricultural college likewise.

The committee of the whole then rose and reported as follows:

Mr. President, your committee of the whole beg leave to report that they have had under consideration the article on education and report progress.

The Convention then, at 5:14 o'clock p. m., adjourned.

FIFTIETH DAY.

MONDAY, April 22, 1895.

Convention was called to order at 9 a. m. President Smith in the chair.

Roll call showed a quorum present.

Prayer was offered by Attewall Wootton, of the Church of Jesus Christ of Latter-day Saints.

Journal of the forty-eighth day's session was read and approved.

File No. 376, signed by Andrew Funk and 35 others, from Brigham City, asking that woman's suffrage be submitted as a separate article to a vote of the people, by Gibbs of Box Elder, by request, was presented.

Mr. ALLEN. Mr. President, I wish to make a motion, and before doing so it will be necessary to make a few remarks. The Convention will remember that when we passed section 4 of the article on elections it was left in such a manner that the election for judicial officers would be as a separate election—separate and apart from all other elections. Since this was passed, I believe that a great majority of the members have considered that it ought to be changed. I have heard a great many express themselves to this effect, and in order to do this I presume it will be necessary to suspend the rules and reconsider, and therefore I will make a motion that we now suspend the rules and reconsider section 4 of the article on elections, and section 4 only.

Mr. SQUIRES. Mr. President, I do not believe that would be quite wise from the fact that there are so many absentees this morning. It would look something like taking snap judgment on those who are not present.

Mr. EICHNOR. It is not Mr. Allen's idea to press it to a vote this morning, I believe.

Mr. ALLEN. This will not interfere with the school elections in any way, nor with the municipal elections, but it will save the expense of this extra election. It was considered by those that favor the section as it was that it made the election non-partisan, but I have heard a great many of the members here express themselves to this effect, that they would not vote for a judge of

another party to be judge of their district. I believe that if each one of us had to bring it to ourselves and say whether we would be willing to vote for a judicial officer of the other party, I do not believe that there is scarcely a man here that would think that he was willing to do it. Therefore, it would be useless in my opinion to try and make it non-partisan. And this extra expense is something worth considering, and if we have got a few thousand dollars to throw away every few years, why, let us give it to the schools, where it will do some good.

Mr. GOODWIN. Mr. President, I hope that motion will be postponed until after the article on judiciary has been considered and adopted. I hope by that time my friend will see new light. Nearly all the lawyers are absent from the Convention, and some of them I presume would like to give their ideas before this thing is brought to a vote. In regard to the last remark of the gentleman, I want to say that if two gentlemen are running for the office of judge and one of them is a republican and I thought he lacked the essential qualifications for a judge, either in character, or ability, or in the character of mind that he possessed, and the gentleman on the other side, a democrat possessed, those qualities, I should not hesitate one second to vote for a democrat, and I think I am perhaps as strong a partisan as anyone in the house. The very idea of that election of judges on separate day was to withhold that office out of politics. There are some republicans who would make good judges; there are some others whom I do not think would make very good judges, but possibly we might vote for them to retire them, and as bad as the democratic party is, there is occasionally a democrat who would make a first class judge. It is the tendency of men to get on the bench politicians—men that run for a political office, that expect to put up assessments, to attend primaries, to rustle with the boys, and after this year, with the girls. I would keep the office of judge separate from all that. And certainly this motion this morning, inasmuch as there is no haste, and nearly all the legal profession are absent from the Convention, ought to be postponed. When the right time comes, I shall be glad to see it sprung and find out how this Convention stands, but not this morning.

Mr. HART. Mr. President, I think that this is a motion that is worthy of consideration. I think it would be well to leave it until some other time, and I therefore make a motion to lay the motion upon the table. It can be taken up by a majority vote at any time and considered.

The motion of Mr. Hart was agreed to.

The Convention then resolved itself into committee of the whole, with Mr. Ricks in the chair.

COMMITTEE OF THE WHOLE.

The CHAIRMAN. Gentlemen, we were considering section 5 of the article on education and school lands. There are two motions before the house, one of Mr. Goodwin, that state normal school be added to line 8, after the word "stations." The other motion is that of Mr. Thurman to strike out section 5.

Mr. MAESER. Mr. Chairman, although I am committed to the union of these both institutions, the university and the agricultural college, but as this has been voted down temporarily, I sustain Mr. Goodwin's amendment to take the state normal school out from that place, and put it where he has suggested it, for this reason, I am on principle opposed to normal colleges—normal training schools, being located in large cities. In normal training schools we are training teachers for our common schools. It is not only the knowledge that we require of them, and have to take into consideration, it is their character, their moral standing, which

is the greater part of their efficiency, because these teachers are expected to formulate or at least help formulate the character of the generation that is rising up.

If you place a normal college in a large city, where the young people of both sexes, after the exercises of the day are over, are not only entirely outside of the control of the professors and the faculty, but also are exposed to all kind of inducements, enticements, allurements, and influences of an exceedingly questionable nature, and wise governments have seen this point long ago, and wherever it has been found possible normal colleges have been located in smaller places, where the students of that college can be kept under measurable control, so that not only their intellectual advancement can be taken into consideration under the care of their professors, but chiefly and more so their moral standing, the development of their character. I would sooner trust my child to the exposure and expose her to any infectious disease and trust to the skill of medicine, or the faith within me, to rescue them from the snatches of death, than expose my child to the influence of an immoral teacher. And the majority of the parents feel like that. In order to know this and have that security that the children of our people are under the influence and guidance of teachers that can be trusted, we must have their training in such localities where we have the assurance, to some extent at least, that the young people there are free from those allurements which great cities are full of, and therefore, I sustain fully, if the union of the two institutions, which I sustain for financial reasons only and absolutely and only on financial grounds—there is another reason why I advocate a union of these two institutions, except a financial reason; if the union can be effected, then I strongly sustain Judge Goodwin's amendment and would do my very best to have also the normal college separated from the university.

The motion of Mr. Goodwin was agreed to.

The CHAIRMAN. The question is now upon the motion to strike out the whole section.

Mr. GOODWIN. Mr. Chairman, a great may of the delegates are absent, especially those more particularly interested in this particular section than any others, and I suggest to the committee that we pass for the time being and go on to section 6.

The CHAIRMAN. If their is no objection, we will pass that.

Section 6 was read.

Mr. GOODWIN. Mr. Chairman, this section refers directly to the preceding one, and inasmuch as it will be necessary to amend it in case the preceding one should be stricken out, I suggest we pass on to section 7.

Mr. PIERCE. Why would it need to be amended? I do not see any reason why it should be amended.

Mr. HART. Mr. Chairman, I think, too, we should pass that for the reason that while the section as it now stands would refer to the university of Utah and all the colleges that it might comprise, yet we might have to amend this if the two institutions are kept separate.

The CHAIRMAN. If there is no objection, then, we will pass section 6.

Section 7 was read.

Mr. EICHNOR. Mr. Chairman, I offer a substitute for section 7, "If through neglect, misappropriation, or any other contingency, any portion of the educational funds set apart in this article shall be diminished, or lost, the State shall replace such portion so diminished or lost."

Mr. PIERCE. Mr. Chairman, I do not see anything accomplished by that section that is not accomplished in section 7. Section 7 provides that the State shall keep the funds intact; that is all that is accomplished by Mr. Eichnor's

section. The purpose of section 7 is so that the State shall require its officers who handle the school funds to give proper bonds and that the State will assume the responsibility of suing upon the bonds.

Mr. EICHNOR. That is exactly what I am getting at. We want a constitutional guaranty that whenever this fund is diminished through any contingency whatever, the State will replace the fund, not only guaranteed them by the bonds and then suing on the bonds, when possibly the bondsmen are worthless. That is the point I want to reach.

Mr. PIERCE. What do you mean by the word "guarantee," in line 7—if the State guarantees them, is not its credit back of it?

Mr. EICHNOR. It does not state how it shall be guaranteed. They might guarantee by the bonds and then sue on the bonds, and then the bonds are worthless. This is a provision that has been formed under enabling acts like ours. This substitute is a little different, but, gentlemen of the committee, it simply comes down to this, whenever the educational funds enumerated in this article are diminished through any contingency whatever, there is the constitutional provision that the State must replace the funds. There is the provision in plain Anglo-Saxon. There is no chance for a quibble.

Mr. KERR. Mr. Chairman, I am opposed to the substitute for the reason stated by the chairman of the committee on education. If the State guarantees the school fund against loss, it makes no difference in what way the fund may be diminished. The State must make up whatever loss there may be, either through deflection or in any other way. And to specify the way in which the loss may take place and to state a way in which the State shall keep the fund intact, seems to me to be unnecessary. All we want is that the State shall guarantee the school fund against loss or diversion. I cannot see that the substitute covers any more ground than the section.

Mr. EICHNOR. Under section 7, how is it guaranteed? Why not say that immediately whenever there is a loss that the State will replace the fund? Then we are sure the fund will be safe through all the years to come.

Mr. KERR. I will answer that question by asking if it is not true that in this Constitution a provision is made that the State shall guarantee this fund against loss, that it is made mandatory upon the State to make up any loss without our stating the way in which it shall be done?

Mr. EICHNOR. Correct, Mr. Kerr; at the same time, does it not require a legislative provision in this to make section 7 operative, while the substitute gives us a constitutional guaranty that the fund will be replaced?

Mr. KERR. Is not it true that there will be a provision in the article or some other part of the Constitution making it mandatory upon the Legislature to enact such laws as will enforce all the provisions of the Constitution?

Mr. EICHNOR. That may be and may not. I am not on that committee, but if it is mandatory, you cannot force the Legislature to do it.

Mr. KERR. I would like to ask as to whether the substitute could be enforced without legislative enactment, any more than the original section?

Mr. EICHNOR. Well, Professor, if the Constitution guarantees it so plainly, if the Legislature wanted to violate the oath they take, why, of course, I presume they could do it.

Mr. BOWDLE. I want to ask Mr. Eichnor a question. Suppose the whole fund should be impaired and suppose that it should be drawn upon by the authorities and a portion of it used, which is prohibited here under your substitute, is it your idea that the State must replace that?

Mr. EICHNOR. Yes, sir; when the State lets this fund be diminished, through

negligence, or any other way whatever, I say it is the State's duty to replace it, because that is what we get the allowance for from Congress; that is exactly the point.

Mr. BOWDLE. If that is the purpose of the substitute and if it will work to that end, in case the State lets it become depleted by using any portion of it—that the State will make it good, I would be in favor of it, but I cannot see it in that light. Suppose you used a portion of the principal for the purpose for which the interest is intended, that would be a diversion?

Mr. GOODWIN. May I ask Mr. Eichnor a question? Suppose you were to endorse on the back of a note, "I hereby guarantee the payment of the within note," would it add any to the strength of the note to say, "and I will pay it myself if necessary." [Laughter.]

Mr. EICHNOR. No.

The substitute was rejected.

Section 8 was read.

Mr. MAESER. Mr. Chairman, I move an amendment to section 8; strike out everything after the words, "public instruction," on line 4, and substitute instead, "and such other persons as the Legislature may hereafter provide." The reason for me making this amendment is, the section as it stands now takes the appointment and selection of these officers constituting the board of education entirely out of the hands of the people, placing it in hands entirely beyond the people's control. I would like to have the people to have a word to say in this matter, that concerns them so very much, and the Legislature could from time to time as our circumstances change, the population increases, either add to or diminish, as the case may be, and the circumstances require, the number of persons constituting that board of education. That is the reason why I did not propose, in stating the number, leaving this also to the Legislature, so that from time to time that board of education may be as efficient as circumstances may require. I have considerable confidence in our Legislatures and a great deal of confidence in the people—in the sound judgment of the people. If mistakes are made, as they have been made and as they will be made again, they can easily be rectified naturally, but if it goes into the Constitution, it is a very difficult thing to rectify mistakes there.

Mr. PIERCE. Mr. Chairman, I am in favor of Mr. Maeser's amendment. This section was placed in the article at the urgent request of quite a number of people, but I find since examining the matter very carefully that they are not so particular about it as they were and it seems to me the section as it stands is rather too cumbersome, and it better be left to the Legislature. Of course, with Mr. Maeser's amendment, it leaves the superintendent of public instruction on the board. There is where he ought to be, and then leave the rest to the law.

Mr. KERR. Mr. Chairman, I move an amendment to the amendment by striking out the word "hereafter."

The CHAIRMAN. Will you accept it?

Mr. MAESER. Yes, sir.

The amendment of Mr. Maeser was then agreed to.

Sections 9 and 10 were read.

Mr. PIERCE. Mr. Chairman, I want to put in an amendment, insert the word "and," so that it will read, "institutions for the deaf and dumb, and an institution for the blind." The reason for this is that those two institutions have special grants made to them in the Enabling Act. As it is now stated, it would indicate that it is intended as one institution, whereas two separate grants have been made.

Mr. KERR. If the amendment prevails, it will be possible for the Legislature to unite these two institutions, will it not?

Mr. PIERCE. Yes; I understand that they can. They can be supported together, but the fund from the various

lands must be used in the line of the grant, that is all.

The motion was agreed to.

Mr. THORESON. Mr. Chairman, I move to strike out line 12 of that section, "secured by the State against loss or diversion." We find in section 7 that all public school funds shall be guaranteed by the State against loss or diversion. I think that covers the question.

Mr. PIERCE. Mr. Chairman, that would hardly do, for this reason, that in the Enabling Act there are three different grants for educational, charitable, and penal institutions. I think it is a question as to whether this school for the deaf, dumb, and blind, could be classed with the public educational system, and it seems to me that it would be better to leave the section in there as it is.

Mr. THORESON. With that explanation, I will withdraw it.

Mr. PIERCE. Mr. Chairman, I move that the word "secured," in line 12, be changed to "guaranteed."

The amendment was agreed to.

Mr. KIESEL. Mr. Chairman, I have an amendment to section 1. After "law," in line 2, insert, "and shall be located at Ogden, Weber County, Utah, provided that the city of Ogden furnish a site and necessary buildings free of cost."

Mr. HAMMOND. Mr. Chairman, I move to amend by placing it in San Juan.

Mr. KIESEL. Mr. Chairman and gentlemen of the committee, in support of this I wish to say that our people at Ogden are taking a keen interest in this institution, and we have a splendid site and necessary building, all of which we shall convey in fee simple, free, to the future State, as a gift from the city of Ogden, for the deaf, blind, and dumb. Now, I hope there will not be any one of you that will object to this, because this is a very generous offer.

Mr. SQUIRES. I would suggest as an amendment to that, instead of "free of cost," that it read "without expense to the State."

Mr. KIESEL. I will accept that.

Mr. BOWDLE. That would be a temporary matter, would it not? That it could be changed at any time by the city of Ogden. There is no fee to be given to the State under that provision; no property to be sealed to the State. It is simply to go over to Ogden, transfer their pupils, deaf, dumb, and blind, there, and Ogden is to furnish a place to take care of them; that is all there is of it. Now, if the gentleman will do something towards ceding to the State that property for that purpose, then, perhaps, I would not object.

Mr. KIESEL. I will second the motion to that effect.

Mr. BOWDLE. I am in favor of that proposition if that will be done.

Mr. HART. Mr. Chairman, it seems to me it would be as well to leave that; it seems to me it is trenching upon the proper domain of that to deal with the question of the location of the institutions that are assigned to them by the very formation of the State. I favor consideration of the question, but it would have to come up in the proper way.

Mr. L. LARSEN. Mr. Chairman, I move that the amendment be laid on the table.

The CHAIRMAN. The chair will rule that that motion is out of order.

Mr. RALEIGH. Mr. Chairman, I would like to say that an institution is located and built for the deaf and dumb in this city, and I do not see the propriety of naming some other place. Hence, I am opposed to the amendment.

Mr. LUND. Mr. Chairman, I am opposed to that going into this section for the reason that it seems to be a bargain—provided that something else is done that it shall be inserted in our Constitution. It does not seem to me it is finished. It ought, as a bargain, to be brought before the Legislature and see what they desire to do with it. It does

not seem that we have any guaranty here when we use that word provided. I would ask with, Mr. Kiesel's consent, if he can make it absolute that the city will cede?

Mr. KIESEL. If you second my motion for it, I say that they will make it absolute.

Mr. DRIVER. Mr. Chairman, this thing has come upon me very suddenly, but I have no doubt in my mind but what the honorable gentleman from Weber, Mr. Kiesel, is fully prepared to guarantee all that he has promised in the name of the city of Ogden, and it seems to me that it is a very generous offer. We have been discussing the matter of no revenues during the last three or four weeks when this Territory shall be admitted into the Union as a State, and the buildings will be necessary for this institution. Ogden City has offered this site and building free of cost. I think it is only right that this committee should consider the generous offer from Ogden City and endorse Mr. Kiesel's proposition and vote unanimously to establish this institution in the junction city. I think it is only right. I think it is due to Ogden City that this thing should be consummated. She has rights and claims; her generosity has been second to none in all her gifts towards establishing enterprises in the past, and I am sure whatever Mr. Kiesel promises with regard to this matter will be fully established and Ogden City will guarantee all that he has said. And I hope that his amendment will prevail and that this institution will be established in Ogden City.

Mr. CREER. Mr. Chairman, I am opposed to this amendment. I am opposed to this Convention entering into contracts with any local or sectional part of our State, by way of guaranty or otherwise in this manner. I think it is a very bad principle to introduce in our fundamental law, to say that by certain inducements or guaranties, we will establish any institution at any particular part of the State, but I would be willing in the course of my remarks —I suggest how I think it would be competent to amend this, that an institution for the blind shall be established and located as provided by law. That will leave it for the Legislature to locate it hereafter, but I think it is very bad practice indeed to say that we will enter into a contract or deal with Ogden City, or any other city of this new State, by way of guaranty or contract. I think it would be better to introduce that amendment, and therefore, if this should be voted down, I shall expect to offer that as an amendment.

The CHAIRMAN. I understand Mr. Bowdle does not intend to offer an amendment, therefore this would be in order.

Mr. CREER. Then I offer to amend so as to introduce after the word established "and located as provided by law."

Mr. SQUIRES. Mr. Chairman, before I vote on this proposition, I would like to ask the gentleman from Ogden, Mr. Kiesel, if the city of Ogden is now in possession of a site and building which are appropriate for such purpose or whether it is all in the air and to be provided later, and then what guaranty the State would have that buildings such as would be absolutely in keeping with the business and purposes of this section would be provided by the city? I agree with the gentleman from Utah, we are hardly in a position to make a contract with the city of Ogden, or with any other city along this same line. If a matter like that is to be put through, it seems to me that the Legislature would be the proper medium of doing it. Now, if the gentleman has any definite information that he can furnish to the Convention I wish he would furnish it, so that I can have something to vote upon.

Mr. KIESEL. Mr. Chairman, in answer to the gentleman's question, I want to say that there is a site in Og-

den known as the military academy, some ten acres of ground, beautiful buildings, it is suitable, much more so than the present place which the children now occupy, and the site is well known to the parties now having charge of the deaf, blind, and dumb institution; they are highly in favor of it, and there is a pathetic appeal from those children to have that transfer made, because they have got large play grounds there—ten acres, all nicely planted and it is a beautiful building, containing some sixty odd rooms, with all the necessary outbuildings, gymnasiums, shops and nice parade grounds, and campus, dining rooms, school rooms, everything just up in modern style, they could not get anything better. The children have petitioned for it. They want it. They are familiar with it, and the gentlemen in charge of the institution want it, and hope you will not hesitate a moment, because you will never get such an offer again in the world.

Mr. GOODWIN. In what does the title to this property lie?

Mr. KIESEL. The title just now is in a corporation in Ogden, and who are willing to immediately deed to the city. I have control of it.

Mr. DRIVER. I have a few hundred dollars in it.

Mr. GOODWIN. I would like to state an amendment to see if those gentlemen will not withdraw theirs—that the institution shall be established by law at Ogden. There is no bargain in that. Mr. Kiesel has given his word that it shall be done.

Mr. KIESEL. Yes; you can take my word. I will enter into a bond.

Mr. DRIVER. Mr. Chairman, I am a stockholder in that institution and I am willing to donate all I own in it.

Mr. GOODWIN. I would like to ask where this site is in Ogden?

Mr. KIESEL. It is right on a street car line, at a place near Five Points; within the city limits—a beautiful site.

Mr. SQUIRES. Out towards the warm springs?

Mr. KIESEL. It is within the city, perhaps two miles from the city hall, right on the street car line, with cars every fifteen or twenty minutes.

Mr. SQUIRES. In the direction of the warm springs?

Mr. KIESEL. In that direction, yes, sir.

Mr. BUTTON. I would like to know what the facilities are with regard to water at this place?

Mr. KIESEL. It has water works of its own, by gravity—plenty of water there for all purposes, and it is a model structure throughout. I think it cost thirty-five thousand dollars outside of the land.

Mr. CANNON. Mr. Chairman and gentlemen of the committee, I am in favor of the proposition of Mr. Kiesel. When we went to Logan the other day, I was told by our present governor that he had investigated this subject somewhat and he called attention to a proposition which was made I believe to the last Legislature or the one before the last, that affected this very proposition, and from the manner in which the governor described this institution to me and its location, I think it would be one well fitted for the institution named.

Mr. GOODWIN. Was that description going up to Logan or coming back? [Laughter.]

Mr. CANNON. The description I will state was coming back. [Laughter.] And while it was painted in pretty glowing colors, I am satisfied that I got the true meaning of the gentleman and shall favor the proposition of Mr. Kiesel.

Mr. THOMPSON. Mr. Chairman, if there is any doubt in regard to the proposition of Mr. Kiesel being made good, in the minds of the members, I will say that Fillmore is a very good situation for such an institution, and they have a building already erected

there at a cost of about fifty thousand dollars—a permanent, solid, rock building, with a hall forty by sixty and some sixteen rooms below, and an upper story. The hall is located in the building, and it is a very good climate, situated in the center of the city—near the center of the public square, and it is a very healthy location, and the water is very good in that part and the building already belongs to the Territory, and will be ceded I presume to the State. With some little improvements it can be made a very suitable building for that purpose.

Mr. SQUIRES. How far is it from the railroad?

Mr. THOMPSON. It is about fifty-four miles, but the prospects are that in the near future we will have a railroad.

Mr. EVANS (Weber). I would like to ask how old that building is you speak of?

Mr. THOMPSON. Well, it was built in an early day, but it is as solid to-day as it was the day it was built. It is built rather on the ancient style, but a little expense will do it.

Mr. IVINS. Mr. Chairman, I understand this is all out of order. There is no motion to take this institution down to Fillmore. I want to say in regard to the amendment offered by the gentleman from Weber, Mr. Kiesel, that this question was before the last Legislature; it was very carefully considered by committees and in committees of the whole, and they saw fit to take no action upon it. Now, these statements made by Mr. Kiesel, I do not regard as determining anything. He says the people in charge of the deaf mute institute here want to go to Ogden. We do not know whether they do or not. I am opposed to taking action in an important matter of this kind without more information before this committee than we have. I say, in connection with this, and gentlemen from Ogden well know it, that at the last session of the Legislature I favored this transfer because of the proposition that was made and I believe it to be a good thing; I believe that it may be done and probably will be done, but I contend, gentlemen, that we have no information before us here sufficient this morning to act upon it, and I therefore am not in favor of all these amendments. I believe it ought to be left just as it is.

Mr. EVANS (Weber). Mr. Chairman, I know that the proposition which Mr. Kiesel makes is one which is made in good faith. He is that kind of a gentleman, who, when he make a proposition will stand by it, and always does. There will be no difficulty at all about this matter. I, however, rather favor the amendment offered by the gentleman from Salt Lake, Mr. Goodwin, and I believe that Mr. Kiesel himself would agree to it. It is shorter, and it does not partake of the essence of making a contract in a Constitutional Convention, but simply fixes the locality where the institution is to go, and not only that, but it leaves it with the Legislature to establish it as provided by law, and if the Legislature should be convinced that the offer which was made in this Convention by Mr. Kiesel would not be fulfilled, the institution probably would not go there, but I know that all these propositions stated by Mr. Kiesel are in good faith. I have heard him talk about it many times. The military academy now is abandoned and the house is not being used for any purpose, and Ogden is desirous of making some use of that building. Mr. Kiesel is one of the largest owners in the building. He controls it, and he can do just what he says he will do. While I do not like the making of contracts in a Constitutional Convention, I believe that such contracts made by the Legislature are for the benefit of the State, and if I had my own way about it, I should locate nearly all these public institutions just in that way. That is to say, the locality that receives these institu-

tions, whether the deaf, dumb, and blind, whether it be the capitol, whether it be the university, or any other new institution to be established, I think the locality that receives the benefits ought to do more than the people at large. For that reason, when any proposition of this kind should come up in the Legislature I think it ought to be carefully considered. There is nothing improper about making such a contract there, but I would not like to make it here. I would like to ask Mr. Kiesel if he would not favor the amendment made by Mr. Goodwin?

Mr. KIESEL. Yes; I am entirely in favor of it.

Mr. EVANS (Weber). I would like to favor that.

Mr. ELDREDGE. Mr. Chairman, I think the matter that we have under consideration is one that we should think at least once about before we act. It involves considerable of a question. I am acquainted with the grounds in Ogden referred to, and have no doubt whatever but what every obligation that the gentleman from Weber has proposed here would be literally fulfilled if this Convention should feel like accepting his amendment.

The Legislature made a visit to Ogden last winter and looked over the situation there, and it was under consideration as to whether they should not secure the site proposed at that time to be given to the Territory and move the reform school on to that ground and take the two buildings situated on the ground where the reform school is now, for the deaf mutes and blind, and if all the institutions are going to be kept up, in my judgment, it would be a very excellent thing to accept the gentleman's proposition, if we were not in a Constitutional Convention, but in a Legislature. But the question arises here, there are a number of public institutions to be located, and shall we put them up and barter them off by auction or shall we take into consideration the locations that would be adapted for these particular purposes and the wants and necessities for establishing them where in our judgment we might see fit. Here is the location of a state capitol. There is to be a location of a territorial asylum, and of a university and of an agricultural college, and this that is under consideration, and shall we establish a precedent here that we are going to put these up at auction in order to determine the location, or shall the location be determined in the interests of the entire commonwealth, and according to the judgment and the discretion of the representatives of the people?

I appreciate the gentleman's liberality from Ogden, and as I say, I feel sure that he would fulfill it, but is it consistent and reasonable that we should accept it on this occasion? In my judgment, I say not. If so, it would be just as reasonable to us to say who will give the greatest amount towards establishing a capitol, or any other public institution that we might wish to establish, as it would to accept this proposition. It is not drawing wealth from any other surrounding country. It is only taking it from the people of the commonwealth, whether it is distributed over the entire commonwealth or draws from one section of the Territory. And to this mode of proceeding, I am utterly opposed, and so let us fix them. It matters not where it may be, if it is in accordance with our best judgment, irrespective of how much this corporation or this company would give or that company would give. I am opposed to the amendment upon these grounds.

Mr. JOLLEY. Mr. Chairman, I am opposed to the amendment to this section, and wish to give my reasons why I am opposed to it. One of them is that I do not think we ought to consider bids on these institutions. If we are going to consider bids I believe that Salt Lake City and Ogden will be able

to get all of them, the agricultural college not excepted. I believe, and I think, that we ought to establish those institutions so that they would not be agitated in the future in relation to removal and location and so on, but I think if we will remember and go back a little ways we will find that Salt Lake City has had the university and this institution that we are now talking about.

I am informed that the reform school was accepted by Ogden in preference to the agricultural college. Possibly I am wrongfully informed, but I have been informed by some gentleman on this floor, whose name I am not now able to remember, that understood the locations as they were made in times that are past. On the south, Utah County has an asylum. Now, there are the four largest counties in the Territory that have been dealt favorably with in relation to these State institutions. Sanpete County, although her vote was within sixteen as great as that of Cache, never has advocated for one of those institutions, up to the present time, while the chairman of the committee in the Legislature was from Sanpete County, and favored the location of the college at Cache County. But they wished to wait and come in their turn as being the fifth county, and I say, Mr. Chairman, we are not willing this morning that there shall be a second edition of these State institutions conceded to one of these four counties. We feel as though we have something to say upon this floor on this occasion, and we feel, although Sanpete has not offered to you a location for that institution and buildings equipped, we feel as though she has a right that should be considered here upon this floor, and we do not think that it is right for a county, because they have the means to offer those things, or for those things to be accepted and bartered off to the highest bidder. If so, I think that Weber County and Salt Lake County will be apt to get all those institutions. We have a beautiful climate, we have less wind in Sanpete County to-day than any county in Utah Territory. Our altitude is a little high, but the climate is very pleasant. We have for building material—we cannot be compared in Utah Territory for building materal. Our fuel costs us but a fraction over half what it costs in Salt Lake City to-day. Our water is good. I am opposed to the amendments that are made, and I have an amendment here, if it was in order, I would like to hand in. As I stated, while Sanpete County has not these inducements to offer before you to-day, for that institution, she has been in the past always willing and ready to do her part equal to any other of the counties according to her capital, and she will in the future do so, but she feels as though to day it is her turn to be considered upon this floor when we come to talk about the fifth State institution to be conceded and located in any part of the Territory. My amendment is as follows:

And permanently located in Sanpete County, the exact place of location left to the votes of the people of said county.

Why I say the exact location to be left to the voters of said county is, that we are differently situated in Sanpete County to what they are in Beaver County or Salt Lake County or Cache County. We have a half dozen or more large towns in Sanpete County that are nearly equal in size, and as delegates from that county we would feel that we would not be able to satisfy the minds of the people to state the exact location, but that can be left for the people to decide, and there are a half dozen or more good locations as there is in Utah Territory for that institution.

Mr. BUYS. Mr. Chairman, I am opposed to all of these amendments. I do not think that this Convention should enter into any private contract with any person in this matter. I do not think it is right that we should do so.

I do not think we ought to say any of these institutions shall be established permanently in this Constitution, but leave that for the Legislature. The Legislature may enter into a contract for the State if it sees fit, probably, and then proper arrangements might be made for the guaranties of the contract with the person or municipality who offered the bid, but I do not think that we ought to accept bids here for any locality for any of our public institutions. And I do not think that we should establish these institutions, but leave the section as it is here in regard to these institutions. I think we should leave it as it is here and then it can be established as the Legislature may see fit. I am opposed to all the amendments.

Mr. PIERCE. Mr. Chairman, I am in favor of leaving the section as it is, for two reasons. In the first place the school is well situated now and in good order. It has the proper buildings and is in good running order. It is all right to leave it as it is until another Legislature meets. This Constitution will be voted upon in November, and there will be only two months before the next Legislature meets, if the Constitution is adopted. Within that time, if the people of Ogden have a proposition to make to the Legislature, they have sufficient time to do it and there is nothing lost. I think it unsafe and unwise to amend the section as stated.

Mr. L. LARSEN. Mr. Chairman, I do hope that the amendment of the gentleman from Ogden will not prevail. I hope that this committee will consider this matter carefully before they vote upon it. Now, I have a word to say in favor of Sanpete County. It is the heart of this Territory. It is a more central point than any other part or location of this Territory. We are away south of Salt Lake and of Ogden, but it is the central portion. We have got no public institutions there, and to vote to-day to send another public institution to Ogden, when they have got the reform school to-day, I do not think is in harmony with the ideas and views of the people of this Territory, to shut off other parts who are as much entitled to a boon of this kind as they are at Ogden. We have facilities in Sanpete which are very good, and a good climate, and good water, and I have no doubt if inducements were needed but what they will be forthcoming. I have none to offer at the present time, because it is a matter that has not been talked over or considered, or, as it were, discussed, but as I say, if inducements are what are wanted, Sanpete will offer inducements, but I do not think inducement ought to cut any figure in this question whatever. I believe that these public institutions should be located where the proper places are, and this should be left to the Legislature to do, that you let them select the places and divide up these institutions properly so that they give general satisfaction to the whole people and not put them to one side, all of them, and leave those as it were alone, without any of those institutions. This will not give satisfaction in my humble opinion, and I therefore appeal to the members of this committee to consider it carefully when they vote upon this. I hope it will not prevail. I am in favor of leaving the section as it now stands, and then leave it for the Legislature in future to divide up those institutions as best they may according to their wisdom.

Mr. MURDOCK (Beaver). Mr. Chairman, that you might not overlook the best location, I desire to say a word. It is quite presuming to occupy the time of the committee, but hence, as there have been different locations pointed out in the different parts of the country, I wish to call your attention to the fact that Beaver County possesses to-day the best facilities for any institution that I know of, barring one item, and that is railroad communication. It is thirty-two miles from railroad commu-

nication at the present time. But aside from that, I have in my mind in Beaver the best place that can be found for an institution of this kind, or in fact for most any other institution that we have in our mind.

Mr. THURMAN. You have got your buildings already made?

Mr. MURDOCK (Beaver). And we have got the buildings already made, and we have got every facility with the exception of the railroad communication, and that is Fort Cameron. It is suitable for any number of pupils of any institution, either agricultural or deaf mute or university, or any other institution that is necessary for the people to have in the community, and that is Fort Cameron. It has the buildings ready for the schools of any kind and the boarding houses for those that are there to take charge of the pupils. And so far as a stream of water is concerned, I want to say to-day that it has the best stream of water in Utah for its qualities—for its qualities, understand me. There are other fine streams, I realize, but when it comes to the quality of the water there is no stream in Utah that I know anything about that is equal to it, and it has a perfect forest up and down the stream and there is every facility that would make a lovely place for an institution of learning.

Mr. NEBEKER. Mr. Chairman, I do not come here with a proposition from Rich. I stand with Mr. Kiesel on this proposition, and I want to call attention of the gentleman from Sanpete and the gentleman from Beaver to the fact that if they leave this to future Legislatures, they want to keep their eyes on Rich, because Rich is liable to get away with the plum. We had better settle it now and give it to Ogden.

Mr. LUND. Mr. Chairman, I submit that Judge Goodwin has made the only amendment to this section that ought to be considered. Mr. Kiesel has made a good bid, and gentlemen of the Convention, if you are ready to accept bids do not stop when you have just heard the first bid. We will bring you a bid from Sanpete, if bids are acceptable before this honorable body. That is, if you will give us two days' time.

Mr. THURMAN. Have all the time you want.

Mr. LUND. It would be very unwise to accept the first bid when you go into the bid business. There is one great advantage, though, perhaps of uniting it with the reform school. The deaf and dumb would not see nor they would not hear the bad example of those that are in the reform school.

Mr. KIESEL. I beg pardon, they would be miles apart.

Mr. BUYS. Mr. Chairman, I move that we advertise for bids and adjourn for four months.

Mr. CANNON. Mr. Chairman, I simply wish to state my position on that. I do not want to be misunderstood. In approving the amendment stated by Mr. Kiesel, I do not wish to approve his offer or anything of that character. I simply desire to state from what I had heard that the site was suitable, not that his offer was acceptable or anything of that character.

Mr. HAMMOND. Mr. Chairman, I am satisfied that the gentleman from Weber, Mr. Kiesel, is abundantly able and willing to make good every proposition that he has made in relation to this school and taking it to Ogden. I know him to be a democrat. Democrats generally keep their word. [Laughter.] When it comes to speaking, as my young friend here from Sanpete says, why San Juan is strictly in it. [Laughter.] It would take me too long to enumerate the inducements that we would offer for this public teat to go to San Juan. The gold, the silver, the iron, the lead——

Mr. PRESTON. The Indians.

Mr. HAMMOND. And the Indians thrown in. Now, let us take it to San Juan.

The amendment of Mr. Creer was rejected.

The question being taken on the amendment of Mr. Kiesel as modified, the committee divided, and by a vote of 18 ayes, noes not counted, the amendment was rejected.

Mr. Jolley then offered the following amendment:

And permanently located in Sanpete County, the exact place of location to be left to the votes of said county.

Mr. LUND. Mr. Chairman, in Sanpete County we are so situated that there are three cities of about the same size. I do not wish when the gentleman has asked for Sanpete County, to make it more specific for any other reason than to save the people a great deal of trouble and a great deal of campaigning, and such work down there that will create disturbance and ill-feeling, and as Ephraim is the geographical center of Utah and of Sanpete County, I would like to amend that motion by striking out that which provides it shall be located by the votes of the people, and have this Convention locate it at Ephraim City.

Mr. THURMAN. Which block?

Mr. VAN HORNE. Mr. Chairman, I have one objection that occurs to me as fixing the location in Sanpete. I do not think it was an inspiration but it just occurred to me, our deaf mute and blind started into life under very great disadvantages. They had to be peculiarly industrious in order to attain the same measure of education that a man would who had all his senses. They could not be idle and do anything of that sort, and I remember reading in the good book that Ephraim was joined to his idols, and if it be there, I am afraid they would not succeed.

Mr. LUND. Mr. Chairman, I desire, with the consent of my second, to withdraw the amendment that I made.

Mr. JOLLEY. Mr. Chairman and gentlemen, I trust that you will consider this amendment favorably. I believe this is the first time in the history of Sanpete County that she has asked for anything of the kind, and as I stated before, she has been willing in the past to concede to her older sisters those merits first, and as you are aware, we have other institutions here to locate, so there will be no county robbed that is her senior and her superior in number, but we have felt, and this is not under the impulse of the amendment that I make these assertions, but as a county we have felt that our turn would come in next in having a permanent location of one of the State institutions in our county, and I trust that you will now consider this amendment favorably inasmuch as there will be, or is in the minds of the delegates at the present time, quite generally that there should be a permanent location designated by this body of men for these State institutions that the unrest may be done away with in future time. We think that we ought to be favored at this time and we ask only from you as you would like in the same situation. I trust that you will vote one and all for the location of that institution or those institutions in Sanpete County.

The amendment of Mr. Jolley was rejected.

Mr. HART. Mr. Chairman, I move to strike out the word "law," in the second line, and insert the words "this Constitution." I think, Mr. Chairman, that this Convention should take hold of the question of the location of such of these institutions as we can locate now, and forever settle the question of the location of them. I think we should locate the institution for the deaf, dumb, and blind, the university, the agricultural college, and such institutions as we can locate.

Mr. EVANS (Utah). Mr. Chairman, I am opposed to that motion for the reason that I cannot see what it will amount to. If we fix a permanent location there is no need for it, and if this Convention has decided not to fix that

location, then it ought to be left in there, and I believe this Convention will decide that that location is to be fixed, but it will be left to the Legislature just as provided by the report of the committee, and I hope it will so be decided.

The amendment was rejected.

Mr. MURDOCK (Beaver). Mr. Chairman, I move that the location be in Beaver County, at Fort Cameron. There are more advantages—and I will call upon any man that has ever visited the place to bear me out in what I am going to say. There is not such a place in the Territory of Utah for every facility with the exception of the railroad communication, in every particular, barns, and buildings of every description, that can be taken possession of at once.

Mr. THOMPSON. Mr. Chairman, I bear testimony to what Mr. Murdock says [laughter] in regard to that matter. If I was not an honest man I would say, except Fillmore, Millard County, but I cannot conscientiously say that Fillmore, Millard County is ahead of Mr. Murdock's proposition and place. His place certainly beats any place that I have seen in Utah Territory for such an institution.

Mr. ROBISON (Wayne). Mr. Chairman, I am opposed to this whole matter. We have been discussing that now for two solid hours, and it does not amount to one straw. We should leave the whole thing to the Legislature, and I think we should dispense with this matter and proceed to business and lose no more time.

The motion of Mr. Murdock was rejected.

Mr. VARIAN. Now I suggest, gentlemen of the committee, that you change the reading of that section and say instead of "shall be established by law," "are hereby established," to save all question about that, and let the subsequent orthography of institution wherever it occurs be put in the plural.

Mr. GOODWIN. Would not an amendment be proper by leaving out the word "and," so that it will read, "institutions for the deaf and dumb, and blind," etc.? I haven't got the right words, but simply to leave off the word and, and have the sentence begin, "institutions," and then read as it originally was printed.

Mr. VARIAN. I suggest that in accordance with that suggestion it read this way, "Institutions for the deaf, dumb, and blind are hereby established," and let the word "institution," in line 10 of page 4, read "institutions." That can be corrected by the committee on compilation.

Mr. HART. Would not it be well to leave the words "for the" in there also, so that it will read, "Institutions for the deaf, dumb, and for the blind are hereby established?"

Mr. VARIAN. I will write it out.

The CHAIRMAN. We will consider section 11 while Mr. Varian is preparing his amendment.

Sections 11 and 12 were read.

Mr. Varian offered the following amendment to section 10:

Strike out line 1 and line 2, and insert so that it will read, "Institutions for the deaf and dumb and for the blind are hereby established."

The amendment was agreed to.

Mr. VARIAN. Mr. Chairman, I now ask that section 2 be taken up that was passed the other day. I offer this amendment in accordance with the discussion the other day: add at end of section the following, "Provided that high schools may be maintained free in all cities of the first and second class now constituting school districts, and in such other cities and districts designated by the Legislature, but where the proportion of school moneys apportioned or accruing to any city or district shall not be sufficient to maintain all the free schools in such city or district, high schools shall be supported by local taxation." I ask leave to withdraw the amendment I offered the other day and substitute this in its

place. This seems to cover all the objections that were raised. It means just this, that every city or district shall be entitled of course to its proportion of the school moneys arising from the general taxation and from any other source that it may be provided for, and such city or district may use that money so apportioned, and the entire district for the maintenance of the whole system, but where it shall be insufficient to provide for the whole system, then and then only shall the high school be maintained by local taxation.

Mr. THORESON. Mr. Chairman, I submitted an amendment to that section, providing for local taxation for the support of high schools. I now withdraw that, as this amendment covers the ground.

Mr. THURMAN. Mr. Chairman, this seems to meet the objection raised by some gentlemen on this question. But it hampers the Legislature in one respect wherein I think it ought not to be hampered. The time might come in Utah that even our high schools might be supported by public taxation. And this amendment has a proviso to it that it must be by local taxation if the ordinary fund is not sufficient. I am inclined to vote for the amendment, but I shall oppose hampering the Legislature.

Mr. HART. Mr. Chairman, I am in favor of the amendment that is proposed by the gentleman from Salt Lake. My only opposition to his proposition in the first place was on account of the uncertainty to the distribution of the school fund. I think that uncertainty is entirely removed and I would have no opposition to the high school system on which I made my objection in the first place. I think now it is clearly referred to each district to say how their fund shall be used. If they want to use a portion of it for high school purposes and raise an additional fund by local taxation, they have that right.

Mr. JOLLEY. I want to ask Mr. Varian a question. How would it be known whether there would be a deficiency? For instance, here in Salt Lake City in the past you would have out of the school fund enough to run high schools. In the far out districts and scattered settlements, where there are but a few in a place, even up to the present time, they have not been able to have the school during the whole year; where could that point be drawn?

Mr. VARIAN, The gentleman is mistaken. We never had money enough here to run high schools or the public schools. We have had local taxation and we have had to borrow money.

Mr. JOLLEY. Partially, I mean.

Mr. VARIAN. I will say my design was to leave the matter so that the outside districts can do as they please. We do not want to tread upon their toes in this matter. I drafted that as nearly as I could in accordance with the suggestion made by the different members that we might have this proviso, leaving it open to the Legislature from time to time as occasion might warrant to provide for high schools in other districts when they want them there. It seems they do not want them there now and are not able to keep them up.

Mr. THURMAN. Do you understand that any Legislature in the future, if they find the State has ability to support high schools by taxation generally, can provide for them?

Mr. VARIAN. I have not considered it from that standpoint. My mind was directed entirely to the objections made.

Mr. Varian's amendment was read.

Mr. THURMAN. I have no objection to that.

Mr. MAESER. Mr. Chairman, as the amendment of Mr. Varian fully satisfies me in regard to the common schools, I give my full consent to that also, and I vote for it.

The CHAIRMAN. The chair would like to ask Mr. Ivins if he has withdrawn or wishes to withdraw his

amendment to the original motion of Mr. Varian?

Mr. IVINS. I was not aware that I had an amendment to Mr. Varian's motion. I will state that I understood when section 2 was passed on Friday that the proposed amendments were passed with it, and the section would come before us without any amendment at all this morning for consideration.

Mr. VARIAN. You withdraw your amendment?

Mr. IVINS. Yes, sir; as I understand, it was withdrawn.

Mr. BOWDLE. I want to ask Mr. Varian one question. I do not know whether I understand the amendment fully; suppose there should only be a partial deficiency in the fund, there would be in other words sufficient funds to partially support the high school from the general fund, is that applicable to the high school?

Mr. VARIAN. I understand, Mr. Chairman, the purpose of this amendment is to permit all the moneys going to any school district to be applied to the public school system—the free school system, or to speak more precisely, to the free schools in the public school system. If in any case such moneys coming from the State or the county or from any other source which may be provided for shall be insufficient to maintain all of them, then the high school shall be maintained either in whole or in part by local taxation.

Mr. BOWDLE. That is the point. As I understood the amendment, if there was a deficiency in the fund, although there might be enough to partially support the high school, then the high school was to be supported.

Mr. VARIAN. As I understand, that is left to the district.

Mr. MALONEY. Mr. Chairman, I just wish to say that the people of Ogden think a great deal of their high school up there and they want it preserved.

The amendment of Mr. Varian was agreed to.

Mr. PIERCE. Mr. Chairman, I move to amend the section by inserting at the beginning of the section the words, "until otherwise provided by law."

Mr. GOODWIN. Mr. Chairman, I was going to make that motion and in connection with it another that a new section after the word university, in line 4—that the words after university, in line 4, may be made a new section. The motion of Mr. Pierce is all right because this limits the Legislature to establishing certain schools and does not give them any permission to establish any other. It is necessary to do it, because at present kindergarten schools cannot be established. There is no money, no houses, and there are neither means nor places for establishing kindergarten schools. Under this, without Mr. Pierce's amendment, the Legislature would be unable to establish them. I move as an amendment to Mr. Pierce's motion that the section be divided and what follows the word university be made a new section.

Mr. PIERCE. I am willing to accept that.

Mr. VARIAN. Mr. Chairman, I hope that neither amendment will prevail. I object in behalf of our high school here to leaving that matter open at all. We want to have it fixed just as we have it, leaving it to the Legislature to determine the question, and the outside when it shall be ready for it. Now, while it is true that in this section the division is made as to what school shall be free and what not, and what shall constitute the public school system, still there are no other schools as we understand it anywhere that become a part of the general rule of the public school system. There are the common, the primary and grammar schools, the high schools, and the kindergarten. We do not wish to have this matter left open to be continually annoyed by applications made to the

Legislature in aid of schemes and features which may be very good for other localities. We have established our system here at great expense, and I understand that Ogden is in the same situation, and as we have gone through this two or three times, heard all the suggestions that were to be made upon it, and we have endeavored to conform to the suggestions of the members of this Convention in the proviso that has just been adopted, now to practically undo it is what we object to. If we are going to fix it in the Constitution at all we would like to have it fixed permanently.

Mr. SQUIRES. Mr. Chairman, if, as Judge Goodwin suggests, all after the word university is put into another section so that the words of Mr. Pierce's amendment shall only affect the first section, would that have that effect?

Mr. VARIAN. It strikes me the Legislature might then strike out high schools entirely as a part of the public school system. If that is not a power given to the Legislature by this proposed amendment, what is the purpose of it? To strike out high schools entirely and strike out kindergarten, that can reduce the public school system to the primary or the grammar, or both.

Mr. ELDREDGE. Do you understand from this section that no other schools could be included than those enumerated?

Mr. VARIAN. As it stands?

Mr. ELDREDGE. As it stands.

Mr. VARIAN. That is the way I read it.

Mr. ELDREDGE. The word include—does that signify that it limits it to that?

Mr. VARIAN. Possibly they might be required to have these schools and might add others. I have not considered it from that point of view. Possibly that is so. If that is so, it obviates my objection—no it does not either; there is no necessity for it.

Mr. GOODWIN. Mr. Chairman, I was going to say I thought I could fix this. Thirty years ago people knew nothing about kindergartens. This is a great feature now. Perhaps in twenty years there will be some other great feature. Under this section as it reads, I do not see how it could be provided for at all. So I will withdraw my amendment to Mr. Pierce's amendment and I will offer as an amendment that the words, "and such other schools as the Legislature may establish," be added after the word university, in line 4.

Mr. VARIAN. That is all right.

Mr. PIERCE. I will withdraw my amendment and accept that.

Mr. KERR. Mr. Chairman, the section as proposed to be amended would not be particularly objectionable to me, but the section, as it now stands, would include, as Mr. Varian stated, all possible grades of education. The kindergarten begins with the children two or three years old, the university receives students all the way from fifteen years up to a hundred, if persons of that age desire to enter. If it is desired to establish any technical schools, they would come under either the high school or the university, if they want any school that would either be the grammar grade or the high school grade, or the grade corresponding to the work in the university. There is no possible grade of educational work which would not come under one of the four subdivisions in this section as it now stands. We give here the Legislature all the latitude that can be desired. As I stated, because any kind of a school, technology, night school, normal school, or of any grade, can be established and come under one of these four subdivisions. I do not particularly object to the amendment just proposed, but I think it entirely unnecessary, as I believe that the Legislature is given all the latitude needed as the section now stands.

The question being taken on the motion of Mr. Goodwin, the committee di-

vided, and by a vote of 36 ayes to 34 noes, the amendment was agreed to.

Section 5 was read.

Mr. PIERCE. Mr. Chairman, I move you that the blank be filled up by inserting Salt Lake City.

Mr. KERR. Mr. Chairman, I understand that there was a motion before the committee yesterday, offered by the gentleman from Utah County, to strike out section 5.

Mr. VARIAN. Suppose the motion fails, then the judgment of the house would be that it stands just as it is. We ought to perfect it in accordance with the will of the house.

The CHAIRMAN. The chair will entertain motions.

Mr. THURMAN. I understand, Mr. Chairman, that to be the rule. I admit that I am not a parliamentarian, and the gentleman is, but anything that leads to an absurdity is not even parliamentary law. Now, the truth of the matter is here that we are amending and perfecting this section. A motion is made to strike it out. Is it not possible that another section can be put in in the place of it, after this is stricken out, or if this motion to strike out fails, is it not possible that we can still amend the section by changing the wording of it in some way?

Mr. VARIAN. I say it is possible, if the house, by a two-thirds vote, overturn the rule of parliamentary law, just as it will be possible on the final passage of the Constitution here to still change it by suspending your rules. I have the authority for it if the gentleman wants it.

Mr. THURMAN. I do not ask for authority. When the gentleman states anything upon his word, that settles it with me on this floor, but I hope that the amendment will not prevail. I will say frankly, I am not opposed to Salt Lake City having the university, but what I am opposed to is that every institution of learning, every department, shall be forever fixed and located at any particular place. For that reason I move to strike out the section. I believe that the university as it now exists is fixed by section 4 at Salt Lake City. I believe that the agricultural college is established at Logan by section 4, and I think that at that point this Convention ought to rest; that if some future Legislature should desire to establish a branch or a department of learning, a part of the university, and locate it in Sanpete or Saint George, for convenience of the people, but under the management of the university, that it ought to have the power to do so. For that reason, I am opposed to it. Now, gentlemen, look at this as it stands. Section 4 provides that the establishment by existing laws of the university of Utah and the agricultural college is hereby confirmed. The existing law establishes the university as it is in Salt Lake City. That is hereby confirmed. Existing law establishes the agricultural college at Logan. That is hereby confirmed. There I say this matter ought to end, and section 5, which undertakes to say that every institution that ever may be established hereafter by future Legislatures, to the end of time, shall be located in some one place. And I say, gentlemen, that this Convention in my opinion does not want to do anything of the kind. Now, that is my position, made broad and plain, and consequently I stand on that ground. I have no objection to the university as it stands being in Salt Lake. I have no objection to the Legislature, if it should desire in the future to add every other department of learning here to that university and locate it here, but leave it to the Legislature, and not bind them hand and foot as we are trying to do.

Mr. CANNON. Mr. Thurman, do you understand that the word establishment as here used would also be interpreted to locate, and the two words are synonymous as applied here?

Mr. THURMAN. It would depend al-

together on how the law reads by which they are established. Now, my recollection of the law—I have not recently read it—is that these institutions are located at particular places by existing law. Now, that is as I understand it.

Mr. CANNON. I would have placed a different interpretation and asked your interpretation, because I desired to know how a lawyer would do that. You notice that in section 5 the term establishment is also used as well as the word located, making a distinction between established and located. I would like to know how the lawyers of the Convention view that, whether section 4 does fix the location as well as the establishment of the institutions.

Mr. THURMAN. So far as I am concerned, gentlemen of the committee and Mr. Chairman, if there is any misunderstanding in section 4, you may insert the word location before establishment, and leave out these terms that are unnecessary; that fixes it.

Mr. SQUIRES. If section 4 should pass as amended by you, do you think the power would then lie with the Legislature to change that location afterwards?

Mr. THURMAN. Well, I had thought not. I won't say positively that it might not be construed otherwise, but I do not see any use of confirming the location, if that does not mean that this Constitution fixes it there. If the word confirmed does not have that meaning, then what meaning can it have? But, gentlemen, speaking in my individual opinion, I do not care what form of language you use. I make my point that all future institutions—the deaf, the dumb, the blind, and everything that we have not now expended a large quantity of money to build up to a certain point, should be left to the Legislature, and for that reason—we have spent money for the university, let us have the university as it is by existing law, but if the Legislature wants a branch or department somewhere else, leave it in their power to do it. It seems to me that is the common sense way.

Mr. VAN HORNE. Mr. Chairman, the only suggestion I have to make—if there is any question about the establishment of different branches of the university at other places, it might readily be obviated by an amendment to the proviso of section 5 and striking out the word "agricultural" and leaving it experiment stations.

Mr. VARIAN. Mr. Chairman, I quite agree with Mr. Thurman on the general proposition that it would neither be wise nor right to absolutely now locate all future institutions of learning that might be provided for by law, and I am inclined to think with him that section 4 accomplishes the purpose he suggests. I want to call attention to section 6 also in connection with this. That section is attempting to deal with the grants of land by Congress to these several institutions, and it assumes that all these institutions, as I understand it, are to be consolidated with the university. Is it not true that section 6 would have to be remodeled and reformed in accordance with that, if section 5 is to come out?

The CHAIRMAN. The chair will state that we passed section 6 pending the amendments to section 5.

Mr. VARIAN. Well, I think it ought to be read and considered in the matter now before the committee. I am not prepared to make it myself, on the first inspection of it. I prefer to have time to look at it.

Mr. KERR. Mr. Chairman, this brings up one of the most important subjects that comes before this Convention, and no doubt before it is finally acted upon by the committee will lead to a little discussion. It is already after 12 o'clock, and I therefore move you that we now take a recess until 2 o'clock.

The committee then took a recess until 2 o'clock.

AFTERNOON SESSION.

The committee met pursuant to adjournment and resumed the consideration of the article on education and school lands.

Mr. HART. Mr. Chairman, I am in favor of striking out section 5. I think that section 4 as it stands, or as it may be amended, is sufficient on the question of location. While I am willing to vote to insert Salt Lake City there in case the section shall stand, when it comes to the striking out of the section I shall vote to strike out the whole section.

Mr. KERR. Mr. Chairman, I trust that all these amendments will be voted down and those two sections may be stricken out. I favor striking out the section entirely.

The question being taken on the motion of Mr. Pierce, the committee divided, and by a vote of 21 ayes, noes not counted, the motion was rejected.

The CHAIRMAN. The question now recurs upon the motion of the gentleman from Utah County to strike out the entire section.

Mr. VARIAN. Mr. Chairman, it might be well to have an understanding as to just what the condition of the law is. It was suggested to me this noon and I brought down the statute in order that we might reach a conclusion as to striking this out. The university was established in 1850 and located at Salt Lake City. In 1892 the act was amended, not repealed, by changing the name. (Reads.) The school for deaf mutes was afterward established, as a department of the university, and the act provides that until separated therefrom it shall remain as a part of the university. In 1894, a school for the blind was established in connection with the institution for the deaf mutes, under the control of the same board. It seems that as the law now stands the school for the blind and the school for the deaf mutes are together and form a department of the university of Utah. And with the university of Utah, they are located at Salt Lake City. The question is whether there is any necessity for section 5. That would depend upon the true interpretation of section 4. There seems to be some doubt and uncertainty in the minds of many as to what the true interpretation of the language of section 4 would be, that is, whether the words "the establishment" by existing laws are sufficiently comprehensive to include the location of the university. To meet that objection it is suggested by the gentleman who makes the motion to strike out that he would favor the insertion of more positive, definite language in connection with the words "the establishment." That being so, it would seem that if we entertain the view that Mr. Thurman does, that we ought not to provide definitely and permanently for all other institutions that may be provided for by law—that is, institutions of learning as to their permanent location at any one place, but that section has no useful purpose to subserve and ought to be stricken out. So far as I am concerned, as it appears to me now, at least, it seems to me that we could safely strike out that section.

Mr. CANNON. Mr. Chairman, I am in favor of striking it out.

The motion to strike out section 5 was agreed to.

Mr. CANNON. Mr. Chairman, I move that we strike out section 4. I believe it should be stricken out for the same reason that the other is stricken out.

Mr. HART. Mr. Chairman, that was the question that we argued the other day, and I think that by all means this Convention should settle now the question of location. If there is going to be a union, let there be a union by the vote taken the other day. Make the location by all means. I think we owe it to the people to settle this question. If you leave it to the Legislature, it will

be unsettled. It is just as well settled now as it can ever be by the Legislature, for even if the Legislature takes further action, it will always be subject to change by some other legislative assembly. I do not think that this section should be stricken out. We considered this question very fully the other day and determined upon leaving it there. I think that this Convention owes it to these institutions and to the people to settle for them those questions.

Mr. ROBERTS. Mr. Chairman, the section, I think, under the ruling of the chair, is still open for amendment notwithstanding the motion to strike out.

The CHAIRMAN. I think so.

Mr. ROBERTS. Then I would amend the section by inserting the words "after the" in the first line, the first word, and insert "location and," and at the end of section 4, I would add the word "respectively."

Mr. BOWDLE. I want to ask Mr. Varian a question. I have not had the opportunity to look into the location of the agricultural college. Is there any statute upon the location of the agricultural college or any United States statute fixing it?

Mr. VARIAN. It was located, Mr. Chairman, in 1888. That may have been amended. It has been recognized as being at Logan in the several appropriations that have been made.

Mr. BOWDLE. Under your amendment, Mr. Roberts, as you have it, do you think if it is adopted the college should be changed from its present location up to the place that has been ceded by the United States government?

Mr. ROBERTS. Do you mean the college or the university?

Mr. BOWDLE. The university, I mean.

Mr. ROBERTS. I think, sir, that it could be transferred.

Mr. BOWDLE. Mr. Chairman, it is a question I had not looked into.

Mr. ROBERTS. I cannot say that I have looked into the question either, Mr. Bowdle, and therefore, I have no special information about it.

Mr. FARR. Mr. Chairman, I do not think there is hardly a dissenting voice at the present time in regard to the location of the university being at Salt Lake City, whether it be on University square or up where the government has appropriated for it. I should be in favor of having it so that it can be moved up there and everything pertaining to it, where the government has appropriated the land. I think that is the most suitable place for the extensive improvements of that university. As I understand, there is nothing in the laws to prevent putting it on the ground. I think that is pretty well fixed, and I think it is pretty well fixed in the minds of the most of the members of this Convention that the agricultural college shall be in Logan. Well, now, I hate very much to repeal that section and in twenty years from now, or ten years from now, have the people up at Logan or the northern part of Utah get up a great furore and hue and cry that the university should be at Logan, and detain the legislative body some eight or ten days or three or four weeks quarreling over that. I should like to fix that, if we could, so that could not be changed without calling a general convention of the whole Territory, consequently, I am in favor of fixing on it to-day, with that section with Mr. Roberts' amendment in the first line just as it is—that we fix that matter and settle it for once. We said the other day that the university should stay here and the college at Logan, and I do not see why we should change our minds.

Mr. MAESER. Mr. Chairman, I am opposed to the amendment of the gentleman from Davis County. If it should prevail it would ignore all the proofs and statements we have listened to by which we have been convinced to that extent at least that the university can-

not exist in the way it stands now, and something would have to be done—and also the agricultural college. We have to take into consideration that we are entering into a statehood now which will increase our taxes considerably without any particular additional incidental appropriations, but the first thing that would have to be done on the part of the regency of the university would be to apply to the first Legislature for a considerable additional appropriation to keep the university alive or to enable it to continue the fine work that is now being carried on under the present management, and I cannot conscientiously support any motion that tends to perpetuate the existing condition of affairs. I am decidedly in favor that the section be stricken out.

Mr. CANNON. Mr. Chairman, I voted the other day for the insertion of "agricultural college" as it was inserted in this section. At that time I did not think for a moment that it meant that the establishment would be interpreted to mean also the location. I am opposed to the establishment and location as at present, of the two institutions, as I stated on Saturday. I believe the only thing for Utah to do is to unite her higher educational institutions. It is for this reason that I made the motion to strike this out. I do not desire to take up the time, because I do not think we should go over the same ground. The vote the other day was taken when a great many were absent. I do not think it is by any means conclusive, but I certainly am opposed to the amendment of the gentleman from Davis County, and am in favor of striking out the section.

Mr. ROBERTS. I would like to ask Mr. Cannon a question, and that is, in the event of striking out section 4, what would be the status then of our educational institutions?

Mr. CANNON. As I understand it, the status would not be changed. In the article on schedule or the ordinance can be included some provisions for the existence of the institutions and the confirmation of their existing rights. I think that is the proper place for it. That is my opinion, after consulting with some of the lawyers present.

Mr. ROBERTS. Mr. Chairman, I, too, wish to avoid going over the ground that we have already traversed in this discussion in regard to the propriety of uniting these two institutions. I think, however, that it must be clear to gentlemen of the committee that the insertion of the words "agricultural college" in the two places at which they were inserted in this section certainly contemplated the separate existence of these institutions. I will say, since they were added to the section upon my motion, that that was clearly the intent and purpose of them, with the additional fact in view, and that was to add in section 5 a provision that the agricultural college should be located at Logan. Subsequently, however, the gentleman from Utah County, who sits near me, suggested that in all probability it would be a better thing to do to insert the words that I now offer as an amendment.

I, too, believe that if we should strike out section 4, the whole question would be left to the Legislature, and in the interests of our educational institutions and in order to remove the hand of demoralization that is laid upon these two institutions by leaving them subject to change and transfer and alteration by each succeeding Legislature, I, for one, favor the settlement of the question now. If it could be possible, I would be in favor of a provision and an amendment that would take and establish the university of this new State at Logan. But I have looked upon that as utterly impractical. I do not believe that it is possible to remove the university to Logan. I believe that if the question was once settled as to the union of the university and of the agricultural college, separate and apart

from any consideration of where you would leave it, the simple decision of union would carry with it union at Salt Lake City. There is no question about it. That is just exactly what it would mean, and it was for that reason that I endeavored to avoid risking everything upon the question of union alone, and wanted the question of location to come up in connection with that, because I think of right it should come up with it since it involves in any event the sacrifice of no inconsiderable sum, and to postpone settlement of this question now means that our educational institutions for years or for some time to come at least will be in an unsettled condition and work very great injury to these institutions. Therefore I again urge that we settle this question and that we settle it in the consideration of section 4, now that is before the Convention. I again repeat that there is nothing so injurious to our educational institutions as to leave them in a condition where their existence is all the time unsettled. We have suffered from it in the past; we shall suffer from it in the future if we continue this policy, and now is our opportunity. I again say that if it involves no great sacrifice of property, it would not be a very serious question in my mind—the union of these institutions. I think then, perhaps, it would be the proper thing to do, and yet I cannot get away from the fact that the union of the agricultural college with the university at the best is but an experiment, and in the majority of cases, as authorities cited upon the floor the other day show, the preponderance of evidence at least seems to be in favor of running these institutions separately. Now, Mr. Chairman, I sincerely hope this section will not be stricken out and I hope that we will settle this vexed question now. Union if possible at Logan, but since I believe that to be impracticable, then let us declare where these two institutions shall be located.

Mr. SMITH. Mr. Chairman and gentlemen, to me this is an exceedingly grave question, and one to which should be given the most deliberate concern. One of the gentlemen on the floor remarked that the argument made by Mr. Kerr had convinced him that the institutions should be separate. Before the argument of Mr. Kerr, I was convinced that the places should be separate. After his argument, I became converted, and voted accordingly on my conviction, that these establishments, wherever they might be located, should be made one, and I trust that this Convention, in consideration of this question, will consider it not as to a question of location, whether in Salt Lake County, whether in Utah County, or Sanpete County, or Cache County, but that it shall receive the gravest consideration as to the wisdom and prudence of the union of this system. There are many reasons, it is true, that could be offered in one way and another as bearing upon it, but to my mind the great question before us, in the consideration of this matter, and the adoption of the course we shall pursue, is the economic one. We have started out upon the basis of being exceedingly economical, and we have sought to work to that end. In fact, the result of the desire for economy has awakened some ridicule in the breasts of some of the members present, probably as well as gentlemen outside of this Convention, but when it comes to this proposition, it is one of extreme moment. There are none of us, I presume, but what desire that there may be established a thorough and complete university so far as it is possible, in which or to which we may send our children to receive their education. Of course we recognize that all of us have our prejudices as to the question more or less of location, but it seems to me in regard to the character of public institutions that are to be decided upon, the first proposition with us should be what

are we going to have, how we are going to place them, and how they will reach the needs of the people, and the interests as an entirety, and how far they will subserve the best interests of the entire people and at what points they should be properly and reasonably placed. After we have determined in regard to this matter, I believe that a full and candid discussion of the wisdom of where these various institutions should be placed should come before this Convention as a separate proposition, and that none of us should seek to be hauling and pulling this in this direction or that in that direction, a portion or a parcel. The question, in my judgment, should be one of patriotism, so far as the institutions are concerned, and wherein they will best subserve the people of the proposed new State and in the most economical manner.

Therefore, in consideration of this matter, so far as I am concerned, I have my views. They are fixed in regard to this matter. I have conversed with many gentlemen, so far as that is concerned, in regard to it, and I know that very many of them are fixed in their views and their views are not in harmony with my own, but I believe that the argument made here yesterday upon this proposition by Mr. Kerr is simply unanswerable, that his study of that question has put it in my mind beyond the question of a doubt, and while I might desire to subserve through my selfishness some personal interest in connection with this matter, the question with me is and upon which I want to vote, that these institutions shall be one institution, and that if this body of men shall say that they will have these various institutions and how they shall be builded up when they conclude as to where they shall go, so far as I am concerned, I will sustain them in carrying out their proposition to the best of my ability, but until this is the case, I think the discussion as to where or how they shall be disposed of in my mind is simply unwise and accomplishes nothing. Let us determine whether we will or will not. Having determined whether we will or will not, then let us determine where they shall go, or where they shall not go.

Mr. MAESER. That is right.

Mr. EVANS (Weber). Mr. Chairman, I desire to offer the following at the end of section 4, "and shall be located at the city of Logan," to be considered if Mr. Roberts' motion should not carry.

Mr. VARIAN. Mr. Chairman, that is an amendment to the section, not an amendment to the amendment.

The CHAIRMAN. The chair thinks it would be well to dispose of the other amendment first.

Mr. EVANS (Weber). I give notice now that when that is disposed of, I shall move the amendment which I suggested.

Mr. ANDERSON. Mr. Chairman, I am opposed to the motion to strike out and will support Mr. Roberts' amendment to locate these institutions as they now exist. I think that the best interests of the new State will be subserved by their remaining separate. I think that the government, when it passed laws establishing these colleges, intended that they should be separate from the university. It is not necessary to go over the arguments again, but I am opposed to the motion of striking out and will support Roberts' amendment.

The amendment of Mr. Roberts was agreed to.

The CHAIRMAN. The question is now on the motion to strike out.

Mr. VARIAN. Mr. Chairman, I trust that that motion will not prevail. We have now reached a point in this possible disagreement from which we can see that it will settle this question so far as this Convention is concerned. Let us vote that motion down and let the matter stand as indicated by this last vote.

The motion to strike out was rejected.

Mr. EVANS (Weber). Mr. Chairman, I now move to strike out section 2.

No second.

Mr. VARIAN. Mr. Chairman, I move to strike out, in line 6 of section 6, the words "as specified in section 5 of this article."

The amendment was agreed to.

Mr. EVANS (Utah). Mr. Chairman, I move that when the committee arise, they report the article to be placed on the calendar for third reading.

Mr. SMITH. Mr. Chairman, I think that we ought to consider this last section in connection with that section in the bill of rights. It seems to me that section 4 of the bill of rights covers the same ground nearly, if not in the same language, that is covered in the last section of the present article. Judge Goodwin moved this morning to strike out the last section of this article on the ground that there was something in the bill of rights. If my memory serves me correctly, it is section 4.

Mr. EVANS (Utah). It was decided here that the bill of rights did not cover that point.

Mr. SMITH. I think it does amply.

Mr. GOODWIN. Mr. Chairman, a proposition backed by some very accomplished scholars was sent into the committee, asking that the metric system be established in Utah Territory. The committee ignored the matter, thinking it was not a good place or the Territory was not yet prepared for it. At the same time, Mr. Chairman, that is the rule of the government of the United States. The same thing is established and being worked under in the construction of the Nicaragua canal. Importing merchants every day find they have to calculate in both systems. I wish to move that another section be added to this article which shall simply read "the metric system shall be taught in the public schools of this State."

Mr. VARIAN. Will the gentleman withhold that a moment, until I offer an additional amendment to section 6?

Mr. GOODWIN. Yes.

Mr. VARIAN. Will the committee be good enough to look at lines 7 and 8 again, in section 6? It seems to me that the article "a," in line 8, and the word "university," in the same line, should be stricken out and the word "fund" made plural, so that that would meet all the questions presented by the land grant. Now, I suggest that the words in lines 5 and 6, "and the university and the departments thereof," be stricken out so that the act of Congress referred to will embrace all those land grants.

The amendment was agreed to.

Mr. VARIAN. In line 12 it now reads, "maintenance of the different departments or colleges respectively of said university." That should be changed. I think that "departments" should be changed to "schools." That would take in the deaf and dumb and the school for the blind, mentioned in the act of Congress; and that "of said university" be stricken out or put in "institutions." I move these amendments be made.

The amendments were agreed to.

Mr. GOODWIN. Mr. Chairman, I was informed by gentlemen most interested in urging this metric system that the committee had decided to ignore the matter altogether. The chairman of the committee tells me they purpose to report on that, and hence, with the permission of the committee, I will withdraw that amendment until that report is made.

Mr. HYDE. Mr. Chairman, that matter having been brought up, as chairman of that committee I will state that the committee have had that matter under consideration, and have given it very careful consideration, and they expect to make a report. I do not know how they got the impression they would not make a report. There

is nothing of the kind in the minds of the committee.

The motion of Mr. Evans of Utah was agreed to.

The committee then proceeded to the consideration of the article entitled judiciary.

Sections 1 and 2 were read.

Mr. EICHNOR. Mr. Chairman, I move as an amendment to section 2 to strike out all after the word "years," in line 14, and insert in lieu thereof the following, "at the first election for said judges, one chief justice shall be elected for six years, one associate judge for four years, and the other associate judge for two years. The terms of office of said judges and which one shall be chief justice shall at the first and all subsequent elections be designated by ballot." Whether this amendment is adopted by the committee or not, I think that as a member of this Constitutional Convention it is my duty to bring this question up. Now, I believe when we elect supreme judges the first time, that it be designated by ballot who shall be the chief justice. You are not trusting to luck by the uncertainty of lot. You know exactly for whom you vote. You know whom you will elect as chief justice or at least you have the privilege of voting for the man whom you want as chief justice, and the associate justices will be elected according to the amendment for four years, and the other for two years, and after that, they will be elected at different times, but all be elected for six years. But I do not believe that it is a modern sentiment to have judges drawn out of a hat by lot, and whoever happens to get the lucky number shall be the chief justice. I believe that the people of the Territory of Utah are intelligent enough to say, "We want such and such a man for our chief justice." There is no more salary, I presume, connected with the chief justice than the associate judges. It is a position of honor and it is the most responsible position. I believe in getting right down to the people, as I advocated a number of measures on this floor, I have always said I was not afraid of the people, and I believe in trusting this measure to the people. We may get a better chief justice. The chances would very likely be that the poorest of the three would be the chief justice, possibly the youngest man would be the chief justice. Now, I think that should not be the case. I believe the people should nominate their man, and put forward the most experienced man for chief justice. The democrats should do the same, and the republicans should do the same.

Mr. PIERCE. How about the populists?

Mr. EICHNOR. Well, the populists then should, and certainly all parties should. Gentlemen of the committee, I hope it will receive your earnest consideration. I do not want to take up your time, but I believe this is a matter that comes right home, in which we will have a right to name our choice for chief justice and not trust it to the luck of a few numbers in the hat or by whichever method lots are drawn.

Mr. ELDREDGE. If everything runs regularly in the course of their proceedings, will they not all three be chief justices?

Mr. EICHNOR. No; I do not think so.

Mr. GOODWIN. Mr. Chairman, I have two or three times noticed in this committee, something in the course of argument which seemed to express a great sympathy for the people, but where Mr. Eichnor can find that his plan gets down closer to the people than this one, I do not understand. He says the richest lawyer and youngest man might be elected chief justice under this lottery.

Mr. EICHNOR. Beg pardon. I do not mean elected, I mean get it by lot.

Mr. GOODWIN. I want to say if that be true according to this, he would be out of office in three years, whereas, if it went on his way the man would serve

at least five years before he got a chance to be chief justice. The truth is the gentleman argued so long on the deaf and dumb asylum, he is getting a little deaf himself.

Mr. EICHNOR. I did not argue that question.

Mr. EVANS (Weber). Mr. Chairman, for fear that this amendment might go, I want to just say a word about it, as I am on the committee. I think probably it is not quite understood. Taking the position of chief justice, and it has no more responsibility than that of associate justice—not a bit. He has no other duties to perform, except to preside on the bench. Now, if we nominate three men for the justices of the supreme court, and each of them will probably be the very best man that can be found in either of the parties, if you are to nominate one for the short term and one for the next longest term and one for the long term, the chances are you would get the short term man in some lawyer who amounted to but very little, but if we should engage them all at once, each one of those three judges will, of course, expect to be chief justice, and the chances are that we will get three good men. Another thing, it is right anyway to have this honor conferred by lot. Under the system as proposed each one of these judges at one time or another will be chief justice. The short time man is chief justice. When he goes out and another one comes in, he is a long term man, and the next shortest term man is chief justice, and so on. I think that is fair the way it stands and hope the committee's report will stand.

The amendment of Mr. Eichnor was rejected.

Section 3 was read.

Mr. PETERS. Mr. Chairman, I just merely would like to ask the chairman—I have read this article very carefully. I do not find anything that says that these judges shall be citizens of the United States. Now, I have an amendment to offer here:

Every judge of the supreme court shall be at least thirty years of age and shall, before his election, be a member of the bar, learned in the law, and a resident of the State or Territory of Utah for five years next preceding his election, a citizen of the United States and State of Utah.

Mr. EVANS (Weber). I call the gentleman's attention to the fact that I think in the article on elections, no person is qualified to hold office unless he be a citizen of the United States.

Section 4 was read.

Mr. EICHNOR. I would like to ask the chairman of the committee a question. Was it ever discussed by the committee that the words be added, "the supreme court shall have original jurisdiction to issue the common writs of mandamus?" etc.

Mr. GOODWIN. No, that was understood.

Section 5 was read.

Mr. LOW (Cache). Mr. Chairman, I move to strike out, in line 8, section 5, the word "thirty," and insert in lieu thereof, "twenty-five."

Mr. HART. Mr. Chairman, that would conform more nearly to the other part of our Constitution, in which we fixed the age of State senators and also the attorney general. I think the age of the attorney general is fixed at only twenty-five years.

The amendment was rejected.

Mr. ALLEN. Mr. Chairman, I wish to amend section 5, in line 10, by inserting after the word "years" the following, "of the district one year."

Mr. THURMAN. I would like to ask a question, if there are not some judicial districts as described here that perhaps have not a lawyer in them competent for a judge?

Mr. ALLEN. My idea was to give our young men who are studying law in the different districts a chance to hold these positions, so that the others will not come in and hold them.

Mr. THURMAN. You do not answer my question.

Mr. ALLEN. Whether there is or not, I do not know.

Mr. EVANS (Utah). Mr. Chairman, I think that this ought not to prevail for the reason that every district, if they have a man in that district that is competent, there is no question about anybody else coming in and getting elected in that district. But if it should be found that there is not a man competent in that district, why then they should have the opportunity of going outside. I think it ought not to prevail.

The amendment was rejected.

Mr. EICHNOR. Mr. Chairman, I move to strike out all after the word "so," in line 15. Nowadays there are honest lawyers and dishonest lawyers, and if ever two dishonest lawyers get together, they can get another dishonest lawyer to be judge pro tempore and sell their clients out. [Laughter.] I do not assume all the virtues in the profession of law.

Mr. GOODWIN. Mr. Chairman, I insist that Mr. Eichnor shall not give away the secrets of his profession.

Mr. HILL. May I ask you a question? I would like to have you point out a dishonest lawyer.

Mr. EICHNOR. There are none in this Convention.

Mr. CREER. Present company is always excepted.

Mr. EVANS (Weber). Mr. Chairman and gentlemen of the committee, this motion of Mr. Eichnor's, which would strike the matter referred to out, ought not to prevail, in my opinion. I want to just give you a brief reason why. Under a State it is the design, or ought to be the design at least, of the Convention to have as few judges as possible to transact the business of the Territory. Now, as the article stands, the district judges have jurisdiction in probate matters, and if it should be determined that the probate matters were getting a little behind, I think that the attorneys could get together and agree on some lawyer to sit and transact that business. It is principally routine business anyway, and on the other hand, if the business of the district should get behind, the judge should be extremely busy, there are many honest lawyers who would be willing to sit for attorneys and help them dispose of their business. I take no stock whatever in the question of dishonest lawyers rendering dishonest decisions. I know that lawyers are sometimes mistaken and so are judges, but the rule is honesty rather than dishonesty.

Mr. SQUIRES. How would the compensation for the judge who acted pro tempore be arranged?

Mr. EVANS (Weber). There is absolutely no provision for it. The State would not have to pay out a dollar.

Mr. SQUIRES. The judge would sit just for luck?

Mr. EVANS (Weber). Yes, sir; many of them would be willing to do it. The gentleman has suggested on my left that lawyers frequently defend men charged with crime without receiving compensation. They are more patriotic perhaps than those to which the gentleman belongs that asked the question.

The amendment was rejected.

Mr. EVANS (Weber). Mr. Chairman, I desire to offer an amendment, and I would not do it, coming from the committee, were it not for the fact that I suggested it in committee, and that is, by striking out the word four, in line 7, and inserting in lieu thereof the word two. I will say, gentlemen, the only purpose of this is that we must bear in mind that this is a constitutional provision. There may be many counties where four terms a year would not be necessary. This would make it obligatory to hold four terms a year whether any business was transacted there or not, and you must remember that the language is "at least four terms a year." My amendment would make it read, "at least two terms a

year," and then the Legislature might provide more terms if necessary. But I fear that if this prevails, as it is written in the article, the judges will have many trips to make and many terms to hold when there will be no business to attend to.

Mr. SMITH. May I ask the gentleman a question? If probate business is given into the hands of these judges, won't they, in order to meet the necessities of the case, have to hold four terms anyhow?

Mr. EVANS (Weber). The probate business, however, is not transacted by terms. That is transacted at any time at chambers. The judge can simply go into the district at any moment or at any time, and I think he ought to go into the counties oftener than four times a year for the purpose of transacting that business, but this has no reference whatever to probate business, as I understand it.

Mr. CHIDESTER. Mr. Chairman, I would object to the amendment, for the reason that I believe that four terms should be held in each county every year. I know that in my own county, if it was left optional with the judge, we would only have two terms a year and the criminal business would have to be carried over from month to month, and for that reason we have got a bankrupt county already, holding prisoners waiting for trial, and I think that the terms should be held every three months at least.

Mr. FARR. Mr. Chairman, I see no provision in this statute for probate judges, and as I have been raised and always lived in a country where they have always had probate judges, and it is rather an innovation not to have them, I thought I would inquire why it is they do not have any probate judges? I want to find out.

The CHAIRMAN. The purpose of the article is that the district judge shall do probate business.

Mr. FARR. That will do away with it. I wanted to know if each member of this committee thoroughly understood it. Some of our counties are very large and the county seat is at a distance and it does seem to me as though the county should be provided with a judge for doing probate business, instead of compelling them to wait for the regular term of court. That is a question I would like to have considered.

Mr. BOWDLE. Mr. Chairman, I wish to offer an amendment beginning with line 6, simply inserting the words "until otherwise provided by law." Then I am ready to support the amendment offered by the gentleman from Weber. That will leave it in the hands of the Legislature and they can determine the matter.

Mr. EVANS (Weber). I will accept Mr. Bowdle's amendment to my amendment and make it one.

Mr. CREER. I would like to ask if that provision would not affect all the balance of the section?

Mr. BOWDLE. I do not think so. I only think that it modifies that one question.

Mr. CREER. It might be construed to modify the entire balance of the section.

Mr. BOWDLE. I do not think that construction could be given to it.

Mr. EICHNOR. Mr. Chairman, this time I am with the committee that reported this article. I thought I would make that declaration so that there would be no misunderstanding about my position. I think if the probate judges are abolished as provided in this article, that the judges should appear four times a year in the county. A great many matters need attention; no matter how small the county is in population, there are always some matters coming up that should have attention. If there was some one that could transact the probate business when the judge is not present, why, then the objection might be good, but under the circumstances I submit it is not.

Mr. HEYBOURNE. Mr. Chairman, I object to the amendment that has been offered by the gentleman from Weber. I have understood that the design of this article was that we might facilitate the business of the outlying counties, and that in doing away with the probate courts, as it is anticipated, so I understood, it would give us a better opportunity to attend to the probate procedure without its accumulating. And we have endeavored of late years to work up this business, and if the gentleman's amendment should succeed, we are of the opinion that it would be of a very great disadvantage, and as the gentleman from Garfield has stated, cases of importance would be transferred from term to term or month to month, and the result would be that a great many of our counties would become bankrupt. Therefore, I should certainly insist on the article that is presented that the district court be held at least four times a year, and should the judge be overworked the Legislature may have the opportunity of course of making provisions for extra judges.

Mr. BOWDLE. Mr. Chairman, all I wanted to say was simply this, that it will be but a short time after the adoption of this Constitution until the Legislature will convene and they will have the opportunity to look into this matter and see whether four terms are needed in any of the counties. It may be there will be some counties where it is not necessary, and it leaves it in the hands of a power that can adjust it. I believe in leaving things so that they can be adjusted. It may be made just in that section, but I am opposed to making it ironclad.

Mr. GOODWIN. Mr. Chairman, this matter was discussed a great deal in the committee and the result has been that this section was made as a majority of the committee thought that the people of the Territory want it. It does away with all probate judges, and we find in consultation with members of the Convention that while they approved of having an arrangement which would secure to them by giving the man a better salary a higher order of judge, there still was great fear that the outside counties would be neglected, and so this was put in "at least four times a year," to make it clear to the gentlemen of the Convention, as well as to the people outside, that the judge who lived in the district should be in each county three or four times a year at least. I am not particular about the amendment, if the Convention think best, only I would suggest to my friend from Weber that if he insists on his amendment he change the order of it a little to make it read instead of until otherwise provided by the Legislature, that the terms shall be "at least two terms a year, but the Legislature may change this provision." That would make it apply simply to that one paragraph. I do not care anything about it.

Mr. EVANS (Weber). If it is put in the paragraph just before the word there, in line 6, it would be all right.

Mr. GOODWIN. If I were you, I would make it at least twice a year.

Mr. EVANS (Weber). I care nothing about that; that would be perfectly satisfactory.

Mr. THURMAN. Mr. Chairman, I trust this article will stand just as it is prepared. We have got some counties in the Territory where the judge will go two hundred miles to hold court. Now, I do believe any judge is going to take those trips just for fun or amusement, or just because he may not have anything else to do. If he takes them at all, he is going to take them because he has to, because it is fixed unalterably in the law, and I think that the judge ought to appear four times in each county. The only way to arrange for that is to fix four terms. Abolishing the probate judges in the counties, as we propose to by this article, it is as

little as we can provide in place of them to compel the district court to go into those counties four times a year to hold court and transact the business that is to be done there. If we do not provide for it here, it won't be done, and in any event, if I was going to favor any change it would be that, "until otherwise provided by law," there should be four terms held in each county. That amendment I would not object to, because I do not believe the Legislature would ever change that until they found out beyond a doubt that two or three terms would be sufficient.

Mr. JOLLEY. Mr. Chairman, while I am not a lawyer, I would like to say a word on this subject. It is true that district judges would have many miles to travel to reach some of the counties, but is it not true also that some of these outlying counties have jails for prisoners, that prisoners will be kept in for a double length of time—that is slow poison—that they could not hardly stand, and I consider that we ought to take into consideration even those things. A man if he has done wrong or a person to be locked up for five or six months awaiting the next term of the court to come around—in some of the jails, and prisons, that they have in the outside counties, I think that the judge better be made to travel once a month than to have such hardships placed upon those that are compelled to be confined in the jails.

Mr. BUTTON. I wish you would separate that motion. One part I want to vote for, the other part I do not.

Mr. HAMMOND. Mr. Chairman, I am in favor of the section remaining as it has come to us from the committee. When I first read it over, I was not in favor of those four terms a year; as sprung from our judge—Dave Evans—he knows pretty nearly everything, but I referred the matter to my republican friend on my right and he suggested a way out of the trouble that satisfied me. I was looking to this expense, and he suggested that the provision in this article makes it the duty, or it is the county clerk that is to be clerk of the district court. Now, nearly all our clerks even in those remote counties can write—nearly every one of them, and they can correspond with the judge and tell him when they want him to come down.

Mr. EVANS (Weber). I do not believe, gentlemen, that you understand the fact that in Utah when we have statehood, our judges will be different from those who have been sent here from Washington. Under that old system they were very arbitrary, and if it were left with them, they would not hold their terms as often as they otherwise would have done. But under the system of statehood, we must remember that in these outlying counties the judge will be elected for these counties and he must do that which he believes for the best interests of the people who elected him. It is not supposable that he will be arbitrary, that he will neglect one county or another. He is compelled under this article to reside in the district where he is elected, although he may not be a resident of that district when elected. The only objection I have to it is that it has arbitrarily fixed in the Constitution four terms a year when it may not be necessary. Of course, so far as our more thickly settled portions of the Territory are concerned, it is immaterial to us. I think you will find in the end it will work a hardship in some instances. There are as many as five or six counties in some of these districts. In other words, there are four terms a year held, there are six counties, there would be twenty-four terms in one year. The judge would be pretty much occupied all his time in opening and closing terms, and getting from one county to another. We would scarcely have time enough to transact business.

Mr. MALONEY. Mr. Chairman, I

want the committee to get this article right from this on. There should be at least four terms held a year. All this probate business is to be transacted by those district judges. In other words, in addition to the district court business now done by the four judges, the nine judges must do all of that, and the business of the twenty-seven probate judges. Well, now, if you limit it so that the district judge is not required to go but twice a year into these outlying counties, it seems to me that a good deal of this probate business will be neglected. The idea of the judiciary committee, as I understand it, was that there should be a probate court held at least once a month in each county of the Territory. Now, if a man happens to die, I do not want it to be six months before there can be an administration or the granting of letters testamentary. I want the judges to go there and transact business that is ready to be transacted. I want justice brought home to the doors of the people of this Territory. So I think that the committee has reported properly—at least four times a year. I think it is as little as a judge can do to go there and transact business. If there is no district court business, there will be some probate business. I insist that the people demand at least four terms a year in each county. Now, take San Juan County. While the population is not very great at the time the census was taken in 1890, we learned from the distinguished delegate from there, there are now about two thousand people down there exclusive of Indians. I say there ought to be court four times a year in that county.

Mr. EVANS (Weber). Mr. Chairman, suppose now, some future Legislature would establish probate courts. We have left it open so that it can do it, and we would have fewer district courts. Under this constitutional provision, these judges would be required to hold district court in this State four times a year.

Mr. MALONEY. That is just the way I want it done, and if there is absolutely no business to be done at the district court, let the clerk adjourn the court without the judge going there.

Mr. ROBERTS. Mr. Chairman, I would ask that the amendments be put separately, for, while I would like to vote for the phrase, "until otherwise provided by law," in order that this question might be left to the action of the Legislature, I am not prepared to vote for cutting down these district courts to two terms a year.

Mr. BUYS. Mr. Chairman, I did not expect to say anything on this subject, but I would be opposed to both motions, whether they were put separately or jointly, because I do not believe we should put it in the power of the Legislature to make less than four terms a year in each county. There is certainly some business that will be necessarily transacted or should be transacted in each county at least four times a year, and if any county in the Territory or in the State should be neglected and four terms not held in that county, I think it would work a hardship on that county. Take it from a financial standpoint and I think that it would be a great deal cheaper to hold at least four terms in each year in a county than otherwise, because, if a crime is committed, we will say just after the close of a term, to keep a prisoner or perhaps four or five of them for six months would work a hardship on the county. They have to pay the expense of keeping those prisoners and I certainly am not in favor of putting it within the power of the Legislature to make less than four terms a year in each county.

Mr. VAN HORNE. Mr. Chairman, I am opposed to both of those amendments. I do not think we ought to put it in the power of the Legislature to make less than four terms a year in each

county, and I would certainly be opposed to fixing it at the low number of two terms in each county and leaving it to be further disposed of by the Legislature. I think the objection that is raised that there might not be business at any given term is one that would be wholly outside of any danger. If there were no business, the court and judge could easily send his order to the clerk to adjourn the term and he would not have to go to that county. If there was business even if it was only one litigant, I think that the proper administration of justice would require that he should go and attend to whatever business there was in the county. I hope that neither amendment will prevail.

The amendment of Mr. Evans was rejected.

The amendment of Mr. Bowdle was rejected.

Mr. VARIAN. Mr. Chairman, I have an amendment to offer right at that place; before line 7, insert the words, "at the county seat thereof." It seems to me that is an omission. It is not intended that the court should be on wheels.

The amendment was agreed to.

Section 6 and 7 were read.

Mr. VARIAN. Mr. Chairman, I wish to offer an amendment to line 6 of section 7, to strike out the word "they" and insert the words, "district courts and the judges thereof." There seems to me an omission in that particular. Of course it was not designed to limit the issuing of these writs to a time when the court was in session.

The amendment was agreed to.

Mr. VARIAN. I would ask the indulgence of the committee to insert the same amendment in section 4 as to judges of the supreme court. It is desirable that they have the power outside of term time. I ask to make this amendment, "each of the justices shall have power to issue writs of habeas corpus to any part of the State upon petition by or on the part of anybody held in actual custody, and may make such writs returnable before himself, or the supreme court, or before any district court or judge in the State." I have taken this language from one of our Constitutions.

That is to be inserted after "habeas corpus," in line 3 of section 4.

Mr. EVANS (Weber). I want to ask Mr. Varian a question. Don't you think that this section gives the same power that your amendment gives?

Mr. VARIAN. No; the writ of habeas corpus, Mr. Chairman, is not necessarily in the exercise of appellate jurisdiction at all.

Mr. EVANS (Weber). I want to ask you if, as a matter of law, a court has not power to issue any writ that is necessary and proper to exercise the jurisdiction which it has?

Mr. VARIAN. Certainly, but that has nothing to do with this amendment. This amendment is conferring the power upon judges only to issue writs of habeas corpus, which seems to be confined to the court sitting as a court.

Mr. EVANS (Weber). That is just the point. Has not the court the right, having that jurisdiction and that power—has not any judge of the court the right to issue these writs?

Mr. VARIAN. I think not.

The amendment of Mr. Varian was agreed to.

Mr. GOODWIN. Mr. Chairman, the gentleman's first amendment, section 7, "district court and the judges thereof," it seems to me it would be more euphonious to say, "the district courts and any judge thereof."

Mr. VARIAN. I guess it would.

The CHAIRMAN. If there is no objection that change will be made.

Mr. CRANE. Mr. Chairman, I wish to make an amendment to this section. I wish to strike out, in section 7, line 2, the word "matters," and the word "and" after the word "civil," and insert between the word "criminal" and the

word "not," the words "and probate matters."

Mr. THURMAN. Mr. Chairman, I do not see what is the object of that; the words "civil and criminal not excepted in this Constitution and not prohibited by law," will cover everything relating to probate matters, as well as anything else. The object of this section is to give to the district court jurisdiction over every case that is not given to the supreme court and is not given exclusively to justices of the peace. It means that, and it says that. It does not say "cases," but all matters, and probate matters are civil matters; they are not criminal. They belong to chancery jurisdiction. We discussed that matter in the committee.

Mr. CRANE. I would like to ask the gentleman from Utah County what it means, "and not prohibited by law?"

Mr. THURMAN. "Not prohibited by law" simply means anything that is not prohibited to this jurisdiction, which this court has.

Mr. CRANE. I was brought to that thought, Mr. Thurman, by reading in section 1, "and such other courts inferior to the supreme court." It seems to me that you are giving the Legislature power to institute any other courts they may see proper in the years to come. You are laying the foundation here of the judicial power of the State and what the judiciary shall consist of, etc., and then you give the Legislature power to institute other courts inferior to the supreme court, is that the idea?

Mr. THURMAN. Yes; the object is to give the Legislature power to institute courts inferior to the supreme court.

Mr. CRANE. Any other courts they may choose?

Mr. THURMAN. Yes; we have limited the power, if you will notice, of a justice of the peace. I do not call to mind the section that it is now, but I would like to read that in answer to your question. It is in section 8. Now, the intention was to restrict the jurisdiction of the justices of the peace, or rather not to allow an increase of that jurisdiction, that they never should have probate jurisdiction or anything else above what they have got to-day under the laws of the Territory. The Legislature might cut it down, but they could not increase it. Now, suppose the Legislature should want to create probate courts hereafter and confer upon them the power to transact probate business, then section 1 would mean that the judicial power of the State shall be vested in the senate, etc. (Reads).

Mr. CRANE. It seems to me, Mr. Chairman, that the idea of this article and all the articles in this Constitution would be to curtail the power of the Legislature. It seems to me in this article you are just giving the Legislature all the power that they ever had regardless of a Constitution, by giving them the right to institute any new courts that they might see proper in years to come. The idea of my amendment was that it should emphasize the fact that the district court had the power——

Mr. THURMAN. Do I understand now that this a question or a speech?

Mr. CRANE. No; it is a question in reply to yours; or rather an answer.

Mr. THURMAN. Oh, it is an answer.

Mr. CRANE. My idea in this amendment was to curtail the power of the Legislature. That is the idea, I suppose, of this article, and to emphasize the fact that they had powers in probate matters.

Mr. THURMAN. Would you withhold the power from the Legislature to establish in the years to come, if they desire, a probate court in each county?

Mr. CRANE. Yes; I think I would.

Mr. THURMAN. Well, the committee did not——

Mr. CRANE. If you have as many judges as this article calls for, you would never need any probate judges.

Mr. THURMAN. The committee differed with you and thought it better to give the Legislature power in that mat-

ter in the future to establish inferior courts.

The amendment of Mr. Crane was rejected.

Section 8 was read.

Mr. EICHNOR. I desire to ask the chairman of the judiciary committee a question. Are the justices of the peace to be elected at large in the county or to be elected in the several precincts?

Mr. GOODWIN. Just as the Legislature may provide. It is given in the hands of the Legislature.

Section 9 was read.

Mr. VARIAN. Mr. Chairman, in line 3, the right of appeal seems to be limited to questions of law alone. I do not know why that restriction is sought to be placed in the Constitution. It might be very appropriate in criminal cases, but as broadly as that is stated, it seems to me there might be some question as to how it would be interpreted in equity cases. In equity cases the whole substance and gist of the matter on appeal and everywhere else is the fact. The evidence goes up. The determination in an equity cause is not made on isolated propositions of law, but simply as it is prescribed by the whole facts. It occurs to me that may be safely left to the Legislature. I move to strike out "on questions of law alone," and that will not interfere with the general sense of this article and would probably be in line with the general idea of the committee.

The amendment was agreed to.

Sections 10 and 11 were read.

Mr. EICHNOR. Mr. Chairman, if there is no amendment to this section, I would like to call the committee's attention to section 8. The way that section reads the justices of the peace would be elected at large by the county.

Mr. PETERS. I just desire to ask the chairman of the committee whether the latter part of this section would imply that the judge would have a right to appear before the senate and defend himself? This simply provides that he shall receive notice and that he shall be notified as to the time when his case would be heard. There is nothing here that says he may appear and defend himself.

Mr. GOODWIN. That is a right guaranteed in another article.

Mr. EICHNOR. Mr. Chairman, I offer as an amendment to section 8, in line 3, strike out "from each county, city, and incorporated town," and insert the following, "incorporated cities or towns, or any precincts."

Mr. CREER. Mr. Chairman, as the law now stands there are incorporated towns, but they have no justices of the peace elected for those incorporated towns. This would provide for electing a justice of the peace for the town corporations. I think that would simply incur an unnecessary expense. The present justice could act for the incorporated towns. I prefer the section as it now stands.

Mr. EICHNOR. Is it your desire that all except city and town justices shall be elected by the county at large?

Mr. CREER. No.

Mr. EICHNOR. That is the construction that can be placed on it the way it stands. You might strike out "incorporated towns."

Mr. HAYNES. Why not strike out "county" and insert "precincts?" That will cover your idea.

Mr. GOODWIN. The whole matter is in the hands of the Legislature. It is not fair to suppose that they will all be idiots?

Mr. EICHNOR. Judge, the Legislature shall determine the number of justices in the county. It says they shall be elected from each county. Suppose they say sixteen from Salt Lake County. Will they determine also where they shall be elected from—what precinct?

Mr. GOODWIN. They shall determine how they are to be elected, certainly.

Mr. EICHNOR. If there is no objection I will withdraw my amendment

and strike out the word "county," in line 3, and insert the word "precinct."

Mr. FARR. Mr. Chairman, as it now reads, I think that takes everything there is in the county, and throughout the whole State. I think the Legislature can provide how many justices of the peace there will be in a precinct. I do not think it necessary for us to say anything about it. If there is the right number of justices of the peace in each county, it covers everything.

Mr. BOWDLE. Mr. Chairman, in answer to Mr. Farr's statement, I would say that a justice of the peace is really not an officer of the county. He is elected for a precinct or for a city or a town, as the case may be, and I am in favor of the motion as it stands, striking out the word county and inserting precinct.

Mr. EICHNOR. Mr. Chairman, there is another suggestion made to me, to strike out the words "town and county," and insert "in each precinct."

Mr. MALONEY. Mr. Chairman, it strikes me this gentleman has stated the matter pretty correctly. The Legislature can fix the number of justices of the peace in each precinct, and I understand the Legislature has the right to say how many justices of the peace shall be elected in any county. I think the section is right enough as it is, and that the Legislature and the county court may regulate these minor matters.

Mr. SQUIRES. I would just like to ask the gentleman from Weber a question. Would not it be possible, under this section, for the Legislature to provide that all the justices for the county be elected on the county ticket? That is, what the objection here is—is not that so that the Legislature might provide that way?

Mr. MALONEY. I think that the Legislature might do that.

Mr. SQUIRES. That is what they want to avoid. They want the justices of the peace to be elected from each precinct and not each county. That is the way they are elected now.

Mr. MALONEY. There is no cause for any committee to alter existing laws. The voters of each precinct select their own justices of the peace.

Mr. SQUIRES. This amendment will make that plain.

Mr. MALONEY. I think it is plain as it is.

The amendment was agreed to.

Mr. GOODWIN. I move that that vote be reconsidered.

Mr. EVANS (Weber). I make the point that in committee of the whole you cannot make such a motion.

Mr. BOWDLE. I ask if he voted for it?

Mr. GOODWIN. I voted both ways. I merely wanted to call the attention of the committee to the fact that as the sentence now reads, "the number of justices of the peace to be elected in each precinct, city, and incorporated town." Now, every city and incorporated town is divided into precincts. What is the use of "city and incorporated town" in there, if we say precincts?

The CHAIRMAN. An amendment is in order if you wish to make one.

Mr. GOODWIN. There is not any amendment except when this comes up on the third reading.

Section 12 was read.

Mr. CRANE. Mr. Chairman, I have an amendment to this, line 11 of section 12, add after the word "decided" the words, "or not held by agreement of the parties."

The amendment was rejected.

Mr. CRANE. Mr. Chairman, I move to strike out, in line 5, all of that section after the word "elected."

Mr. VARIAN. Mr. Chairman, it seems to me that while the object of this matter is very good, still perhaps it might work disastrously in many cases, and in any event, it is rather an undignified position to put your judges in. I want to simply call attention to how this provision worked in California. It

went into the constitution, as I remember it, in 1874. As the business of the supreme court increased and pressed the attention of the judges, litigation accrued, it was found absolutely impracticable to comply with the technical literal command of the constitution and the judges began to devise ways, and schemes out, which made them still more undignified. In order to evade it, they were in many instances compelled to do this, they would hear arguments during a term and direct the clerk to make an entry like this: Cause so and so was argued by so and so and so and so. When they got around to the business after a time, and got ready to decide the case, they would have the entry made on the record that the cause, stating it was submitted on such a date. Thereupon the decision was filed and so they beat the devil about the bush in that way.

Now, it may be that your courts here will not find it necessary to evade this provision. So far as I am concerned, I think it is putting the judges in rather an undignified position to require them to go before a clerk every time they draw their salary, as may be necessary for them to do occasionally, and make an affidavit—it is not a certificate, they have got to swear so and so and put it on file.

Mr. EVANS (Weber). Mr. Chairman, I am opposed to striking that out. I know that there are lawyers here in Utah—in Salt Lake who know that judges have withheld decisions month after month and almost year after year. When it has been demanded of them that they render a decision one way or the other, the judge would simply say, that he did not have to do it, and did not do it. While it may be a little undignified for a judge to take such an affidavit as that, it is quite impertinent that judges should unnecessarily sometimes withhold decisions and keep litigants out of their money.

Mr. VARIAN. The gentleman probably has in mind only one or two cases.

Mr. EVANS (Utah). One or two judges, too.

Mr. VARIAN. One or two cases in the whole course of his experience. We have not been troubled that way more than——

Mr. EVANS (Weber). Not since you got democratic judges.

Mr. FARR. I second that motion on the ground that all judges are honorable men.

Mr. EVANS (Weber). I say this, that if three months is not long enough time extend it a little longer, but do not permit the judge to arbitrarily withhold a decision just as long as he pleases.

Mr. VARIAN. Mandamus him.

Mr. EVANS (Weber). Yes; you are already in litigation in a court. You will put the litigant to another lawsuit. Of course that would be a very proper thing so far as lawyers are concerned, and it would augment their business a little, but it does not help the litigant at all. I am in favor of some limit and I did advocate a little longer limit than this in the committee and would support one now, but I do not like it to be unlimited so that the judge can do just as he pleases.

Mr. MALONEY. Mr. Chairman, I concur with what the gentleman says. He insisted on it being four months. I insisted on it being as it is. The gentleman has instanced cases where decisions have been held over arbitrarily. I know a number of them. I know a number on the bench now where they have withheld them, district and supreme judges, over six months. There is no reason for it on earth. If a judge cannot decide a case correctly in this time, he never will decide it correctly. I agree with my friend that there ought to be some limitation on this matter. I am willing for the judge to take all the time necessary. To simply pocket the file of papers and carry them about the country and deliver the opinion so long

after and let litigants or counties suffer, I say is not right and there ought to be some limitation. As far as I am concerned, I favor sixty days. It is long enough. If they cannot decide it then they will never decide it correctly.

Mr. VARIAN. Mr. Chairman, I think it is hardly fair to criticise judges in this Territory and particularly where as a rule, in the hard worked districts, they sit days on end, and in the gentleman's own district, where the judges were asked by members of the bar, after the adjournment of the court, to sit in the evening, and if they could not sit as courts, to sit as judges. Business has overworked them, and it is not strange or remarkable that in individual cases they should be unable to reach a satisfactory conclusion in the time the lawyers who were pressing for a decision think they ought to. There is no rest. Six days in the gentleman's district and in our own district the judges are on the bench. In their districts the judges sit nights. They will not do it here. Some allowance ought to be made for overtaxed human nature. You must expect those things, but now you are going to have a different system. You are going to have sufficient judges, and I suppose every judge can be reasonably expected to do his duty and perform it honorably and well.

Mr. ROBERTS. Mr. Chairman, I had just remarked that I hoped the gentleman who had just preceded me would also say that hereafter the judges, instead of being appointed, will be elected and the masters of the judges will be in Utah hereafter, and I think there will be better conduct from them on that account, and I therefore shall vote for this amendment offered by the gentleman from Millard.

The amendment of Mr. Crane was agreed to.

Sections 13, 14 and 15 were read.

Mr. VARIAN. I would like to ask if it is the intention to permit persons within this decrease to practice law in the courts?

Mr. GOODWIN. Certainly; it says the judge shall not appoint his relatives to office, that is all.

Mr. VARIAN. At the proper time, if this article shall go through, I will prepare an amendment on that.

Sections 16, 17, 18, 19 and 20 were read.

Mr. Crane offered the following amendment to section 20:

Until otherwise provided by law, salaries of the supreme and district judges shall be three thousand dollars per annum, payable quarterly, and mileage.

Mr. CRANE. Mr. Chairman, I suggest from reading this section—it might be inferred it was three thousand dollars per quarter or twelve thousand dollars per year.

Mr. VARIAN. Mr. Chairman, we seem to be hurrying through here so rapidly it is not quite possible to give the consideration it seems to me that ought to be given to it. I want to propose to the committee and to the Convention that this question of salary, so far as the different districts are concerned, be left to the different districts. That is to say, that not necessarily shall it be uniform throughout the State. Take the Salt Lake district—that the Legislature may provide a different salary for the judges in that district, if it shall so determine, from that found necessary in other districts. Also, as connected with that, a provision that the salaries of the different districts shall be paid by those districts; but as we are proceeding, of course it is impossible with due consideration to write out amendments of that kind.

Mr. FARR. Mr. Chairman, I think this matter of salaries—the way this section reads, I do not exactly understand it. I think it must be drawn up by a lawyer. It says the salaries of the district shall be paid quarterly and shall be paid at three thousand dollars, that is three thousand dollars a quarter.

Mr. GOODWIN. The printer has left out "per annum."

Mr. FARR. Oh, that was a mistake. That makes quite a difference. The way the salaries are it would amount to two hundred and fifty-two thousand dollars per year; that is, if they had three judges for each county and each judge having his twelve thousand dollars a year—three thousand dollars a quarter. We certainly shall make a move that the salaries of the judges—there being so many of them continually sending in requests that the salaries be cut down, and the judges that had salaries here for about twenty years, they had two thousand dollars per year paid. I move that the salaries be two thousand dollars a year.

Mr. BOYER. Mr. Chairman, I would move as an amendment to the amendment that the sum be twenty-five hundred dollars per annum.

The CHAIRMAN. The amendment will be out of order until we pass upon this. There is an amendment and an amendment to the amendment before the house.

Mr. GOODWIN. Mr. Chairman, I understand there is to be an amendment offered here which will change the whole subject of salaries if it is adopted. I suggest that we pass by that until that amendment is prepared.

Mr. VARIAN. Mr. Chairman, I was going to say it is not safe to sit down and write a matter like that. I only made the suggestion. I see it is getting along in the evening. Possibly you might pass that and by morning I could bring in my suggestions incorporated in the form of a proposed amendment.

Mr. ROBERTS. I would ask if the amendment contemplated the interfering with the salary as fixed by the committee?

Mr. VARIAN. Yes, it would; it would contemplate fixing the salary so far as the Salt Lake district was concerned, without reference to what other gentlemen might desire for their own districts. I propose to put it in such shape that each district could fill it in to suit themselves.

Mr. ROBERTS. The salary would not be uniform under your arrangement?

Mr. VARIAN. Not uniform.

The CHAIRMAN. In the third reading that could be presented and we could go right along.

Mr. THURMAN. Mr. Chairman, I do not see any reason for passing these questions. Let us settle them as we go along, and if anybody has an amendment that is not prepared, he can present it when we come to third reading.

The CHAIRMAN. The question is on the amendment offered by Mr. Crane.

Mr. FARR. Mr. Chairman, I do not apprehend that this body will vote for three thousand dollars. I am satisfied that they will vote for the amendment of two thousand dollars a year. I have that confidence that the matter staring us in the face of high salaries is what is going to frighten the people out of a great many votes, and as I have already stated the salary of judge for some twenty years was two thousand dollars a year, when everything was four times as high as they are now, and two thousand dollars a year you must remember is over six dollars per day, and their expenses for traveling are already paid. I would like to know where the money is coming from to pay all these salaries? I tell you we must look this matter over and take it into consideration and put things down within reason. This is only until otherwise provided by law. I think two thousand dollars is plenty to start in on.

Mr. BOWDLE. Mr. Chairman, I think if it were possible to pass this salary question until to-morrow I believe we could save time. I am not prepared to vote on that question, because I am in harmony with the opinion that has been suggested here. I think that it is not an unusual thing that there is a

difference in the salaries of the judges throughout the state; for instance, I know in one place where the judges in one county get a certain salary and in different parts of the state they get another salary, because of the increased work in that county. As I understand it, that is the idea that will be brought up here, and if we pass this it is sure to be gone over again. It will come up in the third reading; it will take the time and I wish that we could let that section pass until we could get hold of that amendment.

The amendment of Mr. Crane was agreed to.

The CHAIRMAN. The question now recurs on the amendment of Mr. Farr to strike out the words three thousand, and insert two thousand.

Mr. ROBERTS. Mr. Chairman, I do not want to vote for that amendment. Of course I know how anxious men are to be economical, but if there is one part of the labor to be performed by the officers of this State that we should not be niggardly in the matter of compensation for, I think we stand now face to face with that class of officers. There is danger that in our effort to be economical and please the people by voting low salaries for officers we shall plunge them into much greater loss than if we gave a reasonable salary for the services that are to be rendered. I am of the opinion that already we have gone too far in the matter of retrenchment in the payment of salaries for officers. When we take into account the class of men that it is desirable to employ in the public service, I hold that it is a matter and will be a matter of economy for the future State to pay a salary to its judges that will insure good service to the people. The gentlemen of the legal profession have such expenses, have been at so great pains to acquire the knowledge that qualifies them to fill these positions, their labor is so intricate and requires so much patient research, that if you get a man who is worthy to be a judge at all in these districts, in my opinion, you have to give him at least three thousand dollars.

Mr. FARR. I want to ask Mr. Roberts if he thinks that six dollars a day and upwards is a very low salary.

Mr. ROBERTS. I admit it amounts to six dollars a day, in the event of two thousand dollars being the sum—a little less than six dollars per day. In view of the labor that the judges are to perform—in view of the salaries paid in other states for similar service, in our western states, I am of the opinion, sir, that three thousand dollars is not at all too much for this service that we expect of these judges, and I was proceeding to argue when interrupted that by paying the salary of three thousand dollars per annum we would get a service in the judges' seat that would in all probability be better economy than paying a smaller salary and putting up with inferior lawyers in the judges' seat, which would constantly entail the expense on the people of taking appeals to higher courts in consequence of bad law being in the judges' seat, and for this reason and in the interest of economy, I shall do what I can to keep these salaries up where they have been fixed by the committee. I think I can do so safely. I shall not at all be afraid of the people when we have to stand face to face with them next fall and persuade them to accept this Constitution with the salaries that it shall give, because I believe that it can be made as clear as daylight to them that this action is in the interest of economy, and that we best subserve their interests when we provide efficient judges for the several districts that we are providing. Now, these are the considerations, Mr. Chairman and gentlemen, that shall lead me for one to insist upon these salaries being at least three thousand dollars per annum.

Mr. VARIAN. Mr. Chairman, I would like to offer this substitute, in accord-

ance with the suggestion I made, for the entire section, "until otherwise provided by law, the salaries of the justices of the supreme court shall be three thousand dollars per year and paid quarterly out of the State treasury. The salaries of the district judges shall also be paid quarterly, and by the counties composing the respective districts in proportion to the taxable property of each, and shall be in each district until otherwise provided by law as follows:" leaving blank all except the third, the Salt Lake district, in which I insert the sum of thirty-six hundred dollars.

Mr. SQUIRES. I would like to ask Mr. Varian if he does not think mileage should be included?

Mr. VARIAN. I have no objection; it did not occur to me.

Mr. SMITH. I would like to ask Mr. Varian the question, what is the purpose in this amendment of yours in inserting the amount of salary that should be paid to the judges in our district and providing in the Constitution that the others shall be fixed by law?

Mr. VARIAN. The gentleman misunderstands the amendment. I leave the amounts blank for the other districts for the purpose, as I supposed, of permitting the delegates from those districts or from the counties composing those districts to agree among themselves upon the amount of salary they are willing that their people should pay until the Legislature shall change it in that district. If the gentleman will examine the amendment, he will see that in each case the Legislature in the future may change it. This is only for the present, but it has this underlying principle in it, which is not found in the section, that it may be different in different districts. You may want to pay a man fifteen hundred dollars in a small district. We want to pay a man, for instance, more than that. We want to pay our judges more, we will say, in the Salt Lake district, where the work is heavy and continuous throughout the year. I do not wish to indicate to gentlemen from other districts what they should pay, and for that reason I submit this amendment for the approval and the consideration of the committee and they can fill the blanks if they approve the system.

Mr. MALONEY. Have you provided for any fees to be paid in to the clerks or anywhere else—from what source is money to come to pay these districts judges?

Mr. VARIAN. I intend to offer a provision contemplating the changing from the fee system to the salary system, and requiring all fees of the county officers—at least of sheriffs, clerks, etc., to be paid into the county treasury. Clerks of the district courts I think ought to be all on salaries, if that system prevails, and it would be a very large precentage of the salaries we have to pay paid through these fees and there would be very little left, as we think, for taxation.

Mr. CREER. The salary of the district judges now is twenty-five hundred dollars, is it not?

Mr. VARIAN. No, sir; it is three thousand dollars under the United States, and $750 per annum appropriated by the Territory. It has been for years one thousand dollars additional, making four thousand dollars a year.

Mr. CREER. If you would make your substitute to cover your four districts I would support that, and let the rest be twenty-five hundred dollars.

Mr. VARIAN. I would say to the gentleman, the purpose of leaving these blanks is that they may be filled by the members from the different districts.

Mr. CHIDESTER. Mr. Chairman, I oppose the substitute as it stands now, but I would not oppose one if it was based on this idea that the salaries should be, say, fifteen hundred dollars or two thousand dollars, with a pro-

viso that any district may raise the salary to any amount that they felt so disposed, but to make the salaries as contemplated in that substitute would not satisfy me.

Mr. VARIAN. I do not understand it exactly. The salaries are not prescribed there, except for our district.

Mr. CHIDESTER. The mode of paying the salaries is prescribed in that substitute, by asserting that the districts shall pay their judges. Now, I oppose it on this ground, that I believe it should be stated in the section that the judges should have a certain amount. For illustration, I would say fifteen hundred dollars or two thousand dollars, then at the end of the section make a proviso that any district may raise the salary to any amount that they see fit; that would give them a chance to obtain the best talent there is in the world if they so desire, and all the districts could do the same.

Mr. RICHARDS. Mr. Chairman, I am in favor of Mr. Varian's substitute. Now I realize, I believe, the necessity of economy, and it is for the very reason that I do believe in economy that I think this substitute ought to prevail. There are certain districts in this Territory where men can be obtained who will serve and be capable of serving at a much less salary than men who could perform the duty and fill the office in other districts in this Territory. Now, it is, as you all know, a fact that the cheapest is not always the most economical in anything. If you want anything done that requires skill and ability, you want to get a man that is able to do that and to do it right. The cheaper you can get it done and have it done right, the better, but if you employ some one who is not capable of doing it as it should be done, no matter how little you pay that person, it is liable to be an exceedingly expensive job, and the expense will depend largely upon the nature and character of the work that is to be done.

Mr. CHIDESTER. Wouldn't this suggestion of mine meet that proposition that you make?

Mr. RICHARDS. Not if I understand your proposition correctly. It seems to me impracticable. I do not understand how any of the district judges can change these salaries. They must be changed by the Legislature.

Mr. CHIDESTER. Let me state the proposition that I made. Under this substitute the different counties in the districts would pay their judges. My proposition was this, that the judges should all receive the same amount of pay under this Constitution, with a proviso that each district if they saw fit themselves should make a further payment to secure better talent if they felt so disposed.

Mr. RICHARDS. That is exactly the objection I state. I do not see how it is possible for the districts to legislate in that matter and determine that they will increase the salaries. That I understand is a matter of legislation.

Mr. CHIDESTER. By appropriation.

Mr. RICHARDS. The districts are not political subdivisions; the districts are comprised of various counties and each county is separate and distinct.

Mr. CHIDESTER. Then how would they make the payment under this only by appropriation?

Mr. RICHARDS. They will make the payment certainly by appropriation, but the full amount will be determined, fully determined, and fixed in the Constitution. They do not have to meet and legislate on the subject of what the amount shall be. They simply apportion among the counties comprising the district the amount, whatever it may be, that is fixed in the Constitution. Now, I was going to remark on this subject of economy that we sometimes make a mistake in getting things that are cheap and suppose that we are

pursuing a system of economy; that would be false economy. Now, for example, you take the machinery of a court of general jurisdiction, such as the district court, and we are now trying to fix the salary of the judge. Why, the salary of the judge is a very small part of the expense of the district court. Every day that that court sits that judge receives perhaps five or six dollars; if the jury cases are on trial he perhaps has thirty jurors in attendance; the district court in this city to-day, I presume, has sixty jurors in attendance; that would be sixty dollars or one hundred twenty dollars as the case may be. The marshals are in attendance, the bailiffs are there; the other officers of the court. They are all in attendance, and their expense has to be paid. The other expenses, we will say, aside from that of the judge, which might be five or six or ten dollars a day, would be fifty or seventy-five dollars a day. Now, you take an efficient judge and put him on the bench and that man will do twice the amount of work that an inefficient man will do. Then, I say, if you paid that man ten dollars a day and he saves you fifty dollars, is it not a matter of economy that you should have him instead of hiring a man and paying him four or five dollars and let him fritter away the time of the court and keep these people in attendance. Time is saved in two ways or is wasted in two ways. One is by reason of the efficiency of the judge, he hastens business; the business is pushed along. Why, you go into our courts and you see the proceedings before one judge and then go from there into another branch and see the proceedings there, and you will observe at once a very great difference in the way the business is conducted. In one branch it will proceed much more rapidly perhaps than in the other, which is due to the peculiarity of the judge. One man has the talent and the ability to expedite business and to hasten it along, and in that way time is saved. But, gentlemen, there is another way in which time is saved by an efficient judge. You put a man on the bench who is incompetent and that man will make mistakes. He will commit error and the appeal goes up, not from that judge to himself sitting upon the bench, nor to his colleagues, but it is going up to another tribunal, a tribunal which will have no sympathy with him, so far as condoning his faults and errors is concerned, a tribunal whose duty it will be to apply the cold principles and rules of law and to determine whether or not he has proceeded in conformity therewith, and if they find that the man has made a mistake, they reverse his decision and the case goes back; and those reversals usually come in cases of great importance and trials of great length, as for example a murder case, that perhaps has taken a week to try, which is no unusual thing, to consume a week's time in trying a murder case. And suppose the judge makes a mistake, suppose he commits an error in the trial of that cause, there is a week's time lost, not only the salary of the judge for a week, but fifty or seventy-five dollars a day or perchance a hundred dollars a day has been lost to the State by reason of the mistake that this man has made. Or an important mining suit that involves, as cases have in this Territory, three or four weeks, time, or a month's time in trying, and an incompetent and inefficient judge makes a mistake. He is reversed. The case has to be tried over again, and all the time and all the expense, not only of the judge, but of the whole machinery of the court, has been lost and it has all got to be done over again, and the State has to pay for it. So, I say, gentlemen, when we look to economy, we have to look to true economy, and be careful that we do not fall into the error of false economy.

Mr. GOODWIN. Mr. Chairman, we cannot finish this discussion to-night. I move the committee now rise.

The motion was agreed to.

The committee then rose and reported as follows:

Your committee has had under consideration the article on education and school lands and reports the same passed, and recommend that it be placed upon the calendar for third reading, and also reports that we have had under consideration the judiciary article and report progress.

On motion, the Convention then, at 5:12 o'clock, adjourned.

FIFTY-FIRST DAY.

TUESDAY, April 23, 1895.

The Convention was called to order at 9 o'clock a. m. by President Smith.

Roll call showed a quorum present.

Prayer was offered by Delegate Halliday, of Utah County.

Mr. CANNON. Mr. President, I move that we suspend the rules and go into committee of the whole.

Mr. SQUIRES. The chairman of the judiciary committee is not here.

Mr. HART. Mr. President, the chairman of this committee, no doubt, will be here soon. I think we can take up the article on third reading on education and school lands and dispose of it now. I do not know anything connected with it particularly that requires the chairman to be present.

The motion was rejected.

The Convention then proceeded to the third reading of the article entitled education.

Sections 1 and 2 were read.

Mr. PETERS. Mr. President, I desire to renew my motion to strike out section 2. I made the motion on Friday.

Mr. VARIAN. Mr. Chairman, we do not want this action to be taken at this stage. Section 2 has received a prolonged consideration by this Convention in committee of the whole. A compromise was reached, as I thought, that would be fairly observed. Certainly that was what might fairly be considered from what was said by those who were opposed to some features of section 2. Now, by striking out this section you leave the question open so far as Salt Lake City and Ogden City are concerned, in relation particularly to the high schools. The amendment that was incubated, slept upon, the nature of the proviso that was adopted to this section, received the unanimous support of the Convention in committee of the whole on yesterday. I trust that we will not have to go over that ground again, and that we may rely upon the good faith of those gentlemen who acquiesced in the suggestions incorporated in that proviso.

Mr. PETERS. Mr. President, I do not desire to take up much time, but I have the same objections to this section to-day that I had on Friday, and I would like to state a few of them. I stated then that I was opposed to a binding down of the proposition. Section 1 of this article provides that the Legislature shall provide for the establishment and maintenance of a uniform system of public schools. Then it goes on to say what the public school system shall be. Now, I do not see any good in trying to form an unchangeable and detailed plan of a school system.

Mr. SQUIRES. May I ask the gentleman a question? Does he not know that an amendment has been made to this section in these words: "And such other schools as the Legislature may establish?"

Mr. PETERS. I am aware of that amendment too. But I know further that the friends of the city schools, according to my idea, are jeopardizing those schools. The Enabling Act, section 6 says, that sections 2, 16, 32, and 36 are granted to the State, the proceeds of the sale of which shall go to the support and maintenance of the common schools. Now, if I understood the remarks of the gentleman from Salt

Lake, the proposition is that Salt Lake City and Ogden shall have the right to maintain a high school. A high school is made a part of the public school system. Being made a part of the public school system, they expect to get a portion of the fund which is obtained from the sale of these lands for the support of their school in proportion to the number of students that they have in attendance who are within the school age. Those children attending the high school will be drawing from the public school fund which is known as the common school fund.

Mr. VARIAN. Wouldn't they be drawing money anyhow between eighteen years and six?

Mr. PETERS. They would be drawing it.

Mr. VARIAN. Of course.

Mr. PETERS. The name of the school is changed. It becomes a high school and a part of the system, and as the section now reads it says that all common schools shall be free, so it strikes me that we are too good, as the saying is, to the school system, and by that means we have a tendency, according to my idea, of providing future legislation which will be in accordance with the growth and development of the educational system. The tendency is to make schools more practical and we do not know what the future may bring about as to the kind of schools.

Mr. EVANS (Weber). Mr. President, it seems to me that section 1 is sufficient to provide for anything which will be found necessary in the future respecting our school system. I am like Mr. Peters. I see no necessity for section 2. It provides a fixed, rigid school system, which, if in the future the Legislature shall deem it wise to change, it would be unable to do so. If we were simply to say that the Legislature shall provide for the establishment and maintenance of a uniform system of public schools, which shall be open to all the children of the State and free from sectarian control, that would be ample for all purposes. As I understand it, that would leave our school system as we have it now.

Mr. BUTTON. Would that first section make public schools free?

Mr. EVANS (Weber). That can be very easily remedied.

Mr. BUTTON. It don't do it as it is.

Mr. EVANS (Weber). All that we would have to say is that the common schools shall be free and that would not be a limitation upon the Legislature to make other schools free if it desired to do so. Now, I have examined a good many constitutions and I find that this is somewhat out of the ordinary—to fix the particular class of schools or system of schools which the Legislature in all future time must provide for. For instance, you take the great state of New York, with all its complicated and elaborate system of public schools, and it has about three lines, simply saying in effect that it shall be the duty of the state to provide a free common school education free from sectarian control. That does not argue that we are not in favor of the higher schools. We are, in Salt Lake and Ogden, at least, and I desire to maintain them there; but what I object to is a fixed, rigid, unchangeable system of schools in the Constitution. I would rather leave it more flexible, so that it would meet our conditions of the future. If we are prosperous and have plenty of money we can establish a higher grade of schools at the public expense. If we should happen to be poorer and unable to raise sufficient means we should simply limit the public moneys to the education of the children in common schools. I believe that it is the part of wisdom to strike that section out, and I believe it would do no harm to any section of the Territory.

Mr. FARR. Mr. President, I understand from our present system, according to what we have got, we have

fixed the school age in which our children shall have public support to the age of eighteen. We no doubt will have some members of the school and some of our children will graduate at eighteen, while others will want to go on until twenty-one and twenty-two, and so on upwards, as long as they are a mind to go and support themselves, but they get no public support according to the provisions of the law, after they are eighteen, and some of our children are better prepared to graduate at sixteen than others are at eighteen. Now, why should we cut off those that are capable and have got natural abilities and have applied their minds to study and got so far along—to cut them off at sixteen, if they are prepared to go into a high school at sixteen? I say let them have the money that is appropriated for all schools alike, whether they are very smart or not so very smart. Let them have the money until they are eighteen, even if they want to go into a high school, and we cannot provide for them after they are eighteen. Then the benefit of the money of all these different sections will go to them until they are eighteen, and they should be kept on, in my opinion, improving, and be supported out of this money until they are eighteen, the same as if they were not quite so smart, consequently, I think, the section is all right as it is.

Mr. EICHNOR. Mr. President, the way the section originally appeared, no doubt it would be better to have it stricken out, but after the amendment that was proposed by Judge Goodwin and adopted in committee of the whole, I think the section is very good. In other words, the section as now amended is flexible. Any contingencies that may arise in the future in the way of some new school can be provided for. Now, gentlemen, what is the object of striking it out? If Salt Lake City has twenty thousand children of school age, we will just get a certain proportion of the school fund of the State. It does not interfere with any one, either, in the high school or the common school or the kindergarten. Not a county outside of Salt Lake pays one cent more if this provision is placed in the Constitution. It simply guarantees that we may proceed and conduct our high schools in Salt Lake City and Ogden, and such other districts as the Legislature shall provide. A number of objections were raised to the amendment of Mr. Varian at first. Mr. Chidester, of Garfield, and various others objected to the amendment as it was first proposed. It was then agreed by common consent to let the matter rest until the following day and the defects were cured.

Mr. L. LARSEN. Mr. Chairman, we have provided in section 1 that the Legislature shall provide for the establishment and maintenance of an uniform system of public schools, etc. I move that we strike out, beginning at line 1 in section 2, "the public school system shall include, first kindergarten schools, second, common schools, which shall consist of primary and grammar grades, third, high schools, and fourth, a university."

Mr. ELDREDGE. Mr. President, before that motion is put to strike out, I would like to offer an amendment to the section. I would move to strike out the word "kindergarten," which appears in the second line, and add at the end of "university," in the fourth line, "and such kindergarten schools as the Legislature may provide for by law." My idea in moving to strike out the word as it there stands is that I do not think it should be made a part of the system. That would leave it optional with the Legislature to provide for kindergarten schools.

Mr. VARIAN. There is an amendment which would cover that.

Mr. ELDREDGE. Well, if the amendment covers the grounds so that the Legislature could provide for the school

that would reach the end which I was endeavoring to get at.

The amendment proposed by Mr. Eldredge was rejected.

The PRESIDENT. The question is now on the motion to strike out the entire section.

Mr. PETERS. Mr. President, I just desire to ask the gentleman a question. It may be that if I can understand this section right, I will withdraw my motion. The way I understand it, at the present time—and I would like the gentleman from Salt Lake to correct me if I am wrong—it would require each district—that is, the Legislature in passing a school law will naturally require each district to have kindergarten schools in connection with their schools in the district. Section 1 goes on and says what the school system shall consist of, first a kindergarten; they will have to provide for the maintenance of that or its support. Now, if that is not a correct interpretation of this section—that is one of my greatest objections—the districts are not prepared to establish kindergarten schools, except in the cities. I ask if that would be the correct interpretation?

Mr. VARIAN. Mr. President, it is true that the kindergarten school should become a part of the public school system, but they are not free schools. That is left open to the Legislature. So far as I have been concerned, at no time during the discussion of this question have I had anything to say upon that question. I am dealing now with the free school system here.

Mr. EVANS (Weber). What Mr. Peters wants to know, and I would like to understand it, too—the kindergarten schools would be a part of the public school system, and the public would be required to support them just the same as it would the university, would it not?

Mr. MAESER. No, sir.

Mr. VARIAN. Mr. President, if the Legislature provided for it, yes—by local taxation, I suppose. That question was all gone over the other day. So far as I am concerned, I had nothing to say about that kindergarten system. I supposed that the house was perfectly satisfied upon that question. As it stands, it will require an act of the Legislature to provide for the support of the kindergarten. If your Legislature that you send up here want kindergarten schools, they will provide for their support. Now, it comes in the same line with the university. What I am dealing with here is the proposition to strike out this declaration that you are going to have a free school system here. Consider it first from the general standpoint. What effect is it going to have upon emigration? If you have a declaration like this in your constitutional law, that you are going to have a free school system in part at least so that it can be changed, doesn't every gentleman know that that will appear more strongly than any other advantage that this people can offer to people looking for a home for themselves and their family—the irrevocable promise that there shall be such a school system here as is in accord with the systems elsewhere in the United States, free to them and to their children? You strike it out or leave it in that uncertain way, and I tell you, gentlemen, you are retrograding twenty years in this Territory. Now, as to the second branch of the proposition, I call attention to the fact, as was suggested by my colleague from Salt Lake, that it will not and cannot in any degree interfere with the sum of money that this city—for instance, to make a pertinent illustration—will be entitled to get. It is not the number of pupils, I will say to the gentleman, who attend the high school or the common school or the kindergarten schools, or the university, that make up the basis of school apportionment. It is the number of children between six and eighteen years of age. Am I not right—eighteen years of age?

Mr. PETERS. Yes, sir.

Mr. VARIAN. Now, it makes no difference, sir, whether those children attend school or not; that is, so far as the apportionment of money is concerned. If only a third of them attend the school and there are no laws sufficiently effective to make the remainder attend school, still the proper apportionment of school moneys made up from territorial taxation and county and city taxation are diverted unto the Salt Lake City and county school fund. That being so, it can make no difference to any other county or district how they are expended. This proviso goes to this extent, that if the school fund, so apportioned to a city or district, as I have indicated, shall not be sufficient to maintain these schools free, then the high schools shall be maintained by local taxation. That is fair. If there are enough children in the county and city and if there is enough money to make a sufficient apportionment for our special purposes, it can make no difference, I submit, that we have enough to run a high school too. If we have not we must maintain the common schools with what money we have got, free, and support the high school by local taxation. Now, that is all there is in it, and I submit we ought not to be met with further objection on that score.

The PRESIDENT. If the word free was put before "public school," in the third line of the first section, would not that answer the whole purpose?

Mr. VARIAN. No. That would leave the question open, Mr. President, to have the Legislature determine that the high school should not be a part of the free school system. That is the whole ground that we went over the other day. We are perfectly willing that the outside counties shall have the question left open that way, but we have in this city too much money here—we are too heavily in debt. Our system has gotten under way. The whole community is impressed with it from the children to the parent, and I am told that it is so in Ogden. We do not want it changed, and we do not want the menace of change fixed by omission or commission upon this statute here, and we simply ask you to leave it as it is. It cannot affect you.

Mr. GOODWIN. Mr. President, I want to impress upon some gentlemen who seem to have a wrong idea of these actual facts. The free school system of Salt Lake City is decidedly the biggest advertisement that Utah has. The high schools of Ogden and of Salt Lake are the wonder of people that come here, and when gentlemen look at these schools they think there is something wrong. They do not stop to think of their effect. That if, for instance, there was a fund of a hundred thousand dollars to go to Salt Lake and to Sanpete, that no matter about the high school, if Salt Lake had six thousand children and Sanpete had four, Sanpete would get four-tenths of all the money and Salt Lake would get six-tenths, and it would not matter whether Salt Lake put her money in high schools or anything else. We went over this thing two hours the other day and spent out of the United States money and I guess our own funds probably one full half day. It probably cost us three hundred dollars—this discussion of this matter the other day. It is all right as it is. I hope the Convention will let it stand.

Mr. ANDERSON. Mr. President, I am opposed to the motion to strike out. I am in favor of the section as it stands. I think that it is broad enough to embrace every system that is possible for us to want in the future, and I think that the common schools should be free. Therefore, I will vote in support of the section as it now stands.

Mr. PETERS. Mr. President, I do not desire to be misunderstood on this proposition. I am not attacking all of the schools of Salt Lake City, and I am not unfamiliar with the school law

either. I think I know nearly every line in the school law and particularly the school system of Salt Lake. I have written that law once and was very familiar with it. Now, I do not want to be misunderstood that I am attacking the high schools, but I claim that if we put in free common schools, Salt Lake can get all that she has now. Why is she so tenacious to hold on to the high schools? The article which provides for the city schools also says that it shall provide for high schools and mechanical schools and manual schools. Now, they only include the schools named. It may be in ten years from now they will want mechanical schools connected with the high schools here in Salt Lake City. They may want manual schools. The tendency of the age is——

Mr. VARIAN. The gentleman will permit me to call attention to the fact of the amendment adopted by the suggestion of my colleague on yesterday, "such other schools as the Legislature may provide."

Mr. PETERS. I understand that, but you seem to think I was attacking the high schools. I do not wish to be understood that I was attacking them, but I wanted it to be left open for future legislation, in order that they can legislate according to the progress of the age. I have no desire to attack any system.

The motion of Mr. Peters was rejected.

Section 3 was read.

Mr. VARIAN. Mr. President, it might be well to insert a provision there including all unclaimed shares or any dividends of corporations included under laws of this State.

Mr. GOODWIN. I think that suggestion came in connection with the deaf and dumb and blind asylum.

Mr. VARIAN. Well, the principle is the same. I move to insert after the word "purposes," in line 8, the words, "and all unclaimed shares and dividends of any corporation incorporated under the laws of this State."

Supposing that we change that and offer it after the word forfeiture in the 5th line. I would ask the chairman of the committee whether that was considered?

Mr. PIERCE. That was considered in the committee. We are willing the school fund be as large as it possibly can be.

Mr. BOWDLE. Is that not covered by the preceding clause—the proceeds of all property that may accrue to the State by escheat or forfeiture?

Mr. VARIAN. No; I do not understand that private property is forfeited to the State except in cases of decedents; they are the only forfeitures that I know of.

The PRESIDENT. Wouldn't that come in the fourth line—the proceeds of all property or stocks unclaimed?

Mr. VARIAN. No, sir; that would presuppose that it must be escheated or forfeited. Escheat and forfeiture of property is a very different question. That is to take in for the benefit of the State all dividends on stock that may be allowed to accumulate and which I am told is done frequently in commercial cities, and no one gets the benefit of it eventually but the holder. It is not called for; it is not escheated property or forfeited property in the sense that it is used there.

Mr. MONS PETERSON. Mr. President, I have a substitute I wish to offer for section 4, as follows:

The university of Utah shall comprise all departments and institutes of higher learning of the public school system, including the school of mines, the agricultural college, the state normal school, and such literary, scientific, and technical schools and colleges as may be established by law, and shall be located at Logan, Cache County, provided that normal schools, experiment stations, and the school of mines may be established by law at other places.

The Legislature shall provide at its first session for the removal of the university to Logan by September 1st, 1896.

Mr. ANDERSON. Mr. President, I am opposed to this substitute. I think that the university and agricultural college should remain where they are, but if they should be united, I think that Salt Lake City is the proper place for the establishment of our higher institutions of learning. It is nearer the center of population and in my opinion it is the best place every way. Therefore, I am opposed to this substitute.

Mr. KERR. Mr. President, the question has been already quite thoroughly discussed before the Convention. I do not desire to take up the time of the Convention in going over any of the ground which has already been covered in this discussion, but this substitute, as I have stated before, it does seem to me is one of the most important subjects that has come before this Convention. First I desire to call attention to two or three points which I should have replied to before, that have been made on the floor of the Convention, after my remarks on Saturday morning. It has been stated that the students in the agricultural department of Cornell were looked down upon by the students of other departments. In refutation of that, I desire merely to call attention to two points: first the honors won by the present class and the demand for graduates in agriculture as managers of farms, and teachers, testify to the high character of the work done by the students.

Now, I admit, Mr. President, that if the students of the agricultural college of Cornell university were looked down upon by the students of that institution, they would have little opportunity to participate in the oratorical and other contests in that institution. The fact is, gentlemen, that you would hardly know the departments in which the students of that or other great universities are laboring. While there I associated with students in the engineering courses, in agriculture, arts, letters, philosophy, etc., and in the classes in mathematics, in French, in German, in history, and subjects of this kind. We there associated together, in the departments in which we were registered; an hour or two a day at most, and that only during the junior and senior years is devoted to the technical work, or the work which characterizes the several courses, and I state that the students of the agricultural college of Cornell university and the agricultural departments of other institutions are not looked down upon. Again, we find that students in institutions of higher learning gain prestige and position through their intelligence, their ability, their energy, and not from show. As an evidence of that, I need only call your attention to a number of students, whom I know now in eastern institutions. The only class distinction in these great universities is freshman, sophomore, junior and senior. They have their class organization. Who is president of the senior class of Michigan university to-day? A poor farmer boy of Utah, and I grant you that were he looked down upon he would not occupy that exalted position is that great university, and he also is a student in civil engineering, one of the courses of the colleges of agriculture and mechanical arts. Who of all the students of Cornell university, numbering nearly twenty-two hundred, was selected as the man to represent that institution in the great oratorical contest at Chicago? Young Nebeker of Logan; a poor farmer boy, a graduate of one of our Logan colleges. If he were looked down upon, how is it that he was thus recognized? It is ability, I repeat, and intelligence that give to students in these great universities prestige and influence. It is not merely show. It does not depend upon the courses in which they are registered.

In the university of Utah and the agricultural college of Utah, I stated in my remarks Saturday morning, there are certain courses which are the same. The work in the agricultural college is

to a great extent a duplication of that of the university, as taken from the two official catalogues of those institutions. I have noted here of the thirty-seven subjects of instruction in these institutions, only eight are given in the agricultural college that are not being given to-day in the university of Utah. This is official. I need not take your time in enumerating the subjects, but of thirty-seven subjects, only eight that are given in the agricultural college are not given in the university of Utah. The other twenty-nine subjects are being taught in both institutions, and by a union of these institutions there would result a large saving. Now, again, it was stated by one gentleman that the union of these institutions would be largely an experiment. Why, gentlemen of the Convention, in many of the states throughout the United States for years and years these institutions have been united, and I have here a letter from Commissioner Harris, the United States commissioner of education, in which he makes the statement that in the following states or territories the agricultural colleges are connected with state or territorial universities:

Arizona, Arkansas, California, Delaware, Georgia, Idaho, Louisiana, Minnesota, Nebraska, West Virginia, Wisconsin, Wyoming, and New York—the greatest agricultural colleges of the nation, the greatest schools of technology of the United States, established in pursuance of the Morrill act, are connected with the universities of these states. Now, the question is, can we afford in this Convention to grapple with this question and finally settle it? I tell you, gentlemen of the Convention, who have been working so hard to keep down the expenses of the State, that which will result in an annual saving of thousands of dollars of the people's money is worthy of our consideration and it is not a question that should not be handled by this Convention. It is a question, I venture to predict again, that will result according to our action in our having no institution of higher learning in Utah or our attempting to maintain the institutions apart, and if we do that, and tax the people sufficiently to maintain these institutions, as separate institutions, we will fasten a mill-stone about the necks of the people which will drag them down to bankruptcy. Can we afford to do it? I say, gentlemen of the Convention, let us take this question and consider it upon its merits. Now, one question as to location. It is evident from the action of this Convention taken yesterday and Saturday that the union of these institutions cannot take place at any other place than Logan. I came to this Convention a strong advocate of union; I have been an advocate of union for three years. I believe that it is in the interests of the people of the State, educationally and financially. The greatest educators of Utah, including the president and vice-president of the university of Utah, and the professors of the university of Utah to-day, say, gentlemen of the Convention, unite these institutions at Logan and let us not starve out the university and the agricultural college. Let us have an institution of higher learning, in which the young people of Utah can prepare themselves for the profession and work of life. After all, are there any serious objections to the removal of the university to Logan? I admit, gentlemen of the Convention, that many of the supposed points against Logan, when examined, do not amount to much. Referring again to Cornell university—I could refer you to many other institutions, but I refer you now to that, because it is an institution with which I am more familiar. That institution is located, not in the center of the state of New York, not in a great city of commercial importance, of great population, but in the small town of Ithica, in the lake regions of New York, and that institution having been established

for twenty-seven years, ranks to-day among the best institutions, not only of the United States but of the world. They have students there from different countries of Europe, from different countries of Asia, and indeed, also from the more civilized countries of Africa. They have students there from all over the world. It is an institution, the growth of which is not paralleled in the history of higher education in the United States. The university spirit predominates there.

The people of Cache County are very much interested in education. That institution already there is their pride, and if the university goes there it will be the pride of the people of that county; it will be the institution of the county; it will be the life of the county; the papers will take pride in advertising the institution, and they will take part in supporting the institution. As to the question of location, its not being in the center of Utah, I desire to call attention to merely this, students who go there will have only to pay the additional expense of railway transportation from here there, and the difference in living there will far more than counterbalance that. It is in a city, the prevailing atmosphere of which is such as to in no way interfere with the work of the students. I will just call attention to one fact, of the two Utah students who graduated with high honors in Harvard, it having required only three years for them to complete the four years' course, one was honored with being appointed the only member of five hundred students in chemistry, a member of the German society of chemistry. They graduated with high honor in civil engineering, having had charge of their classes in their summer schools. They were graduates of one of our Logan institutions. The president of the senior class of Michigan to-day is a graduate of one of the Logan institutions. I have labored in Salt Lake. I have labored in the university here; I have labored in the college at Logan, and I know that the surroundings there and the climate there are all favorable to the work of higher learning in those institutions. Now, gentlemen of the Convention, meet this fairly, and I state frankly that I did not come here to wage any local fight. All I want is that we take such action as will secure to the people the greatest possible higher educational opportunities for the minimum expenditure of money. Let us consider this union elsewhere than at Logan as impossible. Let us unite the institutions therefore at Logan. Let us, instead of having two struggling, starving institutions, have one institution that is worthy of the State.

Mr. SQUIRES. May I ask the gentleman a question? It has been stated here this morning, and I would like to have you confirm it if you can, that the building at Logan in which the agricultural college is now located is sufficient and will be for many years to come, for the combined uses of the two institutions. Is that a fact?

Mr. KERR. Thank you. I am very glad you asked that question, because I can now answer it. And to show you that I am not prejudiced I will give you exactly the same answer that I gave a year ago when I was then professor in the univerity of Utah and was in no way connected with the agricultural college or any other institution in Cache County. By converting the boarding house there into a physical and chemical laboratory, the buildings there are ample to accommodate all the students of both institutions, and a year ago when I went there, I took my note book and noted the size and number of all the rooms in the buildings and made a very careful estimate of the capacity of the buildings, and I am free to state, as I stated then, that by converting that boarding house into a physical and chemical laboratory, and it would require but a

very little to do that, the buildings are ample to accommodate all the students of both institutions. Now, really, the expense that will be incurred in moving the university to Logan is simply the expense of transporting the apparatus from here there, in addition to the small amount that would be required to remodel and fit up the boarding house as a laboratory. Now, all of the students could be accommodated in the other building; but to be frank, I said that in my judgment this boarding house should be converted into a chemical and physical laboratory, in order that the students may be amply provided for.

Mr. EICHNOR. What would you do for a boarding house?

Mr. CANNON. Build another one.

Mr. KERR. The students board with private families. The students of the Brigham Young college do that and the fact is that the students of the agricultural college do the same. Very few of the students occupy rooms in the boarding house, so I am informed. They prefer to live in private families and would do that if the boarding house is used for a laboratory. And in that connection I will state just, locate the institutions there and there will be dormitories or boarding houses established all around the campus there for the accommodation of students. There have not been during the last few years, because they were afraid the institution might be removed and then their property would be lost, but just fix it there permanently and these houses will be built up around there and then the students can be amply provided for free of cost to the State.

Mr. GOODWIN. How far is it now from the college to the town where there are houses?

Mr. KERR. The houses come right up to the college.

Mr. GOODWIN. Is the agricultural land attached to the Logan college proper in all respects for an experimental station?

Mr. KERR. I will be frank with the gentleman from Salt Lake. I will state that the soil there is a good soil and the lands are good. Now, when the State can afford it, my opinion is and has been that there should be one or two other experiment stations in the State.

Mr. GOODWIN. The reason I asked you was some gentleman, I do not remember who, told me that it was impossible to raise anything on the soil without a wind rake behind.

Mr. KERR. That is certainly incorrect. It is a good soil, and in every way adapted to the work going on. I will state also the college has a water right for all the water that is required for any and all purposes; it comes out of the canyon there and is ample to provide all the water needed.

Mr. GOODWIN. Do the shrubs planted on that soil stand up straight or do they lean?

Mr. KERR. I could not say.

Mr. GOODWIN. Some gentleman—if he is a liar he must be outside of this Convention—told me that all the plants leaned towards the college, that the winds from the canyon kept them that way.

Mr. KERR. There is of an evening in Logan a gentle breeze from the canyon there which makes it very pleasant in the summer, but I do not think it is sufficient to interfere with the shrubbery on the hill.

Mr. JAMES. Mr. Chairman, I arise for the purpose of asking unanimous consent of this Convention that a gentleman present here, who I think probably can give this Convention some information regarding this question that will be a benefit to us all, Doctor Talmage, be permitted to make a few short remarks regarding the university of Utah.

Mr. ANDERSON. Mr. President, before Mr. Talmage speaks I wish to offer an amendment bearing on this subject. I wish to amend the substitute by striking out "Logan, Cache County," and inserting "Salt Lake City," and strike

out "university to Logan," and insert "agricultural college to Salt Lake City."

The PRESIDENT. If there is no objection the doctor will talk to us a few moments on this educational question.

Mr. TALMAGE. Mr. President and gentlemen, I cannot refrain from expressing my very great gratitude for this unexpected and I believe unparalleled honor that you bestow upon me. I am informed that certain delegates in the Convention have been inclined to doubt the statements that educators connected with the university here have felt to sanction the proposition to move the institution to Logan. I would say in that connection simply this, I believe that every earnest educator in Utah recognizes the absolute necessity of the union of these institutions, in order that anything may be accomplished worthy of the institution of higher education in the State of Utah. I believe that the State is within two hundred thousand dollars of the total indebtedness allowed by the Constitution, and that for several years the agricultural college, the university of Utah, perhaps also the reform school and other territorial institutions, have been to a great extent conducted upon borrowed money, the indebtedness of the Territory increasing from year to to year. I submit that if these institutions remain apart, it will be absolutely impossible for the Territory or the coming State to provide funds ample for the work and that in consequence we will have two weak institutions.

I believe that the educators here cannot be charged with having any personal aims in this movement or any selfishness at heart at all. It surely must appear to be a purely professional motive which prompts them—educationally. We regard it as altogether a wrong principle to separate these institutions. Professor Kerr has read to you a letter from the commissioner of education of the United States, and it is but a few weeks ago that I had the pleasure of a personal interview with that distinguished gentleman, and a conversation with him concerning this matter, in which he urged for the sake of the future State that we would refrain from that destructive policy that is ruining the educational interests of a number of states and territories which have become virtually a by-word in the educational world through the separation of these interests and the segregation of these different departments. In the department of domestic arts—and it was to that department to which Professor Kerr alluded—there are thirty-seven subjects offered in the agricultural college, and of those thirty-seven twenty-nine are carried on at great expense in the university of Utah to-day. The classes in those several courses are of sufficiently small size to be conducted by one and the same teacher and with practically the same equipment, except in the case of laboratory work, which of course would require new apparatus and material from year to year. I have been in favor of the union of these institutions at Salt Lake City. I believe those who have conversed with me upon the matter know that full well. But location has always been—I was about to say, secondary—but I will say, very, very greatly subordinate to he question of union. I think that without this union there is little prospect of a strong institution being built up in Utah. I am not here and do not take advantage of this courtesy you have extended to me to advocate Salt Lake City or Logan, or any other place in the Territory. I would rather see the combined institution placed in the extreme south than to see both institutions placed in Salt Lake City and kept separate, for the reason that there would be a waste of energy that will consume the funds and result in ill effects as long as the institutions remain separate. I cannot believe that for fifty years to come Utah is going to increase in population and wealth so greatly as to

make it advisable to carry on these institutions separately.

If they were combined it would seem to me both reasonable and in every way proper that the name agricultural college of Utah should be retained, that the identity of the institution should be retained. To me agricultural college stands, I believe, supreme above all other courses that are offered in the Territory in importance. I am a lover of agriculture and of agricultural pursuits and agricultural arts, and would do nothing, if I had the power to do it, that would hinder the work of that institution. I have never cast a reflection upon it, and have only had words of honor and praise upon my tongue for the institution. I submit that the effectiveness will increase, that its good works will be multiplied by making it work in harmony with other departments. Its work will be strengthened in its academic branches, which every student of agriculture ought to be trained in, and that without special expense to the institution. I understand that some question has been raised as to the possibility of that institution losing its appropriation from the government if it be made part of another educational institution. I ask you to consider that act providing for the endowment and for the support of agricultural colleges, and you will see that one part of that appropriation is to go to the institution that maintains the agricultural department, or an agricultural college. That was plainly, then, the intention of the lawmakers that in most cases—in many cases the institution known as the agricultural college of the State would be a part of some other institution. I want to take this advantage of your kindness, to urge most earnestly the welfare of higher education of the country and State of Utah, and to submit that that can be achieved by union. I have nothing to say in favor of Logan. There are others who have represented the claims of that city. I have absolutely nothing to say in favor of Salt Lake City, more than I have said. There are others far abler than I to urge those claims. But provide for union. Leave the matter for the Legislature as to the location, or provide for such now, but, gentlemen, this state of uncertainty is turning away every stream of endowment that was approaching our institution. No one will give anything to the institution while it is in an uncertain state. I am in a position to know that, to realize that there are many who are willing to help the institution of the State if permanently located and established, and that its future growth is to some degree at least assured. The support of an educational institution to-day is not what it was a few years ago. Education is advancing every year and the university is an expensive institution. An agricultural college is not a whit less expensive and if these are united the expense thus saved will be sufficient to increase the efficiency of the institution very greatly. Mr. President and gentlemen, I thank you again most heartily.

Mr. KIESEL. I would like to ask the professor if he would be kind enough to give us his views of the metric system?

Mr. VARIAN. One thing at a time.

Mr. EVANS (Utah). I think we had not better mix that up. We had better go on with this.

Mr. HALLIDAY. One thing at a time.

Mr. JAMES. I would like to ask the gentleman a question, if this Convention will permit. I want to ask the professor if from his experience as a professor and his knowledge of locality throughout the world, he knows a place within the whole United States that has the advantages, from a scientific standpoint, as well as a central standpoint, for a great school that Salt Lake City has?

Mr. THURMAN. I object to that

estion. I ask that the professor be t put in that embarrassing position. e has avoided it in his speech and it is wrong to him.

Mr. TALMAGE. I have nothing to y on that. I simply desire to repeat at I have nothing to say as to the cation. I urged before the Legisla- re at the last session that the ques- on of union be discussed upon its erits, without any sectional feelings tervening, and I have only waived hat in one instance, when certain tatements were made regarding the ocation in the north that I thought isrepresented some facts connected vith Salt Lake City.

Mr. JAMES. I want to state, Mr. President, just a few words. I have no personal preference for any locality. I have simply a particular desire that the best good shall be done for the greatest number. Now, there isn't anything that has come up before this Conven- tion that I have been more deeply in- terested in than this school question, since we convened. However, I have refrained from saying anything, for the very reason that I realize there are those who are better able to talk to you and explain to you the necessities in this case than I am. But I must say —and I do not say it, sir, because I live in Salt Lake City, but I say it because my observations compel me to say it, that I never have had the privilege, I never have had the opportunity of witnessing any spot within the United States that is so advantageously situ- ated for a great school as Salt Lake City. It has geological surroundings. It has attractions, it being right upon the great highway through this great nation where everybody must come if they pass from east to west. It is a point that has not only a national reputation, but is known all over the world. It has attractions which are equal if not superior to any place be- tween the Missouri river and California, and that much I did want to say in the interests of what I believe ought to be one of the greatest schools that this nation can possibly have within its confines, and that it should be estab- lished here in Salt Lake City.

Mr. HAMMOND. Mr. President, I am opposed, sir, to this substitute offered by the member from Grand County, al- though he is my son-in-law. He is a re- publican and I can forgive him, but he is off—plumb wrong. The idea of mov- ing the university, as his substitute pro- vides, to Cache County—why he may as well take it to the North Pole so far as San Juan could get any good from it. [Laughter.] I am astonished that a member from the south would make such a motion. Professor Kerr con- verted me the other day to the doctrine of union, and I have not in any manner departed from that position which I took then. Union first and union last and all the time of these school systems, and when it comes to location I leave Professor Kerr. I cannot follow him any longer. Salt Lake City, if we are going to locate it, is the place. Why, sir, we people in San Juan, when we pray, we turn our faces to the north— the great temple city, and I feel that Salt Lake is entitled to it by every con- sideration. It is the great city of wealth and renown and population, and beautiful location on the sides of the mountain. Then again, Mr. President, I feel that they need it. They are abso- lutely and hopelessly in debt, and it will help to stir up business enterprises here and to create a way by which I believe they will get out of debt sooner or later.

Mr. IVINS. I understand, gentlemen, from this substitute and the amend- ment that two propositions are now fairly before this Convention. First, the union of these two institutions of learning, the university of Utah and the agricultural college. My position in re- gard to that question has already been defined. Therefore, I shall not de- vote time to its consideration. I

am in favor of this union. The next important question is that of locality. If these two institutions are to be united, if this new State is to have one great institution of learning, shall it be located at Logan, in the extreme north of the Territory, or shall it be located at some other point? There are considerations, perhaps, in favor of both the substitute offered by the gentleman from Grand, and the amendment offered by the gentleman from Beaver. My own feelings lead me entirely to support the amendment to the substitute. I do not believe that it is best for this Territory that these two institutions united should be located in Cache County. If they are to be located at all, gentlemen, it seems to me that this valley in which the city of Salt Lake is situated is pre-eminently the most proper place for the location of an institution of learning of this character. In the first place here is the center of population of the whole Territory. An institution of this character of necessity must draw its support largely from Salt Lake County, if it is supported at all, and to my mind this is one question which should not be overlooked. From this city and from this county a large proportion of the support which shall be rendered to an institution of this character must of necessity come so far as population is concerned.

Again, in this city and county is situated a great proportion of the wealth of the Territory, and I apprehend if this institution is ever to become a great institution such as it is anticipated it will become, it must be made so largely from bequests from men of wealth. The point referred to by the gentleman from Salt Lake, Judge Goodwin, when this question was under consideration a few days ago, is one that ought not to be overlooked, and I apprehend that more bequests would be bestowed upon the institution if located here near the mass of those who are able to give than could possibly be the case should it be located in the northern part of the Territory. Now, another question that is one of importance in connection with this matter is this, in this institution we expect that medicine will be taught, surgery will be taught, there will be a school of mines attached, civil engineering will be taught, and I want to ask you to stop for a moment and consider the advantages that are afforded in Salt Lake City, above those that can be afforded in any other city in the Territory, so far as these branches are concerned. Here are the hospitals, here are the places where students can get practical information, that cannot be obtained so far as medicine and surgery are concerned in any other place. Here are the great mills, here the mines are within easy access, where students can become practically acquainted with that industry. Here the electric works are situated, here are the great machine shops, in fact, gentlemen, here are all of the facilities necessary for the acquirement of knowledge in these branches to which I have referred, facilities that for a generation at least to come never can be had in Logan.

Another thing, Salt Lake City is the central city of this Territory; it is the great overland highway from the east to the west. Here professors will visit in passing to and fro. Here educators will come, and during their temporary stay is it not a fact opportunities will be afforded to the pupils of this institution to get the benefit of an occasional lecture, to get the benefit of their opinions, of their experience, which will not possibly be the case if they shall have to diverge from the regular course of travel and spend a day or two perhaps in going into an insolated neighborhood in order to make visits to this institution? It is no small matter, this to which I refer—no small matter, gentlemen, that these opportunities should be afforded. Again, this institution, if the two institutions are united, will become the pride of the people of this new

State. It is eminently proper that it should be located where tourists, where travelers, where men from other regions may easily have access to it, that its renown may go abroad through the reports that will be made by individuals of this character, which again can never be the case if it is located in an isolated region. From a financial standpoint, what will be the result? I do not know just what may be the value of those buildings and grounds in Logan, but I do know that we will lose in Salt Lake City ten acres of ground in the very heart of this town with valuable buildings, perhaps also concessions that have been made here upon the bench, and I am of the opinion that from a financial standpoint the loss will be much greater if interests in Salt Lake City are abandoned than will be the loss if interests in Logan, Cache County, are abandoned.

I contend that the climate in this valley is better adapted to agriculture, it is better adapted to the establishment of an institution of this kind, than is the climate further to the north. I maintain that that isolated point is not proper for the establishment of an institution that is to be the only institution of the character established in this State. Now, in opposition to that comes a sentiment. The agricultural college we say has already been established at Logan and it is unjust that we should take it up and move it away, thus depriving the people of the benefits we have derived from it. I want to call your attention to the fact that the university of Utah has been established in Salt Lake City, ever since the establishment of this Territory. I opine that it never was the design of those who established it and it is not the design of the people of Utah to-day that it shall be torn up and removed to an isolated point in this Territory. It is said that the moral influence surrounding the institution in Cache Valley would be so much better than the moral influence surrounding it in Salt Lake Valley, that this alone is sufficient reason why the change should be made to that point. There may be something in this argument. I believe there is, but as a rule students who attend the university of Utah will have acquired sufficient years and wisdom to take care of themselves. All things considered, I want to say here that I shall favor the amendment offered by the gentleman from Beaver. If there is to be a union of these two institutions, I shall vote for that union at Salt Lake City. That failing, I shall then vote for union at Logan because I believe union at Logan is better than nothing, but to my mind this is the point eminently fitted. There is no better. I do not believe in the whole world there is a point with surroundings better calculated to establish and successfully maintain an institution of this character than right here in Salt Lake Valley.

Mr. PIERCE. Mr. President, there are one or two facts that I desire to call the attention of the Convention to. The property upon which the university is now located, by figures which I obtained this morning from men who put conservative values upon property, is worth two hundred and fifty thousand dollars. It is a block in the heart of the city, and as has been stated by the previous speaker, if the union is at Logan, we will lose the entire benefit of that property. There is a condition in the deed. When the deed was first given to the university by the city for that block the block was to be the property of the university as long as it was used for university purposes. The last month—I think it was about the 13th day of March, the city of Salt Lake changed the conditions in that deed. They provided that that property or the proceeds thereof should be used for the university as long as the university remained in Salt Lake City, with a view of locating or so that the university proper could be located upon the Raw-

lins' site granted by the government. So that here is the proposition right square before us. If we locate the university upon the site in Fort Douglas, where it should be located, we have at once property worth two hundred and fifty thousand dollars to be converted into cash and to be used as a fund for the purpose of establishing houses, and dormitories, and whatever is necessary upon the Rawlins' site. It seems to me, with two hundred and fifty thousand dollars, that we can do an immense amount of work towards starting our university upon a proper footing, and that with the two hundred and fifty thousand dollars so granted to us by the city, we will place this university, as far as building is concerned, far ahead of the condition that the agricultural college at the present time is in, and in addition to that we have a large tract of land—sixty acres up there that is valuable in itself. And it seems to me that all of the arguments are in favor of locating the university, if it is united, in Salt Lake City. And another thing that I desire to call the attention of the Convention to is this, in regard to the university, that during the last year there was one endowment made to the university to the amount of sixty thousand dollars by the Salt Lake Literary and Scientific Association. I say, gentlemen, that if the university was moved to Logan, if it had been in Logan, we would not have received that endowment, and I think that the university should be in the center of population where men of wealth, men who are capable of endowing chairs in universities, are situated, so that their attention shall be immediately brought to the institution and that they can grow up with the surroundings and in that way have a love for the institution, which they could not have if they were located in an isolated part of the Territory where there is not the center of wealth as there is in this city. There is a time soon coming when I hope that the university of Utah or the agricultural college, if they are united together, will be able to maintain themselves wholly upon endowments and the land grants, and I believe the time is not far distant, but, gentlemen, we must cultivate a spirit in favor of education and we must build up everything tending toward that, and the location in the center of the population of the State of Utah is where we want the university. And another thing, if you locate the university at Logan, then Salt Lake City, Salt Lake City, being the center of population, instead of our Utah boys going to Logan to the university, they will go to eastern colleges and western colleges, and the university would not have the advantage that it would have if it was located in Salt Lake City; and I think, gentlemen, that every argument that has been made or that can be made is in favor of the location here in Salt Lake City.

Mr. THATCHER. Are you quite sure, Mr. Pierce, that the Literary and Scientific Society which contributed sixty thousand dollars to the university would not have done so had it been located elsewhere?

Mr. PIERCE. That is my moral conclusion, sir. I say, I am not quite sure, but I say that here is the proposition that I make, Mr. Thatcher, that wealthy citizens, those who endow universities—the most wealthy citizens, as I believe, reside in the center of population everywhere, wherever you go, and their attention must be immediately called to the conditions, to the needs and necessities, before they endow, so that being right upon the ground we are more likely to get endowments if it is located in Salt Lake City than we could if it was located in an isolated part of the Territory.

Mr. THATCHER. I just simply wanted to say that as an officer of the Literary and Scientific Society, I voted with my colleagues for this sixty thousand dollars to go the university, and I

do not think the location would have had any effect upon my mind.

Mr. PIERCE. That may be so with you, because you, perhaps, desired it elsewhere.

Mr. THURMAN. Mr. President, I have struggled as hard as I have been able to keep this question out of this Convention. I do not believe it has any business here, I mean as far as location is concerned, and at the proper time in this discussion I shall offer an amendment by which the question of union may be determined by this Convention and the question of location will be left to the Legislature, where it belongs. I understand that such an amendment now would be out of order. In taking this position, Mr. President, I trust that I am keeping myself consistent with the positions that I have taken heretofore upon this question. I am opposed to both of the proposed amendments. I place my reasons upon the same ground that I placed them yesterday. Either of these proposed amendments, if adopted, would prevent the Legislature through all coming time from establishing any kind of a branch or department of the university in any other part of the State. To that I was opposed yesterday, and I had gentlemen yesterday standing shoulder to shoulder with me, who voted with me on that proposition, who to-day will abandon me in this Convention and vote on the other side. I stand there to-day, and I say, gentlemen, if you are wise men you will come to that position yet. In deference to these professors—Professor Kerr and President Talmage, and all the educators whose opinions we have had the advantage of, I shall yield—I won't say my judgment, for I never had a decisive judgment on the question of union until I heard them, but I am now in favor of union, if it can be accomplished without too great a sacrifice. I concede that we ought to make some sacrifice for the sake of union, but I say the question of location ought to be left to the Legislature of the State, and from what I see of men in this Convention and what I know of their opinions and their indecisions and their doubts and their fears on this question, I say it ought to be a question for the Legislature, and it ought to be made a question in the campaign, and let the people all over the Territory of Utah know that this thing is to be decided by the Legislature, and let men come here instructed what to do, and not take up longer the time of this Convention. Gentlemen, I intend to vote against both of these amendments and I propose to offer one on the lines that I have suggested.

Mr. SQUIRES. Mr. President, in view of the great importance of this subject, and along the line indicated by Mr. Thurman, would it not be possible for us—it would have to be, I suppose by unanimous consent—to vote upon the question of union, disassociated from the question of location, so that the prejudices of the delegates here would not enter into the question of union? If it could be possible, I would like to have the consent of the Convention to a vote squarely upon the question of union first, and then if it is decided that we shall unite these two institutions, let us discuss the question of location. I ask unanimous consent to have a vote taken first upon the question of union or no union.

Mr. HART. Mr. President, I object to that; it cannot be considered, in an abstract sense. It is not a question of theory but it is a condition.

Mr. CANNON. Mr. President and gentlemen of the Convention, I am in favor of union; if I cannot get union at Salt Lake City, I shall vote for union at Logan. I believe that the interests of the institutions demand that union should take place whether we decide the location or not; it would be a different matter so far as I am concerned; had Mr. Thurman's substitute or amendment appeared, I should have voted to leave that to the Legislature,

but I would like to have settled at this time the question of union, and as the question stands before us, I favor the amendment of the gentleman from Beaver County, providing that the location shall be at Salt Lake City. I have in my hand a copy of the bill which granted to the people of Utah the site for a university. It passed the house of representatives March 26th, 1894.

Mr. JAMES. May I interrupt the gentleman for a moment? He is pretty well acquainted with the values of land in that locality. I would like to ask what he considers that land worth?

Mr. CANNON. I will answer that question in the course of my remarks. This tract of land, gentlemen, as has been stated by some of the other speakers, is a very valuable one. It comprises 132 rods frontage, overlooking the city of Salt Lake, situated immediately upon the brow of the hill east of us, and could not be excelled any place in the world so far as the location is concerned. It has been urged as an objection to it by some of our friends from Logan and other parts that there is no water with which to conduct their experiments in agriculture. I would call attention to the fact that Parley's canyon conduit brings water from Parley's canyon, one of the largest streams in the valley, and conducts it in pipes above this and at a sufficient elevation to water the entire tract. The water coming from Parley's canyon is largely in excess of the quantity which was used formerly by the residents of Salt Lake City, to water their entire city. And it was obtained principally by an exchange of the waters of Jordan river made with the farmers of Sugarhouse and Farmers precincts in this county. Many hundreds of acres of land well watered by the waters which come to us through this canyon conduit formerly were watered and that water is now utilized by the citizens of Salt Lake. It could, should the city of Salt Lake see fit to, grant the water, and I have no doubt that it would be used in utilizing that entire tract with as great an advantage as is obtained at Logan upon that point. I have heard the objection raised that the soil is not suited there. I would state, gentlemen, that some of the finest soil that we have in Utah Territory is found upon this bench immediately surrounding Salt Lake City. Some of the finest grapes that we produce and everything of this character can be found there. You have only to go to the fruitful gardens of our citizens in the upper bench, in what is known as the dry district, to see the character of soil that exists there. In addition to that the climate here is more suitable than it possibly could be in the location proposed at Logan.

I have in my hand the report of the United States department of agriculture and weather bureau, which shows the temperature in the month of December, 1894, in both stations, showing the great variation that exists. From this I find that the mean temperature at Salt Lake City for that month was 31.4 degrees, the mean temperature was 22 degrees at Logan, the difference in temperature was 9.4 degrees. It is well known to the people of Utah Territory, and I need not discuss it, that Logan is not so situated that you can conduct with the greatest advantages the experiments that should be conducted for the benefit of people of Utah in an agricultural line. The people of Davis County do not get the benefits that would result, and the people of all the mountain valleys and counties do not, that would result from the establishment of agricultural college in a location where they do not have to raise onions under the cover of glass; from a location where they do not have to do that which they do in Logan, and it is no disrespect to Logan that I say that which I do. I have been informed by some of the gentlemen who visited Logan recently, one of whom was a

professional gardener, that he made an examination of shrubs and trees that are growing upon the agricultural grounds there, and that he found the shrubs and trees which had been planted for a certain number of years, were only about one-half the growth that the same character of trees would have in valleys similar to Utah County, Davis County, and Salt Lake County, and I submit that it is not fair to the people of Utah that the main agricultural college should be located in a climate of that character. As I understand the gentleman, a university is a collection of colleges, and in this line there should probably be connected with the university a school of mines. We have in Salt Lake City advantages that could not possibly be had in Logan in the way of establishing a school of mines. The ore comes from all parts of the Territory, not only from Utah but from the surrounding states and territories, is brought in here and handled by our smelters. Samples can be secured and the people who are studying the subject of mining —and in a school of mines they would have immense advantage in that way. The same would be true of the school of metallurgy. Here, for fifteen cents, students can get upon the cars and go and see the practical operation of our smelters, as they treat the various ores which are handled by them and see the principles which they study in school applied in a practical way. We have had gentlemen upon this floor say that they believed in practical education. We have had men say that people who are educated in Salt Lake City are not good for anything when they go back to any other place, but there are men in Salt Lake City—boys who come from all parts of the Territory who come here with the special purpose of being trained in manual training, learning different kinds of trades, and no place in Utah will present the advantages for this kind of training that Salt Lake City will. If you want a practical education, you should place your institution at a point where that practical training can be given.

In the same way, if we have a school of medicine, you must have your school of medicine so located that they can visit the hospitals and see there the practical operations that are performed. You do not want to train your doctor so that he has read how to treat a limb that needs to be set, but you want him trained that he has seen those limbs set where they are broken, that he has seen the knife used where an incision is necessary to be made, and that he knows practically how to do that which is done. If you go to Logan, I submit that you have no hospitals there, that the climate is such that invalids and others will not seek it for the purpose of being treated, and that you will not have the advantages of a school of medicine that you would have in Salt Lake City. Again, we should have our college of dentistry. There are not people enough in Cache County to supply a good class of clinics in dental operations. You should be located in a place where the students can take the advantage of practising upon a large population, willing to submit themselves at the low price that students usually charge, for the gold they put in their teeth. Then we come to the subject of the college of law. Who is there who has a large practice willing to leave his law practice and to devote a day coming and going to and from Logan, in order that he might appear before a class there and lecture upon some subject upon which he is a specialist. We have, in Salt Lake City, a most eminent bar. Its members are noted throughout the country and many of them would take pride and pleasure in lecturing before a law school were it in such a place that they could leave their business for a few hours or for a few minutes and drive to the location, deliver their

lecture, and return to their business. We have a great many lawyers. I do not need to instance them, because, besides those we have upon this floor we have Judge Sutherland, who is an eminent man in his line. We have Mr. Rawlins, who was our late delegate to Congress, who has written text books in some lines upon which he is noted, and we have countless others who would not and could not afford to give their time to go to Logan, but who would practically give, free of charge, their services for the university located in Salt Lake City. In addition to that I desire to call your attention to another advantage that there would be. The Deseret Museum, which is situated here and which contains a large collection for the use of students, has been placed free of charge at the disposal of students of the university, those who are studying geology, and other sciences of this character, and were it removed from this city, they would not have that advantage. But it is stated that in Salt Lake City it is not moral, the atmosphere is not morally good and that they should not send their students to Salt Lake City; that they are afraid that they would be contaminated. I regret that vice exists upon the earth, I regret that it exists in Salt Lake City, but I submit, gentlemen, that you cannot, by locality, make men moral. People in Logan may be good and Logan may be a good site for morality, but I submit that you will find in Logan as in other places immorality, and that if a large college is established there vice will follow in its wake, as it has done in other places and in other cities. You must regulate your institution in such a way that you can carefully shield the innocent who attend your college or university. You must teach them that they must resist temptation, not that they must yield to it, because I claim that true virtue consists, not in having no opportunity to commit a crime, but that it consists in doing that which is right when temptation is placed before you. I submit that if bad influences exist in Salt Lake City, good influences also exist, and I believe that those who have taught school here—their testimony will bear me out when I say that there is no more tendency to drunkenness, no more tendency to vice of various kinds among the students of Salt Lake City, and among those who attend the university here, than are found in cities of smaller kinds where there are to a certain extent vices and temptation.

The question has been raised as to the price of board, and it is claimed that in Logan the advantages of board will more than offset the expense of traveling so far by rail. I desire, upon this point, to call your attention to the fact that many of the students who would attend would be right at their own homes in Salt Lake City. Think of that for a moment, gentlemen. We have in Salt Lake City to-day over twelve thousand school children. We have in Salt Lake County over eighteen thousand school children, Salt Lake City and Salt Lake County combined comprise more than one-fourth of the entire school population of the Territory of Utah, and I claim that in the higher grades the proportion is greater than taking the entire average. I claim that there are more boys and girls prepared to enter upon a university course in proportion to the population in Salt Lake City and in Salt Lake County than any other city or county in the Territory, and I believe the statistics will bear that out. We have an attendance at the high school in this city at the present time of over four hundred, an increase in the past year of over one hundred and fifty, and when they graduate from that high school (its merits have been described frequently to you) they are admitted to the university of California, without an examination. They are admitted to other universities without an examina-

tion, the grade of that high school is so high in that respect. Now, I claim that it is not true that board is cheaper in Logan than it is in Salt Lake City, when the quality of the food is considered and the kind that is partaken of. [Laughter.] I claim that you can get just as good food and as cheap in Salt Lake City as you can in Logan. I have in my hand a letter from the secretary of the faculty of the university which bears that out. There is one other thing. I desire to call your attention to the close proximity of Salt Lake City to a very populous district. We have around us on the north Davis County with a school population in 1893, of 2,505; Morgan County with 652, just over the mountains on the northeast; Summit County, 2,622; Tooele County, 1,268; Utah County, outside of Provo, with 7,364; and Provo itself with 1,823; Wasatch County, right over to the southeast 1,441; Weber County, outside of Ogden, 3,087; and Ogden City, 3,885; a total within a very small radius of Salt Lake City of 41,847, much more than half of the school population of Utah Territory. I call attention to that fact, gentlemen, and that this is naturally the center, and the place for the location of your university. In addition to this, I desire to call your attention to the fact that nearly every family in Utah has either a relative or an intimate acquaintance in Salt Lake City, to whom they can confide their children if they desire to send them. Go to the outside counties and ask where their relatives principally live and you will find that nearly ever family, if we go from San Juan to Rich County in the north, have representatives and friends in Salt Lake City, to whom they can entrust their children, if they desire so to do.

The question has been brought up about the buildings, and upon this subject I made an investigation, and I find to-day they can build buildings similar to those at Logan at a reduction of from twenty-five to fifty per cent. from what they were built for at the time when they were built. I have in my hand, and were time not too precious, I would read to you an estimate from the leading builders and contractors of Salt Lake City, covering everything from the stone of the foundation to the paint that would cover the buildings, and the glass within them.

Mr. JAMES. The gentleman did not answer my question.

Mr. CANNON. The question, I believe, was as to the value of the site that has been offered by Congress for a university location. I have made inquiries among different real estate agents in Salt Lake City and those most intimate with the matter, and I found that the lowest estimate offered was two hundred thousand dollars as the value of the ground, and that it ranged from that to three hundred thousand dollars as the value of the site that was offered by Congress.

Mr. KERR. In case the university is not located there, or in case it is located there, is it not true that that site is absolutely unmarketable. That it has a value only as the use for a site?

Mr. CANNON. The site has a market value independent of that which would attach to the university. It could be sold in ordinary times for the prices named.

Mr. KERR. Could it be sold at all?

Mr. CANNON. This cannot be sold at all without the consent of Congress. It belongs to the government.

Mr. VARIAN. Mr. President, I regret that this discussion has been precipitated. I think sober reflection will convince the members of this Convention that the proposition and the discussion is out of place in the deliberations of a Constitutional Convention. The location of State institutions such as these is purely one of legislative concern. The Legislature should not be restricted permanently in the disposition and location of institutions of learning or of other institutions connected with the

administration of the State government, such as prisons and reform schools. No such question as is propounded here for our discussion was presented or considered by the people, nor did anybody dream that a matter of this kind would be precipitated, having the result and the only result, if it shall be carried out to its logical conclusion, of embittering and antagonizing sections of the Territory, on the very eve of the vote to be taken upon the ratification of this Constitution, against each other. It is impossible in the very nature of things that this matter can be pursued further to a definite ending without such results. If you accomplish the union of these institutions permanently by this declaration n your organic law, necessarily and logically you will dispose of the question by fixing the location. If you remove from Logan the agricultural college and fix it permanently at any other point, you will disturb and antagonize and embitter those people to an extent which cannot be appreciated. If you act in the other way the same results will follow. You never knew of a more disturbing cause in politics in the relations of different sections of people in one commonwealth towards each other than interference of the kind indicated with existing institutions—with even county seats, and you cannot hope to escape the consequences which always follow such interference. I submit that none of these institutions ought to be fixed permanently by this Convention. The people did not expect it; it is taking a snap judgment, upon this and upon those directly interested the different localities. It is assuming a legislative fact which is unnecessary and uncalled for, and which ought not to be intruded upon this Convention. Already I can see and feel indications of the coming storm in this Convention. Already I can feel the bitterness in advance, which is being instilled into the minds of some of our delegates on the floor, and that is bound to go on and grow, and every man on this floor knows it. It cannot help but do so. The arguments that have been presented here, able and instructive and interesting as they have been and are, are in my judgment out of place here.

I am not prepared to vote for a union of these institutions in this Constitution. If I am forced to vote for a union, naturally you may expect me because of circumstances, as well as because of my convictions, to vote to place the institution, as united, at the city of my home and residence. The same impulses that will move me will move others like me on this floor, as they move men under all circumstances in such conditions. But I am opposed to doing anything more with this question here than to leave it open as it is. Let it become a matter of legislative concern. Let it be disposed of by the people through their representatives, when they shall be called upon to discuss the question, in accordance with the wants and necessities of the people at the time. Let us not put into this Constitution something, which I tell you, gentlemen of this Convention, in my judgment, may result in its defeat at the polls next November. Are we going to invite—absolutely invite every antagonism, every feeling of hostility that may be engendered against this Constitution, so that united, perchance, they may be able to defeat it? As I have taken occasion to say once before upon this floor, I did not come here to play politically or otherwise in constitution making. I came not here with any secret reservation that when we have gotten through I shall go forth and attempt, in so far as I may be permitted to do so, to defeat it. I desire to have this Constitution carry and settle once and forever these questions that have been agitating us for three or four years, and I deprecate the dragging in, unnecessarily, into this question a matter of this kind which cannot but help build up a large

and hostile element who shall be in opposition to the ratification of this Constitution. And why should we? Why are we called upon to do it? Why not leave every institution of the State just as it is, just as it always has been, subject to the control of the Legislature, who will presumably act in obedience to the demands and interests of the people.

In that view of the case, sir, it seems to me that it is just simply taking up time unnecessarily to discuss the propriety or the advantage of union or non-union. We take these institutions as we find them. We are not sent here to enact a code of laws governing institutions of learning, nor to permanently and irrevocably, as it were, dispose of the question which was not and has not been considered by this people. We were supposed to take everything, so far as the State institutions were concerned, and their locations, as they are found and to frame a Constitution which should limit only the powers of the Legislature, not entirely, but should contain such restrictions and those only as should be necessary to preserve the freedom and the quality of the people, and that is all, and when we have accomplished that, we have done all that we were sent here to do, and the people still retain the power as they have it now, and have had it heretofore, to dispose of these questions as in their judgment they shall see fit. I would like to see this substitute that is suggested by Mr. Thurman. I do not know of course how it shall be framed, but the underlying thought of it meets with my approbation and I would like to see it adopted and incorporated in this Constitution, and in that view I trust that this substitute, however it shall be amended, shall be voted down. I submit, Mr. President, that if gentlemen will stop just for a moment and see the signs of this Convention they need not go any farther. They will appreciate the solemnity of this question as it shall and will affect the people in the different sections whose interests are at stake here, and they will pause long before they undertake such a radical change as this—the more radical because it is proposed to be made permanent in the organic law. I say that the university of Utah and the agricultural college can wait—wait as the people of this State must wait until the people shall be enabled to take care of them as they shall be taken care of. They are not alone to be considered in this question. The grave responsibilities, the serious expenses of the new State government are taxing the judgments of those who are called upon to investigate and consider them. Let them wait. Go along as best you can. You may safely rely upon the honor and good faith of the people by whose suffrages they were established in the future, as occasion may serve to perpetuate and maintain them in accordance with the dignity they have and should have. I ask you now to stop and think of this question. Do not let it degenerate into a log rolling proposition, and that is where you are coming to, "if you will vote for my place I will vote for yours." When you dispose of this, you will have this other matter coming up between the other State institutions or you may have, and you will not be dealing with this question with the dignity and with the propriety that it should be dealt with. I submit to vote down this amendment or proposition as a whole and leave the matter open to the Legislature as it ought to be without any mandate or without any restriction except that until otherwise provided by law, these separate institutions shall remain as now existing.

Mr. CHIDESTER. Mr. President, the thoughts expressed by Mr. Thurman and Mr. Varian are my own. [Laughter and applause]. They were not my own thoughts; I had them before they expressed them. [Laughter.]

Mr. THURMAN. I did not suppose you were going to give us away.

Mr. CHIDESTER. I believe that the question of location should not be settled by this Convention. I have been convinced that the question of union is one of necessity and that that might properly be settled by this Convention, but I believe that the advocates of this question are forcing upon this Convention the necessity of settling a question that should be left to the Legislature. I believe it for this reason, that it is reasonable to presume that if we say that we are going to unite these two institutions and put them at Logan, the people of this county are going to vote against the Constitution. I believe it is inviting that hostility that should not be invited against the ratification of this Constitution. On the other hand, I believe that if we say that it is going to be located at Salt Lake City, we invite hostility against it from the north. I believe that that is not wise. Therefore, I believe that it should be left to the Legislature. When I visited Logan I was willing to say, and believed that it was right, that we should leave the agricultural college where it now stands, but when we come back here and we hear the arguments produced, it convinces me, at least, that they should be united. That, however, I would be willing to leave, but I am not willing to take up and grapple with all these questions that come along to satisfy any locality in the south or in the north. I say we are not sent here for that purpose. Our purpose should be to form a Constitution and leave these vexed questions to be settled by the people when they thoroughly understand them. Let them have time to think them over. These questions have not been talked over before we came here that I know of. These men who have been in the Legislature in years past have some understanding of the matter, but so far as I am concerned now, if you force me to vote upon this question, if you will not separate this question so that we can vote upon it this way, I shall not vote to move this institution away from Salt Lake City. I shall never vote to move it to Logan. Now, I say, do not force us to vote upon the question in the way that is sought to do to-day, but separate this question and let us vote upon a union of the two institutions. If you want to go that far, all right. I will join hands with you. I am not willing to vote if I can get around it, to locate this any place. Leave that for the future Legislature. And, gentlemen, before you do it, think upon it seriously and do not force this matter upon us at once. Let us leave that and the people can talk it over and they will send men here that will be instructed upon this matter, and I say this that it will do no harm to leave this matter, because if we were to vote to locate it to-day, it could not be done immediately, so that the next Legislature can settle this matter and locate it, and no damage will be done.

Mr. VARIAN. I want to ask the gentleman a question. If it is desirable to test the sense of this Convention upon the question of union, why not make a motion to indefinitely postpone the substitute and the amendments offered, and if that should be carried that would settle the question of union. If it should not be carried, it would determine the sense of the house the other way, and we would go on with the amendment.

Mr. CHIDESTER. That is just exactly what I would like to see done. [Laughter.]

Mr. BUTTON. Mr. President, haven't we a right to ask a division of that question, when it is put?

The PRESIDENT. Yes, sir.

Mr. CHIDESTER. Well, I ask for it.

Mr. THATCHER. Mr. President and gentlemen, before a vote is called upon this proposition, I desire to speak briefly upon the question, and while now it rests on my mind I wish to call the attention of this honorable body to the

fact that at least one Legislature has dealt with this question and that body treated the question as you treated it, on Saturday evening, and on yesterday. That is to say, they decided that these two institutions should remain apart. That having been thus tested, why so frequent reference to what they shall do in the future? Why not decide here and now this important question, in order to have a sound foundation upon which to build? The history of this question is about as follows: Some of the professors of the university of Utah canvassed this question pretty nearly two years ago by writing letters to every person in this Territory supposed to be interested in the question of education, and those letters clearly showed that they then advocated union as they now advocate union, so that they have not changed upon this proposition, not even after the Legislature in its wisdom decided that they ought to remain apart. That same question is brought up before this body, not by the people of the north. As I observed here on Saturday, the agricultural college was located at Logan by the assistance of the majority of Salt Lake delegation in that Legislature, and yet, because the people of the north now ask that that institution be perpetuated there, they are put in the awkward light that they are carrying before this body of men a squabble-hunting for the public teat from which to draw support. Well, now, if there is a feeling of that kind in the north, it is not indigenous to that part of the country. It must have been imported from some other part of the Territory. I need not refer to what part. It may be safely said at least that the people of the north believe that it is better to give than to receive, for it blesses him who gives and him who receives. I am sorry that the gentleman on my left has begun, for no one from Logan or from Cache Valley would think for one moment to argue as to location against Salt Lake City. I think it is the views of the majority perhaps of this body that she ought not only to have the university and the agricultural college, but also the insane asylum and the reform school.

Mr. CREER. And the capitol building?

Mr. THATCHER. And she ought to have the population of the Territory, and no doubt would have, if our people who work on the farms could only move their farms here. Now, the real facts are, that if we could get together all in one county and develop that, perhaps it would be better for us. Who, that has had experience in sending their children abroad, does not know that when a student is sent away from home, and, therefore, is separated from his companions in amusement, he makes more progress in three years than he would make at home in four? If any one will take the pains to examine the records of the university here, and take the number of students who have attended that institution during the past forty-five years, you will find that the predominance as to numbers are from Salt Lake, but you will not find that the graduating classes are on that side. It is just so at Logan. It is the students that come from abroad, that leave the horses and the sleighs, and the theaters, and the parties, and the amusements, behind them, and come away from home for the purpose of securing an education that may be of advantage to them. Thus, those who have graduated in the colleges north have been from the poor families, and not from the wealthy, so that it is an advantage to send students abroad. I repudiate the idea that the north comes here asking this Territory for anything. I have studied economics enough to know that the populous centers always want to become to a state what Paris is to France. I comprehend fully that these large capital cities are like the eastern watershed, all draining into the

Missouri, and thence into the Mississippi, and thence into the Gulf of Mexico. We in the country understand that perfectly well; but we also understand that cities could not prosper unless there were country people who followed the plow, and who followed, therefore, agricultural pursuits. I, therefore, gentlemen of the Convention, stand just where I did Saturday, although, heretofore, I thought myself a strong unionist, but the more I hear this question discussed, the more I am convinced that these institutions ought to be apart and not joined, and I shall vote against this proposition to carry the university to Logan. I do not think it belongs there at all. I think it belongs where it is, and that the agricultural college belongs just where it is. And I disclaim this thought, too, that the people of the north have desired the university to be taken there, and I repudiate any such insinuation. It never has come from the people.

If, on the other hand, this body of men think it better to unite them and bring them here to Salt Lake, well and good, and I do not think it will affect very materially the vote on the Constitution. I do not think the people of the north are made of that kind of stuff at all, and it is possible that if you leave those buildings there, we could refer to them as the monument of the folly of the past, and perhaps we may invite our neighbor on the north to come down and occupy them, as they have no university building. I think likely they would be glad to join with us and build another institution there. Idaho is in our condition—very poor, and I refer to this matter, because the agricultural college has students from Idaho, from Montana, from Wyoming, and when you come to consider that fact, then it is centrally located, and you, gentlemen, know how far Logan is from Salt Lake—three hours. The idea that we could not take minerals from here to Logan and thus test them, that is no argument to me. Just one word on the water question; if we had a million dollars' worth of buildings on this bench, where is the guaranty of the water referred to? I remember that they wanted us to build the sugar factory up on the dry bench, but we thought we had better have an assured thing than a promise, and if I have read correctly, the chief question before the city council the other evening was how to increase the water supply of this city, and I do not think my memory fails me, when I refer back two or three years ago and see the lawns and the trees of this city burning up for want of water. You can remove the university to Logan without cost materially, if you so choose, and the agricultural college, so far as buildings are concerned, can take care of it without any effort whatever. Can you remove the college to Salt Lake City and take care of it? That is the question. One more proposition; thirty years ago I voted for an appropriation for the university, and I challenge this proposition before this honorable body of men, and while I am connected with the university, and as I stated before, it has my sympathy, I stand without any hesitancy in this declaration, that the university, backed up by all this population referred to by the speaker here, Mr. Cannon, does not show the progress that the agricultural college shows. In three years there has been built up in that north country a love of education that has not been built up here in ten years. You may have your capitol building on the hill, and your penitentiary on the left, and your fair buildings here, and we will contribute with our trade to keep those institutions going, we will maintain the friendliest possible relation with the city in which we also have a pride, because the city of Salt Lake is a part of Utah Territory, but, gentlemen, you in Salt Lake City and the surrounding counties here, in the sustaining of that university, have not testified your affection for education as

the people of the north have done. It takes more than a legislative appropriation to build a school. It takes more than congressional grants to make a college or a university. You must have the people in that vicinity in full sympathy with it, working for it, and that is the history of the success of the agricultural college and what it has gained in three years.

I desire, while on my feet, to correct a statement made here the other day in reference to the attendance of the college now. I was appealed to as to the numbers that attended that school during the winter. Professor Paul tells me that the registered number was 357; I stated 360; I was out three. It was said that the present attendance was 145. He stated to me when I last saw him on Saturday that the present attendance is 265. Now, gentlemen, I do not think that the Legislature should be left to settle this question, but let this body settle it. I shall vote just as I voted on Saturday, for separation. Then, I would like to see the college established at Logan, so that the people who are working for it may continue to do so. If you leave it in doubt to be made a football by legislatures, as they change their political complexion, I fear that you will do one of the educational institutions of this Territory, if not two, very great damage, and whatever may be said of the capitol building, or of the penitentiary, or of the reform school or other State institutions, at least if we can, let us separate these two educational institutions from politics, and build them upon a foundation that we at least can refer to it with pride, if we may not make them compete in a few years with the eastern colleges. I do not think that the students from Utah will graduate in medicine or in law for a quarter of a century in Utah. If we had millions of money, it would not accomplish that. It takes an age. I can tell you that there are no schools in the United States that will satisfy some of the boys even now. The desire to go to college and they mean to go to the college, and they not only go to Harvard and Cornell, but they go to Berlin and to Oxford and Cambridge. These are my sentiments, and whatever this body decides to do, unite or separate, let us settle this question. I thank you, gentlemen. [Applause.]

Mr. GOODWIN. Mr. President, I think when we consider the character of the last gentleman who has spoken and the intensity of feeling which he displayed all the more by his efforts to repress it, it ought to be a sign to us that we are in rather deep water, notwithstanding the intimation that has been thrown out that this place is more or less short of water. I only want to ask a question. The progress of the university in this city has been for the last few years referred to and the charge has been made direct, that this city has made no such a demonstration in favor of education as has been made in the north. The gentleman is laboring under a mistake. We have done more for education in this city in the last five years than has been done in all the outside counties in this Territory for the last forty-seven years, and the reason the university has not increased and improved and attained that eminence that it ought to is simply because the common schools and the high schools were neglected and the students that went to the university were not fit to be in the university.

Mr. THATCHER. Will the judge allow me to correct him on that point?

Mr. GOODWIN. Certainly.

Mr. THATCHER. I did not intend to refer in any manner to the district schools, but simply to these higher institutions, the agricultural college and the university.

Mr. GOODWIN. I understand, Mr. Thatcher, and that is why I am saying that this year there will be sixty graduates from our high school, next year

over a hundred, three years hence, there will be three hundred, and when those young men and young women get into the university, then you will hear something; simply because they will come prepared to take a university course. Only one more thing that I want to call your attention to. Boys will go from here and they will go from Logan, and they will go from the south to eastern and western colleges. They ought to, if their parents are able to send them, because all that a boy learns in school is only a little of what he knows in this world. The east is filled with educated men who are educated idiots. They draw a little horizon of their own around them and believe that the state of Massachusetts, or the state of Connecticut, or the state of Rhode Island, is the very end of the earth, and that a man that is born and reared outside of that is so unfortunate that he will never get over it, in all his life. They ought to be forced as soon as they graduate, if not before, to be turned into the west to rustle. And so I approve of the boys here going east for education, and that spirit is growing all over the east, and men of the east are thinking it will be better to send their sons west, that outside of the books they can learn the character of their fellow citizens in other cities.

That is why the university ought to be in this city, because Salt Lake City is better known east than Logan. It is probably because the bad is always more notorious than the good. There are people east that consider the climate and the other advantages of this region, who would be glad to send them here to be educated. They won't send them to Logan. Now, we hear that this city is all right, but it has to be supported by the country outside. That is, the people have to raise crops. That is not quite according to the standard of what this Convention ought to be. The man that works is the man that is entitled to respect, and it does not matter whether he is behind the plow or wields the pick, or for that matter, if he is engaged in making something that the man that follows the plow and that wields the pick needs, and if the effort is an effort of the brain, that is all the more honorable, because men that work their brains wear out sooner than those who simply work their bodies. But as to local pride in the matter, that ought to be waived. We ought not to do anything here that will create friction. I believe that this city, if let alone, will itself, through the natural generosity and public spirit of its people and the support which shall naturally come to it from the outside, build up here in course of time a magnificent university, and nothing but time will ever complete a university. When our high schools will begin to turn out their graduates we will take care of the university and stop all friction and all feeling. I move the indefinite postponement of both the amendment and the original motion.

Mr. VAN HORNE. Mr. President, I think that we should consider with some care the question of the indefinite postponement of these motions. I think we should consider very carefully the question of whether the good of our educational institutions is to be advanced by continued agitation, with regard to where they are located or to be located. I do not believe that it is in the interest of higher education in Utah that the institutions of higher education should have no local habitation or name. I believe that the sooner we determine—the people of our Territory determine where our institutions of learning shall be located, the sooner will begin that growth of higher education which we all desire. For that reason, I intend to oppose the indefinite postponement of this question. Gentlemen, it seems to me, without studying the question of the location of the university, one very important consideration has been left out, and that

consideration is this, the reason why there has not been university growth has been indicated by the gentleman from Salt Lake. There was not the material to enter the university courses. You all know what the legislation of our Territory has been. It has provided for sending from different counties of the Territory students to the university, and part of whose expenses at least should be borne from the territorial treasury. Unfortunately the system of schools in our Territory has been such that under such an arrangement as that, we found that they were scarcely able to enter a properly graded grammar school.

It was the discussion of such matters as that that led the educators of this town into the belief and the firm conviction that we should establish a system of graded schools here continuing on up into the high school, and making students of the high school so far advanced in learning that upon their graduation from the high school, they could become proper material for a university course. Matters of that kind take time, and the time is just ripe for us to have classes in a university who are competent to enter upon a university course. Now, gentlemen, the thing, as it seems to me, that has been omitted in this discussion is this, that as this high school rolls out this year sixty, next year a hundred, the year after that two hundred, the year after that three hundred graduates, who are ready to enter upon a university course, you must have a university for them in some way, and if the Territory does not provide it there will be a sectarian university of some kind started here to give the higher learning to those very pupils from our high schools. Gentlemen say that men should be sent away for their higher learning. Yes, when they can be sent away, by all manner of means. Interchange of citizens between one state and another—but that means money—that means resources on the part of those who are studying that not all of us can have. And gentlemen, the history of the great institutions, the history of Harvard, of Yale, and of Cornell, if you care to look at their catalogues, will show that they educate the people at their doors as their main work, and as their incidental work, their great character as institutions of learning bring to them from all over the country this, that, and the other man who is able to leave his home for the purpose of education.

Now, gentlemen, if we move away from the center of population, if we move from the center that furnishes the material—the students who can enter upon a university course, the university itself, and compel them to move away from home, in order to attend the university, they will attend, not the university of Utah, but they will attend Harvard, or Yale, or Cornell, or Columbia, or some other college, but in doing that you will say to them, "Gentlemen, you must have at your command three, four, five, six, seven, eight hundred dollars a year in order to enter upon this university course and attain the education that you desire." Do we want to say to our people of Utah, "We will not furnish you in the most convenient place for your attendance a university that will teach you what you need at your homes, but will force you to move away and put upon you the inconvenience of moving away from your home to a university in Utah, or moving away from your home to a university outside of the boundaries of our State?" It seems to me such a policy as that would be futile and absurd. There are other questions with regard to location that it seems to me ought to be considered and many of them have been mentioned.

I call attention to one other, that the libraries of the Territory are in this city; aside from the professional and technical libraries here, there is a public library, containing some eight or ten

thousand volumes, many books of reference that are rare and costly, that is completely at the use of the students of the university here. That is the universal custom in all centers of learning, that whatever libraries there may be, are thrown open to the students of the universities and colleges. Here we have what can be thrown open to them—another reason why the university itself should never be moved from this city. If, gentlemen, we had pursued throughout the course of our work here in this Convention the uniform policy of leaving to the Legislature all that might properly be left to it, and attempting in no wise to interfere with their action, there might be greater weight in the argument that this is a legislative question and should be left to the Legislature, but I leave it to the candor of the delegates of this Convention if that has been the course pursued, and if it has not been the course pursued here, why on this question? This is one of agitation, it is one, as they say, that may degenerate into log rolling in this Convention; where we cannot trust the Legislature in other affairs, why should we trust them with the log rolling question of location of public institutions? Do gentlemen think a continued agitation before legislative bodies of this question of the location of an institution here or an institution there, or a consolidation here or a consolidation there, or a separation of the different departments of learning into branches at one or the other place, is a desirable thing to perpetuate in this new State of Utah?

I say, gentlemen, that wherever it may be that this Convention finally determines the site of the university and of the agricultural college, whether it decides they shall be united or separated, this body is as fairly representative of the people in that respect and knows as much about the question as any Legislature you are liable to get; and more than that, the uniform tendency of this body has been to say, "We are the people, wisdom will die with us, and we will settle the question for the people, and we had better do it."

Thereupon the Convention took a recess until 2 o'clock p. m.

AFTERNOON SESSION.

Mr. ANDERSON. Mr. President and gentlemen of the Convention, in consideration of Mr. Peterson agreeing to withdraw his substitute, I wish to withdraw my amendment to his substitute.

Mr. PETERSON. Mr. President, I also wish to withdraw the substitute that I offered.

Mr. Chidester offered the following amendment to section 4:

Insert at the beginning of the section the words, "until otherwise provided by law."

Mr. CHIDESTER. Mr. President, I do not wish to say anything on that. I merely wish to test the sense of the house.

Mr. EICHNOR. I would like to ask the gentleman from Garfield a question. Your amendment is "until otherwise provided by law." Is that to qualify the whole section?

Mr. CHIDESTER. Yes, sir.

Mr. EICHNOR. Or simply the location?

Mr. CHIDESTER. I think that is the effect of it.

Mr. PRESTON. Mr. President, I am opposed to the motion. We exercised the best judgment we had in committee of the whole yesterday in fixing this section and I think it is good enough the way it is, and as some of the gentlemen have remarked, now that the question has assumed so large porportions I think we had better settle it now. A few days ago, I might have been willing to an amendment of this character, but now that it has occupied so much of our time and attention, I do not think it is worth while to bother

future legislators in regard to this question. We had better settle it now—where they should be located, and it will be to the interests and benefit of the country and those institutions to do so. I am satisfied, I have heard all the arguments that have been made, pro and con. All of them have more or less merit in them, it is true, yet I think we had better locate them as we had it in the committee of the whole yesterday, where they are, and trust to future prosperity of the country, as we are satisfied that the State will be able then to take care of them and provide for them so that they will become institutions such as will be to the credit of the country. In 1888, if I understand it, was the time to have located those institutions together.

Mr. CHIDESTER. Mr. President, I will withdraw the amendment with the consent of my second, for the reason that I think it goes too far.

Section 6 was read.

Mr. CANNON. Mr. President, this morning my understanding was that a proposition was favored by a number of gentlemen, providing for union, but leaving to the Legislature the matter of location. I am certainly in favor of that and I desire to introduce as a substitute for section 4, the following: "The university of Utah shall comprise all departments and institutes of higher learning in the public school system, including the school of mines, agricultural college, the state normal school, and such other departments and institutes as may be established by law, and shall be located as may be determined by the Legislature."

Mr. HART. Mr. President, I arise to a point of order. We have passed that section and we are now considering section 6.

Mr. CANNON. Mr. President, I insist that the whole matter is open for amendment. We have the right to amend any part of this article that we see fit to do. The fact that it was passed for a moment would not debar us from changing anything that might be desirable to change.

The PRESIDENT. The chair will entertain the substitute.

Mr. HART. Mr. President, I just wished to make a remark on it first. If the chair please, we have adopted the section here both in committee of the whole and upon third reading. We are considering the propositions in the order in which they are presented, and after a section is passed it has been the unanimous custom here to pass it for the time being. The only contrary position we have taken or the only amendments that have been permitted to sections that are passed are after we have gone through the whole bill. Now, Mr. President, if the gentleman wishes to introduce his amendment, wait until we get to the last section. We have passed that for the time being. I understand that after we go through the third reading of each paragraph, one by one, to the end of the article, amendments can be made to propositions that have been passed, but if we are going to dodge back from one section to the other after we have passed them, we will reverse the order that we have adopted heretofore and all parliamentary proceedings. Let the gentleman wait until we get through the third reading and then let him go back.

Mr. THORESON. Mr. President, I arise to a point of order. There is no motion before the house. We are now considering section 7.

The PRESIDENT. The chair decided that he would entertain this substitute.

Mr. CANNON. Mr. President, I arise to a point of order. My point of order is that the gentleman from Cache is out of order. The chair ruled it was before the house.

Mr. CREER. I appeal from the ruling of the chair.

Mr. HALLIDAY. So do I.

Mr. CREER. I claim that it is the

uniform rule in all legislative bodies in taking up bills on their third reading by sections that we must go along regularly by sections until we get through, and then the bill can be amended in any particular.

Mr. THURMAN. I hope the gentleman will withdraw his substitute until we get through the article.

Mr. KIMBALL (Weber). I want to call attention of the chair and the Convention to a ruling made by the chair while the legislative article was under discussion. My next door neighbor here, after reading of the last section—the one offered by Mr. Varian, offered an amendment to it, and Mr. Varian raised the point of order then that no amendment to that section could be made as it had been passed before that time. The chair so ruled and that was the ruling of the house and the point of order taken by Mr. Varian was sustained. That was the decision of the house and should be the decision at this time, if we are to maintain the order as the chair has already announced it, else we will be at sea during the whole session of this Convention, as to what the rules of the house are.

Mr. CANNON. Do you interpret it, Mr. Kimball, that we cannot amend any section that we have passed?

Mr. KIMBALL (Weber). No, sir. When we have read all of these sections, then you can go back to any one of them before the yeas and nays are taken.

Mr. CANNON. Mr. President, I simply withdraw this substitute and give notice that I wish to introduce it when the time comes.

Sections 7 and 8 were read.

Mr. KERR. Mr. President, I desire to offer the following as section 9, to come in between section 8 and section 9:

In cities of the first and second class the public school system shall be maintained and controlled by the board of education of such cities, separate and apart from the counties in which said cities are located.

Mr. THORESON. I move the adoption of that section.

Mr. KERR. I desire to state by way of explanation that at present, cities of the first and second class have to get their money from the State and also the voters in the cities of the first and second class vote for the county superintendents, and yet these superintendents have absolutely nothing whatever to do with the city schools. It seems to me, therefore, these schools should be entirely separate from the county schools and independent of the county superintendent.

The proposed section was adopted.

Mr. VARIAN. Mr. President, I just want to call attention to the fact that section 8, as I recollect it, in some degree may conflict with a section in the executive article. That ought to be borne in mind and not lost sight of when we come to arrange the different articles. I think that article provides that the superintendent of public instruction shall have general supervision. I only speak of it that members——

The PRESIDENT. That calls the attention of the chairman of the committee on compilation and arrangement to that, then.

Mr. VARIAN. Well, we ought to remember it.

Sections 9 and 10 were read.

Mr. RICKS. Mr. President, there is a point in section 10 I would like to call to the attention of the Convention, and that is commencing in line 2:

All property belonging to schools for the deaf and dumb, heretofore connected with the university of Utah, shall be transferred to said institution.

I would infer from that that all the property now used by the schools for the deaf and dumb shall be transferred to the university. Now, there is a great deal of property down there that is especially designed for that institution, and if it is moved from Salt Lake City, ought to be taken away and moved with the schools, such as the printing

presses, and carpenters' tools, and a great deal of property of that kind, and I believe it would be just as well to strike out that clause. I move that that clause be stricken out.

Mr. CANNON. I would like to ask the gentleman a question. As I understand it, there is a building that belongs to these institutions that will be stricken out by this provision. I am not on the committee. I do not know what the purpose of the committee was. I simply took it to be that they meant to remain with the university the building, if there is a building, connected with it, or something of that character.

Mr. RICKS. As I understand it, that building already belongs to the university and does not belong to the school of the blind or deaf at all, but I would infer that this meant the personal property that they are using at the present time, and I do not think that ought to be transferred back to the university, because it specially applies to these institutions.

Mr. CANNON. You notice the language is "heretofore connected with the university." If it was already there would you desire to strike that out and take it away?

Mr. RICKS. If there is anything there that would interfere with the transfer of that property back, if that construction could be placed upon it, I would not be in favor of that motion, but it seems to me it cannot relate to anything that heretofore belonged to the institution.

The PRESIDENT. Maybe the chairman of the committee could make answer as to what their design was in regard to it.

Mr. PIERCE. My own idea was that the clause can go out safely; that the property belonging to the institution should follow it wherever it goes. We put it in so that the property belonging to the deaf and dumb institution should follow it wherever it goes. I think it would be safe to strike it out.

Mr. RICKS. My attention is called to the fact that this provides for a transfer of the property to the school for the deaf and dumb instead of to the university. If that is the idea, I withdraw my motion.

Sections 11 and 12 were read.

Mr. CANNON. Mr. President, I now desire to renew my motion to substitute for section 4 that section which I read.

Mr. ROBERTS. I wish to ask the mover of that substitute if the effect of his substitute is not to undo the work of yesterday and refer this whole subject to the Legislature?

Mr. CANNON. Mr. President, I would answer that by stating that this morning when the two propositions were before the house, this substitute, or about the exact language, was proposed by several gentlemen who said that they would favor it if they could have it introduced, but it was not then in order and after those were withdrawn this is introduced that it may test the sense of the Convention.

Mr. ROBERTS. I would like to ask the mover of the substitute another question, and that is if the substitute does not unite the two institutions?

Mr. CANNON. The substitute provides that they shall be united. The question of location is left to the Legislature.

Mr. ROBERTS. Mr. President, the attempt was made shortly after this session of the Convention, opened by the gentleman from Garfield, to accomplish the same purpose now contemplated in the substitute by preceding section 4 with the words "until otherwise provided by law." I think, sir, that the sense of the house has been tested several times now upon the question of leaving the location of the university and of the agricultural college to the Legislature, and I believe so far that every time it has resulted in a refusal to do that. I hope that it will again refuse to do it. I do not want to see

the work of the last few days utterly lost either to this Convention or to the people of Utah. If there is anything in this Territory that has been a vexed question, it is the question now before the house. The Legislature has had a trial at the solution and it would seem that it has judged itself incompetent to bring about the result that has been sought for in the agitation of this question in the Convention, namely, a union of these institutions. I was satisfied, sir, with the result of the work that was accomplished on yesterday, and was perfectly willing to let the matter stand as it was settled by this house yesterday. This morning, however, gentlemen approached me and stated that they were confident that two-thirds of the gentlemen upon this floor were ready to vote for union of these institutions at Logan. I had no confidence in that assertion. That is, I believe those who told me were mistaken. I have more reason now to believe that they were mistaken than before the discussion took place this morning. No sooner was the motion made for union at Logan than, of course, another motion was made amending the former, asking for union at Salt Lake City. I was convinced from the commencement that whenever you decide for union or whenever you decide to postpone this matter to be dealt with by the Legislature, fixing union now—I tell you, gentlemen, it cannot be disguised, it means union at Salt Lake City. I wish to say further that I am firmly fixed in my own opinion that union with the agricultural college of the university at Salt City, means the destruction practically of the agricultural college and the beneficial effects which would flow to this community from it. You will argue in vain to remove that conviction from my mind, and I am also firmly convinced that this Territory in its present educational status is more in need of the agricultural college and the industrial education that it contemplates than we are in need of the university.

Talking about our rivaling Cornell or Harvard or these great institutions of the country, and bringing all the ends of the earth together in search of higher education in Utah, I pronounce that an irridescent dream within the present century at least. It is all nonsense, it requires age, it requires reputation; we cannot hope in the next century to rival these institutions of learning; but what we can do, what is within the lines of possibility for us to do, is to make it, sir, in the line of industrial education, and we can make our agricultural college the center of that kind of education within this entire intermountain region. That is within the line of possibility, but you leave this question to be bandied about by future Legislatures, as it was bandied about by the legislation that has taken place in the past, and you mean to paralyze all our efforts at higher education in the next five or ten years. I am not willing that it should be left to the Legislature when we are so nearly within the settlement of this question. Settle it now, and I tell you that one year, two years will not pass by until you discover that you have conferred great benefits upon the people of Utah. I am willing, sir, to go as far as any other man in leaving as much of legislation as possible to the Legislature. But I am not willing to skip this important question and shuffle it off on future Legislatures. We can settle it now, and that is the proper thing to do, and I tell you, gentlemen, that these efforts at getting the principle of union of these institutions means union right here in Salt Lake City. I want to emphasize that, and the gentleman that offers the substitute knows that well, and I believe is as much confirmed in it as I am. We heard a good deal of patriotic talk this morning in relation to being willing to unite these institutions, even if the union had to take

place at Logan, but the moment that the amendment to that first motion came in, you heard no more patriotic speeches about uniting at Logan. I was told here in private conversation that it might be illustrated by the two women who in ancient times came before King Solomon, one with a live infant and another with a dead one, and gentlemen were willing to give up the live infant and let it go to Logan, and when gentlemen were speaking upon that question, I listened anxiously for a willingness expressed on their part for a union to take place at Logan, but I listened in vain for giving up the live child and letting it rest peacefully in the arms of Logan. I rather fancy that the mother of the dead child was pleading here for the live one. Now, I am opposed to having this question disturbed, for one, as fixed by the action of the committee here yesterday. I have some remarks to offer upon the question of location, as I believe that this is still a question involved in this consideration. If gentlemen are still patriotic enough to vote for union at Logan, I am of the opinion that the sacrifices that will be required in buildings and in building sites will not be very serious.

In the first place, sir, I do not believe that a removal of that kind would involve the loss of the site granted by Congress to the university. When Utah is a Territory or while Utah is a Territory and with only a delegate in the halls of the national council, I find, sir, that she still has influence enough to have such a munificent grant made in aid of her higher institutions of learning, on the condition that she erects buildings on that site within a period, I think, of five years. As a prominent educator said to me this morning, we can still have that site for the asking and without complying with those conditions stipulated in the act. I am pleased also to state that that is the opinion of the delegate to Congress from this Territory. I am quite satisfied myself that when Utah shall have two senators in the senate and a representative in the house, that grant can still be secured without the conditions that are now fixed upon it. So that if the university shall be moved from here to Logan, I feel satisfied that we shall not sacrifice this beautiful site that is spoken of, and on the other hand, if we remove from the square the building where the university is now located, I think on the whole that will not be a very serious sacrifice, for the reason that it reverts to Salt Lake City and Salt Lake City is sorely in need of that building and that site for its high school. So that there will not be entailed the amount of sacrifice if the university is removed to Logan that would be entailed if we remove the agricultural college from Logan to Salt Lake City, for the reason that there is no practical use to which those buildings can be put if you remove the agricultural college from Logan, and hence, they would be useless to the city and useless to the State. So, sir, I was willing to vote for this motion that would take the university to Logan, if the majority of this Convention desires to do that. I am willing to vote with them for it, but I am not willing to give my vote to destroying the one educational institution in this Territory that the people need above all others. And when I think of the future establishment of the university here within easy reach of the military encampment, I am not carried away with my admiration for a site of that kind. I think, sir, that such a neighbor as that is very undesirable for an educational institution, that there is serious objection to such close proximity of an institution of learning, with the young that would be there to be dazzled by the equipage and glitter of soldiers, to come in contact with the immoral atmosphere that seems almost inseparably connected with the kind of life

forced upon the average soldier. I am willing, therefore, to use what influence I can for union at Logan if that is what gentlemen mean, but I do protest against gentlemen thinking that we can be hoodwinked into believing that to settle the question of union now and leave the rest all to the Legislature does not mean a future agitation for union here in Salt Lake City. Therefore, I object to this amendment.

Mr. FARR. Mr. President, I very much desired to say a few words upon this subject all the forenoon, but I knew that there were so many that wished to speak, that are plumb full of gas, and if they did not let it off, there would be an explosion, hence I gave way. I like to hear that kind of gas, hear both sides. One fellow gets up and he tells his story so admirably here we all th'nk that he has got the case. The other fellow gets up and he tells his story right in direct opposition to him, precisely, why he has got the case. Well, now, what does all this show? It shows that we are a lot of boys here together, that is what it shows, like the boy building a cob house, another boy throws a cob and knocks it all over. Now, I think it is time that we got down to business on that business. I have been here in this Territory as long as any of you, I do not care who they are, and I have been particularly friendly in favor of the university being established here in Salt Lake City, and I have had but one mind, that it should stay here all the time. If there had been a majority vote to take it to Logan, you would have found my vote against it. It must stay here and we are going to build it up and we are going to make one of the greatest universities in the United States, and you will find the greatest learned men will eminate from this university, but I can tell you another thing. We have gone to work and established an agricultural college at Logan, the best place that I know of in Utah. We have just got it completed, spent some two hundred and fifty thousand dollars, and here come some men with some fine speeches and knock it all over, like the boy throwing a cob against the cob house, just when we get it built, they want to throw it back to some other place. I trust we will not act as boys, but like men. I take great pleasure in going to that college and visiting it. It has a fine location; it has one of the healthiest spots there are in Utah, the finest water power I know of, an abundance of water, a good soil, and a climate that you can raise all the vegetables and most of the fruits, some fruits you cannot raise, but most of the fruits you can raise there, as fine as there are in Utah, and it has a fine climate, and a healthy spot and everything is reasonable and cheap, and I say we should sustain that. The argument is here, why it is going to cost so much, let us be united, union is power. I tell you, gentlemen, the agricultural college can be supported cheaper up there than it can be down here and the university can be supported here—in time have plenty of means and plenty of appropriations made and donations to the university to make a grand exhibition. I do not care whether it is fixed at Fort Douglas, or whether it is a mile or two south or half a mile south. I don't care anything about it, or whether it is down here on Union square, it matters not to me, but Salt Lake City is the place for the university. It was established here by wise men, men that built up the country and came here first, and it should stay here, and I am in for it here, all the time, and I am in for the college to remain at Logan where it is now, and I am in for another thing, that we fix it now, right here.

This idea of leaving all to the next Legislature to quarrel and wrangle over, have so many fine speeches that we have had here over it, and spend half of the session, and a few thousand or a few hundred thousand dollars in wrangling over that from session to

session, I am opposed to it. I say, let us fix it, and have the agricultural college at Logan, the facilities being all there, and let us have the university and be united in it. Why, bless you, children coming here to the university get positions, or in other words go to school, they go to the general superintendent and they tell him what they want. "Now, what is your advice in regard to where we shall go?" Why, says he, go to the agricultural college if you want to study those branches. They go there understandingly and without any acrimony, or feelings about it, and the agricultural college in the same way sends the students and scholars that come to school down here as being the best place for the university, because the branches were agreed upon. The management at the agricultural college and the management at university understand each other, and it is mutually arranged that such a class of children shall be at one college and the other at the other, hence, where there is union there is power; they move together as one. There need not be any feeling about it. Let us be united and sustain them both. I do not wish to take up your time, but I felt as though I ought to make these few remarks, having the experience that I have here in this country. And the location of these—do not let us go to work and break this up when they are just built up. Let us go to work like men and fix the thing to-day.

Mr. CREER. Mr. President, I move the previous question.

Mr. EICHNOR. Mr. President——

Mr. SQUIRES. It is not debatable.

Mr. EICHNOR. It may not be debatable. Mr. Cannon out of courtesy ought to have the privilege of debating it.

Mr. CANNON. That is all right.

The motion for the previous question was rejected.

Mr. EVANS (Weber). Mr. President, I had hoped that this matter would be terminated without the great delay which has taken place, but I can see now that we are confronted with a somewhat serious condition of things. I believe that the proposition now before the Convention means simply this, that if the substitute of Mr. Cannon be adopted, it will result in rooting up the agricultural college which has been located at Logan City. I do not believe under the present conditions that that ought to be the case. If it were an original proposition, I should readily accede to the arguments of gentlemen who have spoken in favor of union, but with the present condition of things confronting us, as they are, together with our present financial condition and together with the fact that the location of the college has been at Logan for some years, and also in addition to that the embitterments of feeling which would naturally arise out of taking the college from Logan, I am in favor of this Constitutional Convention settling these institutions in the locality where they are at present. [Applause.]

Gentlemen, there is no use disguising the fact that at Logan a quarter of a million dollars has been expended, that the people of Logan and Cache County have prided themselves in the establishment of the agricultural college there. They have supported it with their influence, they have been loyal in carrying out its objects, and to take it from those people now, under the present financial conditions of the Territory, I believe would be wrong, and would work an injustice to not only those people, but to all the people of Utah Territory. They have, as has been stated here, an abundance of pure, clear water, they have an abundance of fertile soil, the climate is exhilarating, and healthful. It is removed from influences which would surround the children of the school, if it were established in Salt Lake City. I believe with my friend, Mr. Roberts, from Davis County, that the agricultural college

will be conducive to more good than would the university, if one or the other had to be dispensed with. Let us settle the question here and now. Let us leave the institution at Logan where it is established; let us not destroy a quarter of a million dollars' worth of property which has been properly expended there by the consent of the Legislature of the Territory, and let the university stay here where it is. Why, gentlemen, speaking upon the other question of the location of both of them in this city, however desirable it may be upon the part of some, certainly it never can be properly done upon the location granted by the act of Congress. I am informed that upon the east of the location is Fort Douglas, the military establishment, and on the north and the south are two grave yards, and on the west a brewery. Just think of such environments for children, where children might go and be educated, and think too, gentlemen, of the evil influences that might surround those people in a metropolitan city, such as Salt Lake is. All these things are not in existence at Logan. It was established there in the wisdom of the Legislature of Utah, and I believe properly established there, and ought to remain there. As my friend, Mr. Roberts, has suggested, it was reconfirmed by the last Legislature. Gentlemen, just so sure as this substitute of Mr. Cannon be adopted, just that sure will the agricultural college be taken from its moorings and destroyed, and the property which has been established there at the expense of the people of Utah, lost to us. Is it right to do it under our present financial condition? I hold that it is not, and that it is infinitely better—it will be more satisfactory everywhere throughout Utah, if we leave these institutions as they are now established, under the section as it is before the substitute was offered by Mr. Cannon. And, gentlemen, I beg of you that you support the section as it now stands. I believe it is for our interest to do it, notwithstanding the theories which have been advanced by those who are better able to judge in educational matters than we are. It is a plain practical question. As has been stated, it is a condition that confronts us and not a theory at all. Let us accept the conditions as the people of Utah have formed them, and leave them in the condition that they are now.

Mr. LOW (Cache). Mr. President, I desire only to read from sections 8 and 12 of the act establishing the agricultural college. (Reads.)

I desire to say in reply to the gentleman's accusation this morning upon the floor—he made the insinuation, I believe jokingly, that in Cache County it was necessary to grow onions under a glass. I call the gentleman to witness that the best onions in Utah Territory are grown in Cache County. I also desire to state here without fear of contradiction, another statement that the gentleman produced this morning, which he is not able to sustain, that there are more students from all the surrounding counties adjoining Salt Lake County attending the agricultural college, situated in the northern part of Utah, than attend the university to-day. I spoke to the gentleman from Summit, who said that they had four to one—four students attending the agricultural college to-day where there was one attending the university. And the same will apply to the other counties. Utah County has more students in the agricultural college than they have in the university of Utah. Why? Because that institution is fulfilling the objects of its creation, as read from sections 8 and 12 of the enactment which I have just read to you.

Mr. RICHARDS. Mr. President, I only desire to say a few words in order that my position may be understood on this question. I reiterate what I said on Saturday, that this question has no

place before this Convention and has no place in this Constitution, and if the amendment offered by the gentleman from Salt Lake was to leave this entire question of union and of location to the Legislature, I should vote for it, but he proposes to dispose of one branch of it and not dispose of the other. I do not think I shall vote for it, and for the reason that I have stated. I do not believe that this is a matter that belongs in this Convention or that ought to have any place in this Constitution. It is unusual. As has been pointed out, there are only three states out of forty-four which have done it. And I think we ought to leave this matter to the Legislature.

Mr. JAMES. Mr. President, if it is in order I will make a motion to amend Mr. Cannon's motion, to defer the whole matter to the Legislature.

(No second.)

Mr. KIESEL. Mr. President, I would like to say a word. I have listened to beautiful speeches of the gentlemen, professors of the university and others, and their theory sounds very nice, that is a union of those two branches of learning, but from what I know of Cache Valley, which I consider the gem of all the valleys of the intermountains, and the purpose for which the agricultural college was created, I am firmly impressed that Cache Valley, surrounded as the college is and will be by a farming population, that that is par excellence the place for an agricultural college, for all practical purposes. I should be very loth to see that institution leave Cache Valley. Cache Valley has been endowed by nature as hardly any other valley in this country. It has been called the granary of Utah. Everything grows there that grows anywhere else, and I especially want to refute the assertion that onions grow under glass, because I used to keep a store in Cache Valley in ancient days and I used to buy very large quantities of onions and ship them to Montana and elsewhere. I do not know but I shipped them to Salt Lake, where they do not grow them under glass, and as I said before, nature has done everything for that valley, and the institution ought to stay there, and you certainly, after nature has done so much for the valley and incidentally for the college, you certainly do not want to commit a crime against it.

Mr. HAMMOND. Mr. President, San Juan has got into a rather tight place. [Laughter.] Before the motion is put, I would like to explain, if I can find words to do it, my position. I am not a word painter, I have been studying men and measures, and women some—most of my life—and I am not very good at talking, but I want to state this, that if they were to be united, these institutions, and this Convention to fix their location, I was for Salt Lake all the time. Now, if they are not to be disturbed, I would vote all the time for the college to remain as it is. That is my position.

Mr. PRESTON. Mr. President, I wish to continue a few remarks that I was making awhile ago, and it was to this end, that it is too late now to talk about moving these institutions. 1888, if I remember right, was the time it was located there, was the time to have located the agricultural college in Salt Lake, but that time has gone by, and now it is the proper time for us to locate them right where they are and build them up. The country can grow for them and support them, and we will be proud after awhile that we did not move one or the other. It is too much like boyism for legislators to meet and locate one thing here to-day and a few years after locate them somewhere else. Let them stay where they are and let them grow up and we will be proud of them after awhile. I am opposed to the motion.

Mr. CANNON. Mr. President, in making the motion to substitute that which is desired, I did so without a desire to

provoke the debate which has taken place. I was ready to vote at that time and would like to have done so without any further discussion. I believe that union is very necessary for these public institutions—our higher educational institutions in Utah. I believe that without union we will never attain the age or reputation spoken of by the gentleman from Davis County. He tells us we cannot expect to rival without age and reputation institutions of the east. We never will acquire age unless we strive to establish our institutions so that they will have a beginning and a starting point, and if we refuse that I believe we will regret it in the end. I do not care to take up your time in giving you my views about that, because you have listened to Professor Kerr and Doctor Talmage, and to others who have spoken upon this subject and who are making it a life study. I desire to read to you for a moment the opinion of a gentleman to whom I referred yesterday, Doctor Andrew B. White, of Cornell, who closes his letter in this language:

> Scatter your public institutions as much as you please through your state. Give your asylums, retreats, reformatory institutions, prisons, etc., to various localities, but I urge that you keep all your endowments for the most advanced education together, for in this way can you secure an institution strong enough to give your young men and young women an education worthy of your state and our common country.

That is his view upon that matter, and I believe, gentlemen, that the only course is to put them under one management, unite them, and let the Legislature fix the place.

Mr. ROBERTS. Will the gentleman yield for a question? Did that author from which you quote fully understand the condition which confronts us in this issue, and did he make the remarks in the light of all the conditions by which we are especially surrounded?

Mr. CANNON. I do not know that he had our special case in view. He speaks on general principles, and without the tinge that would be given by fixing Salt Lake or Logan. He speaks on general principles. The very discussion that has taken place here convinces me that men look at this matter from a local standpoint. The gentleman from Davis wants to know why it is, if we are so patriotic that we would move to locate it at Logan, that we do not do so at once. The reason is, I believe it is better to locate at Salt Lake, but I am willing to waive that and let the Legislature decide in the future which is the better place. It is just as patriotic for a man from Salt Lake to work for union and leave it to the Legislature as it is for a man from Logan to work for union providing union shall take place at Logan, and say that he is not working for union under any other circumstances. I desire to state this point, that I am not antagonistic to the interests of Logan. I believe that Logan has a beautiful location; I think she has many natural advantages. I believe she is naturally an educational center; I believe that her people have that sentiment which has been referred to by one of her honored delegates, and I believe that they are worthy of an institution of the character of the agricultural college. I am willing to leave it to the Legislature and let them determine whether it is for the best interests of the people of Utah that they should be united, but I should take the ground that it is for the interest of the whole people that we should unite these institutions. Thirty thousand dollars a year, it has been testified, is the amount that can be saved when we give a proper appropriation for these institutions by uniting them. That is no trifling sum. The people of Utah are too poor and have too many burdens to afford to throw away this consideration, and I claim that it is our duty to provide now that there shall be union.

The very fact that the gentleman to whom I referred reflected upon Salt Lake City, shows the spirit that actuates the people in different sections. I believe that he is as free from sectional feeling as any man can be, and yet he comes in and tells us here on the floor of this Convention that Logan has a higher educational spirit than Salt Lake, that Salt Lake does not have a high educational spirit. And gentlemen, it is that very feeling that causes me to say that this may be settled now. Every time your Legislature meets, there will be a delegation from Cache County asking first for an appropriation for the agricultural college, not to confine it to its original design, but to make it rival the university, claiming that they have a higher educational spirit, and that very rivalry is that which we should stamp out or it will destroy the usefulness of the two institutions. Unite them, place them under one board, and that rivalry would cease, and it is for that reason that I desire to introduce the substitute that has been proposed.

Mr. ROBERTS. I would ask the gentleman if any member from Cache County has asked for the union of these two institutions at Logan?

Mr. CANNON. Yes, sir.

Mr. ROBERTS. I will state in explanation that if there comes any request from Logan for the university then I am not aware of it. If the gentleman is, I would like to hear him answer.

Mr. CANNON. I do not state that any one had advocated it, except as advocated publicly on the floor to-day at this time, but I did state that it has been advocated by gentlemen who are for union if it can take place at Logan, and that is a fact. The public records will bear me out.

The roll was then called with the following result:

AYES—30.

Bowdle	James
Brandley	Kerr
Call	Lambert
Cannon	Lemmon
Chidester	Maeser
Christiansen	Mackintosh
Coray	Morris
Corfman	Murdock, Beaver
Cushing	Nebeker
Emery	Pierce
Goodwin	Robertson
Green	Sharp
Hammond	Shurtliff
Haynes	Snow
Heybourne	Wells.

NOES—70.

Adams	Lowe, Peter
Allen	Low, Cache
Anderson	Lund
Barnes	Maloney
Boyer	Maughan
Buys	McFarland
Clark	Miller
Crane	Moritz
Creer	Murdock, Wasatch
Cunningham	Murdock, Summit
Driver	Page
Eichnor	Partridge
Eldredge	Peters
Engberg	Peterson, Grand
Evans, Weber	Peterson, Sanpete
Evans, Utah	Preston
Farr	Raleigh
Francis	Richards
Gibbs	Ricks
Hart	Roberts
Halliday	Robison, Wayne
Hill	Ryan
Howard	Spencer
Hughes	Squires
Hyde	Stover
Ivins	Thatcher
Johnson	Thompson
Jolley	Thoreson
Kiesel	Thorne
Keith	Thurman
Kearns	Van Horne
Kimball, Salt Lake	Varian
Kimball, Weber	Warrum
Larsen, L.	Whitney
Larsen, C. P:	Williams.

ABSENT—6.

Button	Robinson, Kane
Lewis	Strevell
Lowe, Wm.	Symons.

The president declared the substitute lost.

During the roll call the following explanations were made:

Mr. KERR. Mr. President, I would like to state that I am in favor of union with reference to the place of union, but I do not favor the substitute, and therefore vote no. My reasons are that this substitute does not even fix the time when the Legislature shall unite these institutions. It leaves it entirely open to the Legislature to have wrangling and neither institution can do anything under such a dispensation.

Mr. KIMBALL (Salt Lake). I am in favor of union, but I don't want to see this left in this uncertain manner. I will consequently vote no.

Mr. RICHARDS. Mr. President, I desire to be excused from voting on this proposition, for this reason, I do not want to vote for the substitute and if I vote against the substitute it is equivalent to a vote for the section as it stands, and I do not believe in either of them, and, therefore, I ask to be excused.

Mr. FARR. He can be excused.

Mr. ELDREDGE. I object to the gentleman being excused. I do not think it is a proposition on which a man should dodge the issue.

Mr. RICHARDS. I submit, Mr. President, it is not dodging the issue in a proposition of this kind.

Mr. ELDREDGE. Then, let us get it so you cannot dodge it.

Mr. RICHARDS. I submit I have a right to ask to be excused.

The PRESIDENT. I think under the rule there is no excuse if a man is within the enclosure. He must vote aye or no.

Mr. RICHARDS. Then, I shall vote no, for the reason that I do not favor the substitute, because it does not leave the whole question to the Legislature, and I protest against having to vote because a vote of no is equivalent to a vote for the section, and that fixes the place, when it ought not to fix the place for either of those institutions. Now, I am on record. I hope the gentleman is satisfied.

Mr. KERR. Mr. President, I have just been reading that substitute and I change my vote to aye.

The PRESIDENT. The substitute is lost, gentlemen. The question now recurs on the adoption of the article.

Mr. GIBBS. Mr. President, I wish to offer an amendment to section 2, on line 4, after the word "high school," to insert "agricultural college," so that it would be a part of our school system.

The amendment was agreed to.

Mr. GOODWIN. Mr. President, I am informed by the chairman of the committee on commerce and manufactures that they do not intend to report on the question of the metric system. Hence, I renew the motion I made yesterday that there be a section stating that the metric system shall be adopted in all the public schools of the State.

Mr. EICHNOR. I would like to ask a question of the gentleman who introduced that motion—that would make it compulsory to teach it even in kindergarten, the way that motion is.

Mr. WHITNEY. Let them teach it there if they can understand it.

The motion was agreed to.

Mr. MAESER. Mr. President, I desire to offer a substitute for section 4, that the union of the university of Utah and the agricultural college shall comprise all the institutions of higher learning in the public school system, including the school of mines, the state normal school, the agricultural college, and such other institutions and schools and colleges as may be established by law, and that the said union of the university and agricultural college be located at Logan, Cache County.

Mr. KIMBALL (Weber). Mr. Presi-

dent, I arise to a point of order, that the ayes and noes having been called on section 4, and it having passed, it is now too late to offer an amendment to it. The chair so ruled when the legislative article was under consideration under the amendment offered by Mr. Varian, and this same amendment has been voted down once or twice here this afternoon.

The PRESIDENT. I think the point of order of the gentleman is well taken.

Mr. VARIAN. Mr. President, I move the previous question on the whole article.

Mr. EVANS (Utah). Mr. President, I would like to be heard on a question of personal privilege. I want to say that if that section has been voted on this day, in any way, shape, or form, I do not remember it, and the ayes and noes were taken upon the substitute which was defeated, and I think that the gentleman from Utah County is perfectly in order. That was withdrawn. It was discussed all day, but withdrawn. That question has never been voted upon by this assemblage.

The PRESIDENT. The substitute will be entertained, then.

Mr. VARIAN. I withdraw the motion for the previous question. Mr. President, was there not a motion to strike out section 4 that was voted upon?

The PRESIDENT. I do not remember of a motion to strike out the section.

Mr. SQUIRES. Mr. President, in view of the fact that this matter has been discussed now for something like three days, I do not see how any new matter can come in. I move the previous question.

The previous question was ordered.

Mr. CLARK. Mr. President, if I understand the substitute, it forever settles this matter that it remain at Logan.

The PRESIDENT. That is the way the chair would understand it.

Mr. CLARK. For that reason I am opposed to it and vote no.

The roll being called on the adoption of the substitute offered by Mr. Maeser, the result was as follows:

AYES—23.

Brandley	Lambert
Call	Maeser
Cannon	Maloney
Coray	Morris
Corfman	Nebeker
Evans, Utah	Partridge
Gibbs	Peters
Hammond	Peterson, Grand
Haynes	Sharp
Ivins	Snow
Johnson	Thorne.
Kerr	

NOES—78.

Adams	Larsen, C. P.
Allen	Lemmon
Anderson	Lowe, Peter
Barnes	Low, Cache
Bowdle	Lund
Boyer	Mackintosh
Buys	Maughan
Chidester	McFarland
Christiansen	Miller
Clark	Moritz
Crane	Murdock, Beaver
Creer	Murdock, Wasatch
Cunningham	Murdock, Summit
Cushing	Page
Driver	Peterson, Sanpete
Eichnor	Pierce
Eldredge	Preston
Emery	Raleigh
Engberg	Richards
Evans, Weber	Ricks
Farr	Roberts
Francis	Robertson
Goodwin	Robinson, Kane
Green	Robison, Wayne
Hart	Ryan
Halliday	Shurtliff
Heybourne	Spencer
Hill	Squires
Howard	Stover
Hughes	Thatcher
Hyde	Thompson

James
Jolley
Kiesel
Keith
Kearns
Kimball, Salt Lake
Kimball, Weber
Larsen, L.
Thoreson
Thurman
Van Horne
Varian
Warrum
Wells
Whitney
Williams.

ABSENT—5.

Button
Lewis
Lowe, Wm.
Strevell
Symons.

The PRESIDENT. The substitute is lost, gentlemen.

Mr. SQUIRES. Mr. President, I move the previous question on the entire article.

The previous question was ordered.

The roll being called, the result was as follows:

AYES—98.

Adams
Allen
Anderson
Barnes
Bowdle
Boyer
Brandley
Buys
Call
Cannon
Chidester
Christiansen
Clark
Coray
Corfman
Crane
Creer
Cunningham
Cushing
Driver
Eichnor
Eldredge
Emery
Engberg
Evans, Weber
Evans, Utah
Farr
Francis
Gibbs
Kimball, Weber
Lambert
Larsen, L.
Larsen, C. P.
Lemmon
Lowe, Peter
Low, Cache
Lund
Maeser
Mackintosh
Maloney
Maughan
McFarland
Miller
Morris
Moritz
Murdock, Beaver
Murdock, Wasatch
Murdock, Summit
Page
Partridge
Peters
Peterson, Sanpete
Pierce
Preston
Raleigh
Richards
Ricks
Roberts
Goodwin
Green
Hammond
Hart
Haynes
Halliday
Heybourne
Hill
Howard
Hughes
Hyde
Ivins
James
Johnson
Jolley
Kiesel
Keith
Kearns
Kerr
Kimball, Salt Lake
Robertson
Robinson, Kane
Robison, Wayne
Ryan
Sharp
Shurtliff
Snow
Spencer
Squires
Stover
Thatcher
Thompson
Thoreson
Thorne
Thurman
Van Horne
Varian
Warrum
Whitney
Williams.

NOES—3.

Nebeker
Peterson, Grand
Wells.

ABSENT—5.

Button
Lewis
Lowe, Wm.
Strevell
Symons.

The president declared the article adopted and referred to the committee on compilation and arrangement.

During the roll call, the following explanations were made:

Mr. CANNON. Mr. President, I am still opposed to section 4, but I vote aye on the article.

Mr. GIBBS. I am opposed to section 4. I will vote aye on the article.

Mr. HAYNES. I wish to express my disapproval of disunion, but I vote aye.

Mr. NEBEKER. Mr. President, I vote no for the reason that I think that the question of union of these two higher educational institutions overshadows every other proposition. It is a question that is of more importance than anything that can come before this Convention, in my opinion, and I think that the people of Utah will repudiate the vote that keeps them apart. I vote no.

Mr. RICKS. Mr. President, I move

we now resolve ourselves into committee of the whole.

Mr. EVANS (Utah). Mr. President, I desire to make a motion that when we take a recess, it will be until 7:30 tonight.

The motion was agreed to.

The Convention then resolved itself into committee of the whole with Mr. Evans of Weber in the chair, and resumed the consideration of the article on judiciary.

The proposed substitute for section 20 was read as follows:

Until otherwise provided by law, the salaries of the justices of the supreme court shall be three thousand dollars per year and paid quarterly out of the State treasury. The salaries of the district judges shall also be paid quarterly and by the counties comprising the respective districts in proportion to the taxable property of each and shall be in each district, until otherwise provided by law, as follows:
In the first district,——dollars.
In the second district,——dollars.
In the third district, $3,600.
In the fourth district,——dollars.
In the fifth district,——dollars.
In the sixth district,——dollars.
In the seventh district,——dollars.

Mr. VARIAN. Mr. Chairman, I offer an amendment to be added to the end of the substitute, and with permission of my second will accept the amendment.

The proposed amendment was read as follows:

The necessary expenses actually incurred by any judge in holding court in any county other than the county of his residence, including travel, shall be paid out of the State treasury.

The CHAIRMAN. I believe, gentlemen of the committee, that when we adjourned yesterday evening we had under consideration the question of what amount should be inserted in the place of three thousand dollars. Mr. Farr moved that the words three thousand be stricken out and two thousand inserted in lieu thereof.

Mr. FARR. Mr. Chairman, it is a very easy matter to raise the salary from two thousand to three thousand, should we want to or should any future Legislature want to do it, but it is a very hard matter to get it from three thousand down to two thousand, and I find that the salary at two thousand would amount to $6.40 a day. I think under the present circumstances of the people that that is a good round sum for a judge, consequently, I am in favor of reducing and making this two thousand instead of three thousand, and certainly shall oppose the other motion which is not before the house now. I am sorry to see the feeling of some members—I hope not many—a desire to raise the salaries of officers, to put it before the people to that extent that it will create hundreds and perhaps thousand of votes against the Constitution, which I am satisfied it will accomplish, and it will be no harm if two thousand dollars is not enough. In placing it at two thousand dollars, it can be very easily raised to three thousand. I am satisfied that $6.40 a day, which is the number of working days—and I do not expect any one wishes to have them work Sundays—it would not be legal if they did. I am in hopes that this honorable body will take into consideration the propriety of making the salaries at a reasonable figure, especially under the present pressure of the people, so badly in debt, as nearly nine-tenths of the people of Utah are bankrupt, as well as the whole civilized world. They cannot pay their debts, and they go to piling it up and in these times I can tell you it will be the means of losing hundreds or thousands of votes on this. I want it understood that I am opposed to three thousand. I think that two thousand is plenty, $6.40 a day is plenty. These men have their expenses borne, or their traveling fees are. I hope this honorable body will look at that matter reasonably.

Mr. ANDERSON. Mr. Chairman and

gentlemen of the committee, I am opposed to the amendment and also to the substitute. I am in favor of the section as it now stands. I think that the salaries of the judges should be paid by the State. The chief wealth of the State lies in Salt Lake and in one or two counties, and Salt Lake City would be better able to pay ten thousand dollars to her judges than some of the outlying districts will be to pay one thousand. We need just as good judges in the outlying districts as they do in Salt Lake City, and I do not think it will pay to be too economical—to cut down the salaries of our judges too low, because two or three mistakes made by a poor judge would more than amount to his yearly salary. I think that the section is about right the way it stands now, and I am opposed to both the amendment and the substitute.

Mr. EVANS (Utah). Mr. Chairman, I am not in favor of this thing exactly as it stands. However, I am opposed to the substitute and also the amendment by the gentleman from Weber. I think it is incumbent upon this State to maintain the order of the State. I believe the State ought to prosecute criminals of this State, and as was remarked by the gentleman from Weber, the rate per capita would be very small, in some of the most populous counties. I think, perhaps, I may take the liberty to speak on this question, for the reason that I happen to come from a county that would be, I presume, abundantly able—or a district, to bear their own expenses. Therefore, it will not be attributed to me as being selfish in this question, I think, but I speak upon it from principle. I believe it is the duty of this State, by their finances, to pursue the offender, to maintain peace and good order, and bring those men who transgress the laws to justice, and for that reason I am opposed to the substitute. I am opposed to the amendment for the reason that I think it is too small, and shall vote against them both, and if I shall be permitted at the proper time, I desire to offer some amendments to the section itself.

Mr. VARIAN. Mr. Chairman, I desire to state that I am willing to accept in place of my proposition, the substitute that I understand is practically offered and will be offered, as soon as my motion is out of the way, by Judge Goodwin. I am willing to withdraw mine and let this take its place, and the question will then stand as before, upon Mr. Farr's motion to reduce the salaries of the justices of the supreme court to two thousand dollars.

The CHAIRMAN. The question is now upon the amendment offered by the gentleman from Weber, Mr. Farr.

Mr. VARIAN. To that question, I desire to submit a word or two. Gentlemen perhaps fail to appreciate the fact that when you take a man from the profession of the law, engage him for a period of years to serve you on the judicial bench, he is deprived not only of making money in any other way—certainly he cannot practice law. You all understand that, but if he acts in accordance with the higher ethics of the profession and as he should act, he is practically taken from all kinds of business, because the people would not want a judge and ought not to have one who was liable to be confronted in the cases that may be brought before him with the fact that he is interested in the several business propositions which may be involved, necessitating the calling in of other judges and blocking and obstructing the wheels of justice. The purport of this motion, if it should carry, would be, sir, to reduce the means of living of your justices of the supreme court to bare necessities.

I undertake to say that no man can maintain himself in this city and keep a family, as a justice of the supreme court should be permitted to do, on the sum of two thousand dollars. I do not mean to say that he cannot live. He can eat and he can sleep, and he can

move about, but he is absolutely placed in a cramped situation, so far as money matters are concerned. You will hold him there, if this article shall go through as it is presented, for seven years, during which time you cannot increase that salary. Another one of these judges will be held there five years, if he shall live so long, during which time his salary cannot be increased; another for three; at the end of three years a new judge comes in and the salary may have been increased to something like a reasonable compensation, and you have then the situation of one judge getting three or four or five thousand dollars, whatever it may be, to other judges only getting two; they having also had longer and wider experience on the bench. You can imagine what sort of a feeling that kind of discrimination would engender. My own view is, I am in accord with the suggestion of the substitute by Mr. Goodwin. Two thousand dollars is not high enough, but I certainly ask you not to reduce it to two thousand.

Mr. KERR. Mr. Chairman, I certainly would not desire to take up the time of the committee on this subject, believing that the committee would not vote for a moment to make the salary two thousand dollars for justices of the supreme court, were it not for the action which was taken on the salary of other officers, when the article on executive was under consideration; and it does seem to me, Mr. Chairman, that a proposition on the ground of economy to reduce the salary of a justice of the supreme court from three thousand to two thousand dollars, thereby saving one thousand dollars a year only to the State, comes with little grace from a gentleman who has just voted to throw away twenty or thirty thousand dollars of hard earned money of the people in voting for a separation of higher educational institutions. Gentlemen of the committee, I submit that a man who is capable of serving as a justice of the supreme court of Utah is certainly worthy of his hire, and we should not be guilty of such parsimony as will ask men learned in the law to sit on the bench for the paltry sum of two thousand dollars a year. I would like if it were possible to have reconsidered the article on executive, that we might pay the superintendent of instruction, the governor, and the other officers salaries that would be consistent with the work which is required of them. I do trust, gentlemen of the committee, that this amendment will be voted down and that in all of our efforts to economize we shall pay our men what they are worth. Talk about endangering the Constitution by a difference of a few hundred dollars a year, when we treated so lightly the question which involved thousands upon thousands of dollars! Let us be consistent and pay these men what they are worth.

Mr. GOODWIN. Mr. Chairman, I hope this committee will bear with me a little while. I have a man here who is opposed to my views and so I obtained his time, not so much to talk myself, but to prevent him. I feel very sensitive over this question and I would like to explain that in the committee we had the same opinions presented that we have here, and the committee will bear me out in saying that—anything less than four thousand dollars a year for a supreme or district judge would be disgraceful. However, we agreed upon three thousand dollars, but I was exceedingly glad yesterday when Mr. Varian proposed to increase that salary in this district, and I was not sorry when the gentleman from Weber proposed to reduce it because it brings the whole matter before this committee, and I believe a fair contemplation of it will be good for us. It will not be nearly so long a debate as we have had on some other questions of not nearly so great importance. I believe of all things in high salaries for judges. I believe in very long terms for judges. I do

not believe any perfect judicial system will ever be established in any country without these two features being part of the system. Fortunately, I am backed in that opinion by some very high authority and I want to read just a few lines from a gentleman who has an international reputation as a lawyer and jurist. I mean Judge Dillon. I copied this from his lectures on law and jurisprudence. (Reads.)

I can bear to hear gentlemen talk about low salaries for almost any other office except such as pertains to the judiciary, or to public education. We are told how much a man can make a day sitting as a judge and how much more it is than as though he worked at manual labor outside. And the same gentlemen, if they had a fifty dollar watch that needed cleaning and repairing would gladly pay ten per cent. of the value of that watch to have some mechanic fix it and they will take it to a jeweler and not to a blacksmith, but the moment it comes to the handling of this most intricate and absolute science, the administration of the law, then their minds are filled in a moment with some venerable wooden headed old justice of the peace that they knew in another country, and about seven dollars a week they say is a fair salary. Do they ever stop to think that before a man is fit to occupy a place of that kind he has to consume years and years of patient study? And that the courts of our country, as they are administered and when properly administered show all the advance that mankind has made from the stone age? A judge who is elected in this State under this Constitution will have the lives and fortunes of this whole community in his grasp. Would you give him the same salary as you would give a bookkeeper? That is the point. If he administers his office properly he at once lifts up the standard of society in Utah. If, because of the miserable salary proposed for him, you can obtain no one who is fit for the place, then you lower society correspondingly. Again, there is no need of this miserable and costly economy. I understand that all the fees will be paid now into the treasury and the officers of the courts who heretofore have been recipients of the fees will be paid salaries. In that case I take it that the fees paid will amount to just about as much as the salaries of all the judges in this new State. I know they will if the fees are kept up to where they have been in the past. There is a deeper question than all this. We have more than once since this Convention met heard gentlemen speak of that inspired instrument, the Constitution of the United States. Did they ever stop to think that half the reverence due that instrument and half the significance to that instrument is due to the interpretation and construction of it by the supreme court of the United States? Did they ever realize that while in politics Congress may go wild, while presidents themselves may be lured here and there by political questions and political dodging, from the first the supreme court of the United States has been the ark of safety to this land in times of great political excitement, in times of civil war, when every other hold was broken in the thoughts of men they turned their eyes and obtained rest watching the steady progress of that great court, moving as does the Gulf stream through the sea, and shedding only warmth and light around it, unswayed by any of the storms which shook the people, undisturbed by the passions which were rocking the nation and threatening to rend it in twain? That is what the supreme court of the United States has done for this country, and many of the courts in the states have been to the states what that has been to the nation. In this State you can elect cheap men. You can have incompetent or dishonest decisions for a few years, and then you attack the very life of the State itself, for just so soon as men lose their faith

in the integrity and wisdom and justice of our judicial tribunal, that moment their patriotism will begin to wither and die, and patriotism to the citizen is what faith is to the religious man. Drag it down once and we have simply a community of anarchists.

Again, if a judge of this State is to give you the best efforts of his mind, he has got to be undisturbed by the petty cares of this world. He has not got to be worrying over the fact of how he is going to meet his monthly expenses, and on two thousand a year he will be doing that or will be clamoring for a re-election, because when the term has expired he will be out of practice. He will either be troubled with business or will be getting his hands behind him. There is not one of you if you had an important case involving as much as five, or ten, or fifteen or twenty thousand dollars that would not expect to pay the lawyer that you would have (for you would not have a cheap lawyer) for that one case about as much as it is proposed to pay a judge here for a year sitting on the lives and property of the community. Cut down the governor's salary, cut down every other salary, but do not put your hands on the salary of the judge and disgrace him before this community. If you have not dignity enough to hold up the salary then take the view of self-interest. You need capital. Do you believe that capitalists who are shrewd men will come to a state where the high judiciary is paid two thousand dollars a year? They will say a man who will take that office for two thousand dollars a year naturally will sell out cheap, if we get in trouble. Fix it so that men of character will take the place. I am sorry the terms are so short, I would like to have them go on twice as long for the supreme bench; I would like to have them for life, but don't disgrace those men or disgrace yourselves by fixing the salary at an amount which you would not dare offer a man fit to be your confidential clerk in a business house. [Applause.]

The substitute proposed by Mr. Goodwin was read as follows:

The judges of the supreme and district courts shall be paid their salaries quarterly. Supreme judges shall receive each an annual salary of thirty-six hundred dollars, which shall be paid by the State. Salaries and the mileage of district judges shall be paid half by the State and half by the counties in their respective districts, in proportion to the property valuations of said counties. The salaries of district judges shall be as follows:

First district, $2,500; Second, $3,000; Third, each, $3,600; Fourth, $3,000; Fifth, $3,000; Sixth, $2,500; Seventh, $2,500.

Mr. BOWDLE. Mr. Chairman, I am glad the substitute was offered. I was not well pleased with the original proposition that was before the Convention, because that fixed the salary of the supreme judge the same as the district judge throughout the Territory. I do not believe that was wise. I believe that the supreme judge should receive a larger salary than the ordinary district judge. That is the court of last resort. The district judge may in his hurry make a mistake. That mistake can be reviewed, but when we get to the supreme court, so far as the courts of this State will be concerned, that decision is final. With that must be an additional responsibility. The court, as you have often heard in your practice, while you have been practising at the bar, says, "Well, if I make a mistake in the trial or the decision of this case, you have your remedy. You can go up and reverse me on that." But you cannot do that when you get to the supreme court. There must be that decision there that will meet the merits of the case or the merits of the litigant will be lost. What will be the duties of the supreme court? It will be to review the question that may come from the lower courts, to construe this very Constitution that we are trying to

make, for the court to give it direction, to pass upon all legislative acts that may come before it, to say to the Legislature, "You are building upon the Constitution. There is your foundation, thus far you can go and there your progress must be staid." It is the bulwark of American liberty. When you come to think about it, you can afford to be niggardly and stingy with every other class of salaries, but this class you cannot. What are the reasons why you cannot afford to do that? You call upon your judges to perform personal service in every instance. In almost all other cases of salaries that power can be delegated. You take your auditor of state, or your treasurer, or your secretary of state, the large part of his work can be done by a clerical force. It is not so with your judiciary. It must be their own acts; it must be their own brain and by their own hand that all work must be performed. They cannot delegate it to any power. It is their whole time and attention and industry that must be devoted to the questions that will be brought before them.

And therefore I say we cannot afford in that important department to deal out with a close hand the salary of these men. If we wish to be respected and looked upon as a State that has some means, as it has backing, we cannot say to them, "Take two thousand dollars a year; that is all you can get." I believe there is no state in the Union where the supreme court receives the paltry sum of two thousand dollars a year, so far as I know. I do not know of a single one. The state of California pays its supreme court judges six thousand dollars a year. We cannot afford to pay that much. Therefore, I am in favor of this substitute.

Mr. JOLLEY. Mr. Chairman, I wish we were able to pay our judges the full amount or the largest amount that is asked for here on the floor. For one, I would be glad to vote for it, but there is a consideration to take in view, and that is the uniformity of prices. We had our chief executive voted upon at twenty-five hundred dollars. There was a motion made and it was cut down to two thousand dollars. I, myself, think that the supreme judges ought to be paid more than the district judges, and I would hate for us to establish here a salary for either the supreme judges or the district judges that would cause our attorneys to leave our fair Territory. In the past, judging of the number that we have to-day, Utah has done a good deal for such men, and I would hate to do anything or put the salaries so low that would cause them to leave, but I want to tell you, gentlemen of the committee, the skeleton that was held up in the papers before this Convention convened, and that was constructed by the judiciary of Utah Territory, created great anxiety among the common people and the masses of the people of the Territory, and I, for one, was cautioned on leaving my constituents to carefully guard the act in relato the salary of the judiciary. Now, I realize that it is necessary to pay men well. My friend from Salt Lake, on my left, said he did not know of another state in the Union where those judges were paid as low a salary as two thousand dollars. But I find that South Dakota is districted as we are now districting this Territory. They have eight judges, with one judge to each district, at two thousand dollars, with a proviso that the legislature may raise that salary to twenty-five hundred dollars. Now, I have not heard yet that the attorneys and the judges have all vacated Dakota or that they are deprived of plenty of men capable of sitting upon those benches. And while I am in favor of paying all that we can pay, I think it is fair to look at this from both sides. The investigation that is now on—to consider that there would have to be a uniformity of salaries and prices in order to give satisfac-

tion to the people and in order to do justice to those that are holding office. Now, for one, I do think that the chief executive of any state should have as high a salary as the district judges, and if the district judges are worthy of three thousand dollars, I think that the chief executive is. But I do think three thousand dollars a year is too high. I think that two thousand dollars is high enough for district judges. I think the supreme judges ought to have more than two thousand dollars. When you think about $6.40 not being enough a day for a judge or anybody to live upon, I think that $9.60 is a little too much. Therefore, I will sustain the motion of my friend from Weber.

Mr. EICHNOR. Are you aware how much time and how much money a man must spend before he becomes an attorney and afterwards a judge?

Mr. JOLLEY. I will answer the question, no. I am not aware for I have not tried it by experience; but Mr. Eichnor, are you aware of the number of hours a day that men have to spend, that have to pay the salaries to these men, on the farm?

Mr. HART. I would like to ask the gentleman whether he ever was able to engage an attorney to work for him in court at the rate of $6.40 per day?

Mr. JOLLEY. I have never been in a position that I have had to engage any attorney to work for me.

Mr. IVINS. Mr. Chairman, if I properly understand the substitute offered, it provides for a discrimination in the salary that is to be paid these judges on a sliding scale, indicating, I suppose, that the services of the judge in one of these districts might be of greater value than in another.

Mr. EICHNOR. Mr. Ivins, in districting the southern part of the Territory we found it absolutely necessary to make two or three districts with only half the population which were first intended for a district, and it is in on that score that there is a discrimination made in the salaries. They will have to pay about half as much as in the second or the fourth district; should be one-eighth of what they will have to pay in this district.

Mr. IVINS. I have not taken time to make any calculation to determine as to whether the gentleman is correct in the statement which he makes or not; probably he is, but I notice that in the third district, which is provided for in the report of the committee, there are three judges, and one in the other districts. I suppose that the idea of the committee was that one judge would be able to take care of the business in each of these other districts, and that three judges, would be equally able to take care of it in this district. Now, I am of the opinion that the services of these men are equally valuable, no matter what part of this Territory they would perform services in, and if we pay a judge three thousand dollars for services in Salt Lake City, or the district in which this county is embraced, he should receive the same remuneration in any other district in this Territory. I believe that the report of the committee is a good one and that we cannot improve it if this system is to be adopted at all. I am opposed to the whole system and should have preferred the old system of probate courts, but the report as it is provides that those men shall be paid an equal salary, and furthermore that they shall be paid out of the State treasury. The substitute provides that one-half of their salary shall be paid by the State in outlying counties, and the other half by the district in which they serve. This I am opposed to. I believe the proper thing for us to do is to put these judges on an equal footing, pay them all out of the State treasury, pay them all the same amount of money, and if it is necessary, create another judge or two in order to do the work. Let us approve this just as it stands here.

Mr. VARIAN. Are you willing to pay

them all the sum of three thousand dollars?

Mr. IVINS. Yes, I am willing to pay them the sum of three thousand dollars until otherwise provided by law.

Mr. VARIAN. Let me explain the reason why we put in this proposition. It was that we anticipated that the outside districts would pull these salaries down and that would be exceedingly disadvantageous to us in this district.

Mr. IVINS. I do not know what may be the feelings of the representatives from other outside districts, but so far as I am concerned, I am willing to vote for this section just as it has been reported by the committee. With that view, that if any injustice is done here, either in regard to salaries or the proportion paid in different districts, the Legislature will take care of it when it shall meet. Let us have the section just as it is.

Mr. THURMAN. Mr. Chairman, I am somewhat surprised at the substitute. At least, I was before Mr. Varian explained the motive for introducing it, for it seemed to me there never was a question discussed more thoroughly and fully in the committee by men of all classes brought together, than the question of the salary for these judges. I have no fear about the salary being reduced below three thousand dollars. I am satisfied that this Convention is intelligent enough to understand that judges cannot be obtained in Utah at a less salary than three thousand dollars, that is, the kind of judges you want. Our judges are receiving to-day three thousand seven hundred and fifty dollars. They have been receiving four thousand dollars, and the Legislature of Utah—the representatives of the people have raised their salaries, and have even had to violate law, as I take it, to raise the salaries of our judges in the past from three thousand to four thousand dollars a year, but this committee thought, in view of the extraordinary expenses that we would have to bear, and the inability of the State, perhaps, to bear the burdens, they would put the salary down below what it has been for several years, and below what we thought in justice it ought to be. The salary, gentlemen, in the judgment of the committee, is below what it ought to be even at three thousand dollars. Now, one word in relation to making a distinction between judges. I agree exactly with the gentleman from Washington County. I would feel ashamed, so far as I am concerned, to stand in this Convention and say that every judge in this State of a court of competent jurisdiction should not be placed upon an absolute equality as to salary. As far as the work is concerned, the judge who has to attend to the business in Sanpete, Carbon, Emery, Grand, and San Juan, will have as much work to do—he will have a far more difficult job to perform in order to do it, than the judge who sits here in Salt Lake City, who only has to go out of the courthouse to go to his residence a few blocks away, and from his residence back to the courthouse to attend to the business, and not only that, the judge who is to try a case involving a thousand dollars in Carbon County requires just as much ability and competency to try that case, and do justice between the parties, as the judge who tries a case involving the same amount in Salt Lake City. Our courts of general jurisdiction everywhere in the State ought to be put upon an absolute equality, and they ought to be paid out of the general funds of the State. I think there can be no question about that, and the same with all of these other districts. I believe there is not a lawyer in this Convention, there is not a lawyer in Salt Lake City, if he was called to the bench to-day and asked, "Where would you rather have your field of labor, in Salt Lake City, or in some of these outlying counties, where probably there will not be so many

cases to try, but a good deal more traveling and roughing it to do?" but what would say, in Salt Lake City, every time. They have the advantages. I say it requires a judge of greater ability in San Juan district than it does in Salt Lake, or the Provo, or the Ogden district, for the reason that he would be compelled to act there without books. He has got to have the law in his mind—in his head. He has got to be able to decide it without the benefit of libraries, either private libraries or the public library, and, gentlemen, we cannot afford to place the salaries in these outlying counties so as to give us an inferior quality of judge to perform the work. I think that every one of ur ought to unite upon this practically as it is.

Mr. CREER. Mr. Chairman, I understand the difference—the total amount would be but little, as between the proposition offered by the gentleman from Salt Lake and that as made by the committee. I think the total amount would amount to about $36,000 under the provision that is made by the committee. I am in favor of the report of the committee—that is, the principle; that is of giving each judge the same amount of salary, no matter whether he is in this or any other district, but as to this matter of estimating the ability and time that it takes to qualify an attorney to become a judge, I take it, gentlemen of the committee, that there are a great many citizens of this commonwealth that have expended as much time and means to qualify them to follow the business that is their particular avocation as it has taken to qualify a judge. Now, you may take a man that may have two or three thousand dollars invested in a firm and he cannot make as much as is proposed to pay a judge——

Mr. ROBERTS. I wish to ask the gentleman a question. In the event of gentlemen having expended as much means in order to qualify themselves for business pursuits as a lawyer has to spend to acquire his profession, do not those parties make much more than two thousand dollars a year or even three thousand dollars a year?

Mr. CREER. No, sir; no, sir. I take it, I am acquainted I believe with a great many in this Territory who have good qualifications as attorneys that I assert have not expended as much as a man would do on a good average farm. Of course, they have acquired some by their practice—considerable. And furthermore, I will say this, that there are quite a number of good attorneys in this Territory now who do not, I believe, make more than ten dollars a day upon an average. Of course I will admit though that there are some that make more than that, but we must consider at the same time we fix these salaries the situation of those who have to pay the taxes. Here is $36,000 just for that one part of the civil government alone—that is, the matter of judges, independent of the officers and the jury and the witness fees and all of these things. Now, it seems to me that we ought to be careful. I would be willing to base it upon the estimate made by the gentleman from Salt Lake, that is to say, $2,500. I think that would be fair for the district judges—between the two extremes, and we can refer to a great number of states that do not pay any more than that to-day. In fact, there is now one of the most eminent members of the supreme court of the United States who served the state of Kansas, as I understand it, for $1,500 a year, so that I am not afraid of getting sufficient ability even at $2,500 a year for district judges, and $3,000 would certainly be ample to pay the judges of the supreme court. Therefore, I am not in favor of either proposition, but will vote to pay the district judges $2,500 and the supreme $3,000.

Mr. GOODWIN. Are you a lawyer by profession?

Mr. CREER. Yes, sir; I was admitted to the bar and am acquainted with a good many others.

Mr. GOODWIN. What would you charge a client to take charge of a case in which twenty thousand dollars was involved?

Mr. CREER. That takes cases in the probate court—divorce cases for twenty-five dollars, and I venture to say that there is but one or two in our district out of the whole list of attorneys that make more than ten dollars a day. My practice is mostly city and probate business.

Mr. GOODWIN. Well, that is a very small part of the law.

Mr. CREER. I am speaking of what I know of the others.

Mr. GOODWIN. Suppose a man came to you with a case in which twenty thousand dollars was involved and wanted to retain you, what would you charge?

Mr. CREER. I have been connected with cases where there has been more than twenty thousand dollars involved where we have been paid two hundred and fifty dollars.

Mr. GOODWIN. Still you think ten times that sum would be sufficient to pay judges to sit on all cases?

Mr. CREER. I think twenty-five hundred would be sufficient, compared with other states.

Mr. GOODWIN. Never mind other states.

Mr. CREER. Certainly.

Mr. GOODWIN. You do not compare Utah, with its great mining interests, with a state like North Dakota?

Mr. CREER. Wyoming, Kansas, Colorado—we have had good mining attorneys come here that do not make over ten dollars a day.

Mr. GOODWIN. Have you ever thought that the fees in the probate courts would pay the judges' salaries?

Mr. CREER. I do not understand that.

Mr. GOODWIN. It is proposed to pay the clerks' salaries and turn the fees into the State. Do you think those fees would pay the salaries?

Mr. CREER. They would in some districts.

Mr. GOODWIN. They would pay them three or four times over. They would pay the whole salary of all the judges in this State.

Mr. CREER. On an average, it would not do it—you take the nine judges.

Mr. CHIDESTER. Mr. Chairman, I am opposed to this unjust discrimination, as it stands in that article. I think that the district judges should be as competent as any, for the reason that the poor man gets into court in the district courts and the blunder there will perhaps knock him entirely out and he can never appeal to get the advantage of these supreme judges. In speaking of the cost that men have in preparing themselves for the bench, I want to say this, while I am decidedly in favor of low salaries, there is no class of people that are under such expense to carry on their business as are judges, for the reason that they have to subscribe and they have to buy the reports of the various courts in the Union, and the supreme court, in order to keep up with the times, and they are very expensive, and they pay out more than ordinary salaries for this purpose, and their expenses are great, but I would not favor this unjust discrimination in the salary and I favor paying them out of the State fund and also to knock off the mileage. If the mileage was cut off, then I would favor the three thousand dollars a year, but no longer terms. I think it is ample, and by leaving this mileage to be put on by the judges would simply mean a vast amount. In my mind, they could run up a vast amount in this mileage, and I think that it ought to be settled. There ought to be a definite determination of that question and leave the salaries fixed so that we know exactly what we are going to pay the judges.

Mr. HAMMOND. Mr. Chairman, I am in favor of this section as it stands. If I was to amend it at all, I would amend it by raising the salaries. That is my fix. Now, sir, instead of San Juan being a place where there is liable to be no lawsuits—why it will be the hotbed of lawsuits in a very few years, perhaps months. I have two cases there in my mind now, one a case of jumping claims with the parties backing the jumper—a company supposed to be worth a million dollars or more backing his suit. Well, would he go and employ—what do you call it—a peanut lawyer? I have heard about peanut politicians. I don't think he would do any such thing. Therefore, we want the best class of judges for San Juan, and pay them.

The motion of Mr. Farr was rejected.

Mr. FARR. Mr. Chairman, there has been considerable said in regard to making a niggardly price, that the two thousand dollars would amount to. I admit that it looks niggardly in the idea of some and compared to the salaries of some, or what some are getting. I admit that; but when I come to compare that to the circumstances of the people, I think it is very generous. I am satisfied that there are hundreds of lawyers to-day in this Territory that do not make their six dollars a day on an average. I am satisfied on that, and would be glad to make that. I do not wish to cut down and curtail any man in his salary, or getting what he earns. I speak understandingly. I know what I am talking about. I have not been here all these years without learning a few things. I presume that many of you think that I have forgotten a good deal. Well, I guess I have forgotten a good deal more than what some people know. But that has no reference to the present company at all; that is always excepted. But I want it understood that I feel liberal towards paying a man what he earns, and I told you that I know what I am talking about, because I have been in like circumstances. I have been in the law business and I have helped to make a great many laws, and I have served the public—I served one city alone for the period of twenty years as mayor, and I had a good many cases and a good many things to look after, and I attended to my business, and I only received fifty dollars for the whole twenty years. And I did not get poor over it, nor I did not rob anybody of anything, and when I was not going to the mayor's office or city council or looking after some mudhole in the road, to see whether the street man attended to his duty, I went to my garden and I hoed my potatoes and my corn, and I put in my time in that way, and by so doing I had good health, and I brought up my family, and they had good health, and it is a healthy exercise, consequently, I do not maintain that a man, because he is a judge, has got to sit on the bench all the time. He should have healthy exercise, and the idea of these judges going to the outside counties; they have their fees and traveling expenses paid, and we want just as good judges in the outside districts as we have here at home. We must remember, according to the provisions of the substitute that was offered, it gives Salt Lake judges three thousand six hundred dollars a year. You must remember that they have got three judges; that amounts to over twelve thousand dollars a year that Salt Lake has got to pay for their judges. I am satisfied, gentlemen, that two thousand dollars is no niggardly price for men these times, and if you do not tell me that ten years from now I will treat the crowd. If I know anything or see anything, we are getting into pretty tight quarters; we are owing some four million dollars in Utah at present. I would like to know where the money is coming from; if you do not begin to study economy pretty soon, you will wish you had, for you will be forced to it. I

thought this was a good time to commence. That is why I was willing to start in at two thousand dollars, and if we can get in better circumstances and pay our debts we will pay our judges more and pay other men more, but let us be consistent and reasonable and start in as we can hold out, for I do know that the people are being taxed to that extent that they feel cramped; they feel hurt; they feel as though they cannot do it; they cannot pay it. I know in one county between nine and ten hundred men that have been sold out for taxes. They would not raise the money, many of them—their homes have been sold, but others have had a portion of their property sold to pay taxes, because they could not get the money. Now, I would be glad to pay two thousand, three, or even four thousand dollars a year for our judges, if we had the means, but we cannot afford to start in on that at the present time. That is about all I wish to say. I do not feel disposed, because I have worked for nothing as long as I did, and got fat over it—I do not propose to cramp other people down to it, because they do not have the facilities to look after it as other people have, but I do believe in acting consistently and according to the signs of the times.

Mr. KIMBALL (Weber). Mr. Chairman, I am like my brother Farr, I am opposed to that substitute, but not for the same reasons. I do not think it is proper to make any discrimination in salaries, so far as district judges are concerned, because the committee certainly, in creating these districts, apportioned it so as to allot about the same work to each judge. If that be true, and I have no doubt it is, then the district judges' salary should be uniform. I am further opposed to the proposition of the substitute to pay any part of the salaries by the districts themselves or by the counties. I think that the State should bear the expense of the judiciary. And it is so in almost every other state and it should be so in this State. The taxes are paid throughout the Territory generally into the territorial treasury and the State itself should provide for payment of those salaries. So far as the salaries of the judges of the supreme court are concerned, I would be perfectly willing to see the salary raised to $3,600, but if we make the salary uniform for the present and allow the Legislature as the original section does, to provide to change the salaries hereafter, that matter can be easily arranged, but for the present, I think the provision as to salaries should remain as in the section reported by the committee itself. I hope that the substitute will be voted down and the original section stand.

Mr. VARIAN. Mr. Chairman, just one suggestion on this question of salaries. If this system of turning the official fees into the State treasury shall prevail, Salt Lake County alone, judging by the present and past, will turn into the State treasury at least fifteen or twenty thousand dollars and probably more. I think it is a conservative estimate, and when you take all the counties in the State you will see that the judicial salaries will not cut much of a figure.

Mr. GOODWIN. Mr. Chairman, I am perfectly willing to strike out the provision that half be paid by the districts and let it all go the same. I will offer that as an amendment.

Mr. VARIAN. Mr. Chairman, as I accepted that substitute, if it is in accord with the views of the mover, I am willing to withdraw the substitute. As I understand the temper of the Convention it is willing to let the original section pass as far as salaries are concerned.

Mr. GOODWIN. I think it had better be voted on.

The substitute offered by Mr. Goodwin was rejected.

Mr. EVANS (Utah). Mr. Chairman, I want to offer an amendment to sec-

tion 20, in line 4, by striking out the words "and mileage."

Mr. CREER. Mr. Chairman, I desire to offer a substitute for the section, as follows:

Until otherwise provided by law, salaries of the supreme judges shall be three thousand dollars per annum, and that of the district judges twenty-five hundred dollars per annum, and shall be paid quarterly together with their mileage.

This is offered as a substitute for the section and the amendment offered by the gentleman from Utah County together.

Mr. KIMBALL (Weber). Mr. Chairman, I move to lay the substitute on the table.

The CHAIRMAN. That is not in order.

Mr. EVANS (Utah). Mr. Chairman, I am in favor of the amendment that I offered, but I am opposed to the substitute.

I think it has been pretty well understood in this Convention that I am opposed to high salaries, but there is not a matter that has come before this Convention so far, to my mind, where it would be possible to bring as much expense upon the State, through bad management and inefficiency in the officers, as the one that is now being considered by this Convention. I am in favor of paying our judges three thousand dollars. I see, in looking over the constitution of Idaho, our neighbor state upon the north, that three thousand dollars is what they receive—their supreme judges and also their district judges, and I think that three thousand dollars is not exorbitant, when we take into consideration the fact that we need competent men, and by reason of their blunders that the citizen is put to great expense in cases where his individual litigation is concerned, and that the State is put to a great expense where the State is prosecuting cases. I am opposed to the system of mileage, for the reason that it is susceptible of being abused. I think the temper of this Convention has declared on a number of other occasions that they are in favor of establishing salaries in lieu of all fees, and I take it, sir, that it is only another form of fees, where you place it within the reach of individuals—not casting any reflection upon our future judges—that it is another form of placing it within their reach where they may distort from the public treasury money that is not justly earned. It has been said by gentlemen from Salt Lake that many times the amount of the salaries that will be paid the judges in this district will be turned in in fees, as collected in Salt Lake City or in this judicial district. I believe that is true. It will be so to a greater or less extent through every district in the Territory. The more populous will turn in the greater amount, and I submit to you, sir, that while it is a fact that the cutting off of this mileage from these established salaries will have a tendency to work a greater hardship upon the outlying counties, I submit to you upon the other hand, that the cost of living will be, perhaps, much cheaper, and therefore, I believe that taking everything into consideration, being opposed in the first place to the mileage system—I have had some experience in dealing with that question, and it has made me cautious upon that point, and I am in favor that these questions be put upon a plane, equal, just as our sister upon the north has put them, at three thousand dollars, without any mileage at all whatever. Now, allusion has been made to the great learning that is necessary. That is true, but I submit to you, sir, that the American people, and the people of this new State, have now laid the foundation deep and broad whereby every son and every daughter within the pales of this State may be put upon the plane of education wherein, if they shall have energy

within themselves, that the road is clear before them, that they might attain to success in the literary field, and in that of sciences, and in that of the law, until we shall require at their hands, by reason of their services being proficient in these various avocations, that they shall be patriotic, and I do not believe that this system presented before us, that we will name a man at our conventions next fall that will refuse to take that position and step forth for the sum of three thousand dollars, either in Salt Lake district or in the outlying districts, and without any mileage either.

Mr. PAGE. Mr. Chairman, I sincerely trust that the motion of the gentleman from Utah County will not prevail, with reference to the striking out of mileage. In the seventh district, particularly, that will work a hardship upon the judge. There are hundreds of miles of travel that he will most likely have to make in that district, where there are no railroads or stage lines, in a wilderness country, where even the mileage will not justify him in traveling over the ground. The mileage that is allowed by law will not cover his expenses of travel in that district. It will certainly result in a discrimination, it seems to me, with reference to the judge in that particular locality. I am certainly opposed to the motion and trust that it will not prevail.

Mr. HART. Mr. Chairman, this question of mileage would not amount to much in some of the districts. For instance in the first, including Rich, Box Elder, and Cache, it would be a small item only, but it seems to me that in these districts, such as the 5th, 6th, and 7th, it would take a large part of the judges' salary for traveling expenses. We have fixed the number of terms of court in each county at four per year. He may hold more, and if one judge is to visit for instance the counties of Sanpete, Carbon, Emery, Grand, and San Juan, and go over that ground four times in a year, or if he has to travel over the counties of Juab, Millard, Beaver, Iron, and Washington, and some of the other large districts, it will take a large part of his three thousand dollars for mileage. I do not think we should shut that off. Mr. Chairman, a judge who is worthy to pass upon the causes of men, upon their property and upon their lives, can certainly be trusted in the matter of making up his mileage. Of all the characteristics of a judge, honesty is the first, and if he will swindle the people on the false return of his mileage, why he will be absolutely worthless as a judge.

Mr. FARR. Mr. Chairman, I hope this substitute will not prevail. The gentlemen who spoke on it have spoken my mind very fair; should the two thousand dollar motion prevail, I had it placed that the mileage was paid for. I know it would amount to considerable. There is another point in this substitute, the increasing salaries of the supreme court above the district judges. Now, I want to say, gentlemen, that the district judges have from three to four times the work to perform every year that the supreme judges have. They only meet two or three times a year, but the district judges are at work nearly all the time, and I am in favor that all the district judges should have the same salary as the supreme judges. I think it is right that they should have it. They are just as well qualified, only the supreme sounds bigger, but they are no better men and they are no better qualified nine times out of ten.

The substitute offered by Mr. Creer was rejected.

Mr. CREER. Mr. Chairman, I simply want to say that the prosecuting attorney of Utah County serves that county for six hundred dollars a year, and the prosecuting attorney of this county, I believe, for twenty-five hundred dollars a year. I do not know what the attorney gets in Weber County, but I submit that a man that is capable

of assuming that responsibility is certainly capable of being a judge, and you may compute them and they do not average nearly twenty-five hundred dollars a year—the estimate I have placed there for the salary of the district judges.

The amendment offered by Mr. Evans of Utah was rejected.

Mr. IVINS. Mr. Chairman, I move that section 20 be amended by adding after "mileage" the words, "to be paid out of the State treasury."

Mr. VAN HORNE. Mr. Chairman, I do not understand how that amendment is necessary at all. These are State officers, and if mileage is provided for as part of their compensation, it would necessarily have to come from the State treasury.

Mr. IVINS. Mr. Chairman, I will say that my amendment designs to make it clear that not only the mileage, but the salaries shall be paid out of the State treasury, and I make it because the question was raised after my former remarks—when I stated it would be paid out of the State treasury, it was stated by a gentleman on the floor "Not necessarily so," and in order to remove that doubt, I make this motion.

The amendment offered by Mr. Ivins was agreed to.

Thereupon the committee took a recess until 7:30 o'clock p. m.

EVENING SESSION.

The committee of the whole met pursuant to adjournment.

Mr. CREER. Mr. Chairman, I will ask if amendments are still in order to section 20?

The CHAIRMAN. They are.

Mr. CREER. Then I wish to offer the following for section 20, that is the same that I offered before with the exception that the district judges be paid twenty-six hundred dollars a year and the supreme judges three thousand dollars a year.

Mr. VARIAN. I would like to know if an amendment to that section was not voted down about filling the blank.

The CHAIRMAN. There was no blank to be filled. There was a motion made to strike out three thousand and insert two, that motion failed.

Mr. SQUIRES. Mr. Chairman, I understood Mr. Creer offered a substitute for that section which was voted down, just exactly like it, only twenty-five hundred instead of twenty-six hundred. We voted that down.

The CHAIRMAN. That is correct. The only difference now is in the amount.

Mr. VARIAN. Mr. Chairman, how long can this go on? I submit that when an amendment like that is proposed, any number of amendments are in order to the amendment, and they could be taken in their order, but these independent motions might be pursued indefinitely. The question now is whether this matter is in order. The question is whether a motion to strike these particular figures out and insert others is in order, a motion having been made and amendments opened thereto and having been disposed of by the committee.

Mr. CREER. Mr. Chairman, I wish to say this, I have not myself been fastidious in the matter of extending courtesies to the gentleman.

Mr. VARIAN. Oh, I withdraw at once, if that is the basis of it.

Mr. CREER. Mr. Chairman, now I wish to say that I have examined the salaries of some sixteen states, including eastern states and those of the south and those of the west, and the maximum—of course there are a number of states who pay higher salaries than the maximum that we selected—New Hampshire, Vermont, North Carolina, South Carolina, Virginia, Alabama, North and South Dakota, Delaware, Idaho, Montana, Oregon, Washington, and Wyoming—the minimum of the salaries of the states that I have named is two thousand dollars, that is

of the chief justices and their associates, and the district judges. I find by computing the amount of the salaries from those sixteen states, it amounts to $2,680 on an average. Now, it seems to me, Mr. Chairman, that this amendment that I offer, which is that the district judges shall receive an annual salary of twenty-six hundred dollars a year, is certainly in harmony with the states that I have reference to; but there is another point, and the gentlemen who have spoken upon this subject seem to emphasize the fact that it needs a qualification; it needs judges that are competent men, who are well versed in the law, and if that is true, certainly it seems to me that there ought to be a distinction as between the supreme judges and the district judges.

It is true as to those states that I have named, and in my motion there is a distinction there of four hundred dollars a year as between the supreme judges and those of the district judges, so that it seems to me, gentlemen, that we are only acting just and fair if we make this distinction, and furthermore, I am aware that the section as it is reported, and also the substitute presented by the gentleman from Salt Lake, was discussed more particularly from the members of the bar, but I think that gentlemen who have had experience in our Territory, and you will remember that previous to the calling of this Convention, the attorneys of the Salt Lake bar, and I think also of surrounding districts down below, met together and acted upon this matter of salaries—that is, they passed their judgment, and it was upon the judiciary question generally, and that provoked some little interest amongst our constituents. Now, I know of a number of quite prominent business men who remarked to me before I came down here that they thought that twenty-five hundred dollars was a pretty fair salary for a district judge, and I think that the judgment of these gentlemen ought to have some respect; but I have another point that I wish to refer to; a gentleman upon this floor from the fourth district remarked to me that a very prominent lawyer of that bar said that he could pick the bar of that district at the annual salary of twenty-five hundred dollars a year.

Mr. THURMAN. Which district?

Mr. CREER. Ogden. A prominent gentleman had stated to a delegate of this Convention——

Mr. THURMAN. You mean that he could get any attorney up there?

Mr. CREER. That he could select any attorney. He could pick that bar, who would serve at the salary of twenty-five hundred dollars a year.

Mr. EICHNOR. Dave Evans would not do that.

Mr. KIMBALL (Weber). That man was talking through his hat.

Mr. CREER. I will except present company. I will except the gentleman from Utah County, but I believe you could pick the judge from any member of that bar of the first district.

Mr. VARIAN. He says he believes. What does he know about it? What are the foundations of his belief.

Mr. CREER. From what I know of my observation. It would be simply worth no less or no more than anybody else's.

Mr. GOODWIN. Do you know Mr. McCornick or Mr. Hills——

Mr. CREER. I am speaking of the local members.

Mr. GOODWIN. I am speaking of local men here. Do you know that Mr. McCornick or the manager of Wells, Fargo or the manager of the Deseret bank, gets eighty dollars a day?

Mr. CREER. I know what we pay to our clerks. I am connected with an institution of fifty or sixty thousand dollars capital, but I am speaking of the members of the bar. I am acquainted with the other, and I believe that they would be willing to serve the

people for that and there is no question about the ability of those men. Now, the states I have referred to—it must appear to you, gentlemen, that their wealth and population exceeds that of our State, therefore, I say that there is nothing in the point that the gentlemen seek to make that we have sometimes heavy cases; so they have in other states. We have mining cases, so have our neighboring states, and three thousand dollars is the maximum there, excepting probably Colorado, that gives a little more to their supreme judge, but I do say that there ought to be a distinction as between the supreme and the district court, and I believe that it is a very fair salary. It is more than an average, than what those states pay.

Mr. GOODWIN. Don't you think the district judge ought to be a brighter man than the supreme judge?

Mr. CREER. No, sir; I do not think so, and I believe that is the prevailing opinion on the part of the attorneys, because they have altogether appellate jurisdiction, they have to decide upon the mistakes, and in fact your own committee, Mr. Goodwin——

Mr. GOODWIN. They have ample time, though; if the judges were only bright enough on the district bench, there would not be so many mistakes.

Mr. CREER. Your own committee, as I understand it, made one very just point in that respect. That was that the supreme judges should decide questions of law only, appealed from the district judges, saying that they should have superior ability in that respect, and I believe that is true. I believe that instinctively we would naturally seek better ability for supreme judges than what we would for district courts.

Mr. EVANS (Utah). I think you quoted Idaho. As to Idaho, it is a mistake. The supreme judges and the district judges are paid alike.

Mr. CREER. I will admit that, but I said, computing the sixteen states the average is $2680, including the chief justice and the associate judges, and district judges of those sixteen states.

Mr. ROBERTS. Mr. Chairman, my understanding was that in view of the fact that it was supposed to be the almost unanimous sentiment of the house that they would not disturb the sum fixed for the judges by the committee, gentlemen who had amendments pending before the house withdrew those amendments or substitutes. That was my recollection of the status of this case when we closed this afternoon's session, and I take it, sir, that if that is the case——

Mr. EVANS (Utah). I think the gentleman should be corrected on that. That was put and voted down.

Mr. VARIAN. If the gentleman will permit me, in substance he is correct. Opposition was withdrawn on the understanding as he suggests.

Mr. ROBERTS. I think if I am not technically right, I am right in this respect——

Mr. VARIAN. You are right in substance.

Mr. ROBERTS. That the substitute offered by Judge Goodwin was permitted to come to a hasty conclusion in view of the fact that it was the understanding that we would not disturb the sum fixed by the committee, and all opposition was withdrawn. I am quite certain if that was not the understanding, that the substitute would not have been so hastily disposed of, and that the members of the committee would have contended for the substitute, if they had thought that this sum fixed by the committee would be disturbed. Now, sir, I take it, that we are not dealing squarely altogether upon this question. Gentlemen who favored that substitute permitted that to go to a premature vote, in view of the fact that they supposed, at least, that all opposition to this sum fixed by the committee would remain undisturbed, and I call the attention of the committee to this, and ask them to

come back and to stand by that tacit agreement on this proposition. I, the other day, spoke upon the subject of low salaries for the judiciary, and I am not in favor of catering to this sentiment of cheapness in the officers of this State in order to please the popular clamor, and I can state that when this question shall go before the people of the new State, I, for one, shall not fear to stand face to face with them upon that proposition, because, I take it, sir, that they are a reasonable people and they will know that this action of ours in keeping the salary up to this sum at least was in the interest of true economy, and not for the purpose of catering to the wishes of politicians. Now, sir, I take it that this committee is in honor bound by its tacit consent to let these salaries remain, and for that reason the substitute was permitted to go to a premature vote. I hope that we will not disturb this matter.

The substitute was rejected.

Sections 21, 23, and 24 were read.

Mr. RICHARDS. Mr. Chairman, I suggest that the word term in the first line should be changed to terms. I offer that amendment.

Mr. VARIAN. Let the secretary correct that.

Section 25 was read.

Mr. VARIAN. Mr. Chairman, I will just call attention to it now, that every point fairly arising upon the record of the case should be considered. I think that ought to be stricken out. I will make a motion to strike it out. I do not think any court ought to be held to decide questions not necessary to the decision of that particular case. The court ought not to be deciding in advance and building up precedents that might arise to vex the court and the bar thereafter. Perhaps, however, as there is not a full Convention here, I will withdraw the motion now and renew it on the third reading.

Section 26 was read.

Mr. VARIAN. Mr. Chairman, I offer an additional section to come right after this:

The Legislature shall have no power to grant leave of absence to a judicial officer, and any such officer who shall absent himself from the State for more than sixty consecutive days shall be deemed to have vacated his office.

The reason of that is—I have changed the time from ninety, as I have found it in other states; to sixty to meet the suggestion of some friends, but, Mr. Chairman, the idea is to prevent of course the application to the Legislature. We all know how that is. I could recite instances. A judicial officer makes an application to the Legislature and it is easily granted. That prevents the Legislature from doing it at all, and limits an absence from the State to sixty days.

Mr. RICHARDS. Mr. Chairman, I offer as an amendment to that proposed section the striking out of the word sixty and inserting the word ninety.

Mr. VARIAN. Well, I will accept that.

Mr. ELDREDGE. Mr. Chairman, I think that ninety days is too long to grant a judge the privilege of leaving the State at any one time. The times that we are in are somewhat different than they were thirty and forty years ago, when many of the constitutions were made. The facilities of travel, the modes of going about are so much different that a man, in sixty days, can take most any kind of a trip upon this continent and in fact cross over to the old world, and then get back in time. Judge Goodwin suggests, supposing that he had typhoid fever in case of his absence, but if he secures as good aid as what he is supposed to be in the law, in regard to medicine, he does not need to have it run over twenty-one days, and it should be broken up in fourteen, so I think in that case there is no necessity of lengthening the time. I am opposed to the ninety days.

Mr. EICHNOR. Mr. Chairman, I move to amend the section by striking out the word Legislature and insert the word governor. Our Legislature is to meet every two years. Suppose that the judge would have to go to some other climate for a month or two months, would we have to wait until the Legislature would meet?

Mr. VARIAN. You do not understand it. The Legislature cannot do it at all.

Mr. EICHNOR. I misunderstood it; I withdraw my amendment.

Mr. VAN HORNE. Mr. Chairman, I hope that that section will not be added. It seems to me unnecessary. We provide in section 11 of this act for the removal of judges for cause by any Legislature. I do not think that where we elect judges—the supreme judges, we will say, for a seven year term—that if by some misfortune of health one was to be away from the Territory or be compelled to be away from the Territory of Utah for sixty days, that we should say necessarily that he had vacated his office, or that he could be necessarily deemed to have vacated his office, or that the service for which he was elected through a long term of seven years could not be rendered upon his return to the Territory. It seems to me the provision is sufficiently covered by the provision against absenting himself without——

Mr. VARIAN. The power of removal requires the Legislature. It is offensive in its inception and its outcome. Naturally, it would require a good deal of reason for it. This section is designed to reach cases of judges going away. I find it in other states. I presume they found good reasons for it. A judge goes away for ninety days and he vacates his office. I think if he is sick or disabled for ninety days the public business requires that his office ought to be vacated. It is his misfortune, it is true; how else can the public business be conducted?

Mr. EICHNOR. Mr. Chairman, if I can get a few minutes' time I will offer a substitute for the section. Any judicial officer who shall absent himself for more than sixty consecutive days shall be deemed to have forfeited his office, provided that in cases of extreme necessity, the governor may extend the time.

Mr. SMITH. Mr. Chairman, it seems to me the Legislature could provide for this without making a provision of that character.

Mr. VARIAN. I will ask the gentleman why it might be left to the Legislature? This is designed to prevent that very thing.

The section offered by Mr. Varian was adopted.

Mr. KIMBALL (Weber). Mr. Chairman, I offer an amendment to section 15 as follows, by inserting "and" before "Morgan," in line 6, by striking out "and Davis," in line 7, and by inserting "Davis" after "Salt Lake," in line 8. I offer that amendment for this reason, first, that will equalise the population; that will give about 24,000 to the second district.

Mr. THURMAN. I would like to ask the gentleman if that is the principal reason?

Mr. KIMBALL (Weber). So far as I am concerned, yes, sir. I have no bee in my bonnet. I am no candidate for office—and give about 72,000 to the third district. The third district having three judges, would have 24,000 for each judge, and the business of Weber County, as compared to the business of this district, is too great for one judge if Morgan and Davis are both tacked on. I have had some occasion to investigate that, and I am satisfied that the probate business of Morgan County and Weber County, thrown upon the district court, the district court would be in session in Weber County at least two-thirds of the year constantly, the same as it is now, or very nearly the same. For that reason, I would have the section amended in that way.

Mr. BARNES. Mr. Chairman, I would like to have a word or two to say on that matter. I believe it will be perfectly agreeable for the people of Davis County to stay with Weber and Morgan in that district; from all the information that I can gather it will suit them better. The gentleman's speech with regard to numbers—if I understand the matter correctly, in proportion to numbers there is a great deal more business for judges to do in this district than there is in that constituted by Weber, Davis and Morgan counties. Now, outside of the probate business of Davis County there is not a great deal of other business, and for one I feel to protest against any change being made. I have consulted with my constituents and they are perfectly agreed to be united with Weber and Morgan counties. I think the change ought not to be made.

Mr. FRANCIS. Mr. Chairman, I wish to say, so far as Morgan is concerned, the district judge has never had very much work from there, nor is our probate business of very great importance. I don't think that we need take Davis off of the district on account of the extra work that may come from Morgan. I prefer to let the district stay as it is at present. I don't think the judge will have any overwork on account of it.

Mr. KIMBALL (Weber). At the present time Weber County furnishes over two-thirds of the business.

Mr. MALONEY. Mr. Chairman, I was a member of the judiciary committee and also a member of the sub-committee. We labored on this something like six weeks. We consulted with nearly every delegate in the Convention. We tried to district the State so as to suit the people of every county in the State. We at last, after laboring some six or seven weeks, came to an agreement, and I think that the report of the committee ought to stand precisely as it was made. Now, the people of Morgan County, the people of Davis County, were consulted about this business. They have agreed to this districting, and I think that before there is any disrupting of the districts as our committee made them those people ought to be consulted. In Davis and Morgan counties there is not a great deal of litigation outside of the probate business, and one judge in Weber County can attend to all the business in these three counties very easily. There is not that amount of business in those three counties, in proportion to the amount of business in the counties of Salt Lake, Summit, and Tooele. There is no necessity whatever for making the change offered by the gentleman from Weber, so I hope this committee will let the districts remain as the committee fixed it. And in addition to this I wish to say that in all the deliberations of our committee, I do not believe the question of politics entered the mind of a single member of that committee. The idea in the mind of every member of our committee was to get the districts in such a way that the judges of the respective districts might transact the business.

Mr. CANNON. I would like to know whether the number of people in the districts would then be proportioned about the same. As I understand it from the remarks of one of the gentlemen, the second district would then comprise about 24,000 people and this district would comprise 72,000.

Mr. MALONEY. Judge Goodwin investigated as regards the population of every county in every district, and I simply took Judge Goodwin's figures.

Mr. CRANE. Mr. Chairman, I second the amendment of the gentleman from Weber County. I know in the apportioning of the Territory for representatives we did so after giving one to each county, on an exact proportion of population as far as it was possible so to do. I notice since the amendment has been offered here, that in Salt Lake the

judges would have 19,486 of a population to each judge, taking the census of 1890, and Weber County would have 31,187, almost twice as much of a population to the judge, as what the population of Salt Lake County would be for each judge. Taking Davis County, and adding it to Salt Lake County, would then give them 26,007, while Weber County would then have 25,000. It seems to me, Mr. Chairman, that basing the population as it should be for each judge, Davis County should certainly be put in the district in which Salt Lake County is. Salt Lake, Tooele, Davis and Summit would have a population altogether of 78,290, and the three judges would just give them a population of 26,000 each, a few less than Weber County would have.

Mr. VARIAN. Mr. Chairman, I don't think we should disturb this matter now. I don't know of course whether the Weber County delegation is divided upon it, but Davis County speaks. It certainly does not concern Salt Lake County.

Mr. THURMAN. And Morgan also speaks.

Mr. VARIAN. And Morgan. The settlement of all these apparent differences concerning this article during the past two or three days, concessions have been made; and speaking for myself as one of the representatives from Salt Lake County, so far as that county is concerned, we appreciate the efforts that have been made by the gentlemen on the outside to relieve us from the anticipation that we have of a possible fixing of salaries that would handicap us here. We appreciate what we have done to-day. My friend, Mr. Roberts, from Davis County, and I assume with Mr. Barnes, speaks for that county. Therefore, I am not disposed to enter into a discussion of the merits of that question. I hope we will leave it as it is.

Mr. CANNON. I would ask Mr. Barnes whether the people of Davis County, in your opinion, would prefer remaining as they are now, added judicially to the other district, or would just as soon be attached to the district represented by Salt Lake?

Mr. BARNES. I think, sir, they would prefer to be attached by Weber.

Mr. CANNON. Is the most of their business done, and has it been in the past, in the other direction? I mean court business.

Mr. BARNES. Hitherto it has been attached to Salt Lake. The vote of the population I think of Davis County—the northern part of the county, is growing twice as fast as the southern part and it won't be very long, I think, before there will be two-thirds possibly of the number of inhabitants of Davis County nearer to Ogden than to Salt Lake.

Mr. VAN HORNE. Mr. Chairman, I wish to say in support of what has been said by the gentleman from Weber, that I believe the judiciary committee, democrats and republicans alike, paid no attention to the political phases of the division of districts. I know that there was a figuring on the question of population and of convenience of business and where the business had been accustomed to go, and would more naturally go in the course of trade. I think that in that figuring an allowance was made for a less population for the three judges of the central or third district, from the fact that the business was greater at the capital and the judges would have more to contend with. I don't see that it cuts anything except a political figure as to how this should be divided. If Davis County can just as conveniently be joined to the third district as it can to the second district, it would still have the same proportion practically of population. The third district, under such circumstances, would not be in excess of the number of people to the judge, of the other larger districts. It is a ques-

tion that I am perfectly willing to stay by the report of the committee on.

Mr. THURMAN. Mr. Chairman, I only intended to say a word as a member of the committee, and Mr. Van Horne has—I have forgotten the expression of my friend from Garfield—if I remembered it I would use it; but he has expressed my thoughts. We had harmony in that committee in every respect, except as to such matters as men would naturally disagree upon, and we reached this conclusion after days and days of deliberation, and as far as Weber and Morgan are concerned, as one district, speaking of the amount of work, I do not believe that anybody would pretend that there was more work for a judge in that district than in Utah, Wasatch, and Uintah, considering the distance the judge will have to travel to get there. I trust that we will not disturb this apportionment. If we do it will disarrange the whole scheme of apportionment, and we will be all day to-morrow getting through——

Mr. VARIAN. The day after, too.

Mr. THURMAN. And probably change the entire judicial system that we have brought out, because I will say before taking my seat that there was a strong division in the committee and I see that it has found its way into the Convention or existed here independent of the committee, against the system we have adopted itself. Now, if we get to disarranging this matter, we will open this matter here for a change of the entire system, and have a discussion here probably for two or three days.

Mr. HART. Mr. Chairman, I suggest that the people of Davis County should be entitled to some consideration in this matter in their views as to the district they desire to be attached to. I think so far as possible that each county should be permitted to be attached to that district which most suits its convenience. I cannot see any objection that the gentleman from Weber should have to the people of Davis doing business in his city or his county, if they wish to. I should think that he would favor any proposition looking to the closer relations between the county of Davis and the county of Weber. I am opposed to disturbing the work of the committee.

Mr. BOWDLE. I wanted to ask Mr. Kimball a question. Of course this Constitution will not fix the place where a suit may be brought. As there will be a district court in each county, that will be the jurisdiction, and there will be no such thing as bringing a suit arising in Davis County, in Weber County.

Mr. KIMBALL (Weber). I understand Davis County constitutes a jurisdiction by itself. I desire to say first of all, so far as I am personally concerned, when I offered that amendment, I did not do it for political reasons. I say, further, that I did not do it because I had an objection to Davis County, or to Ogden City, or Weber County doing business with Davis County. I conceived that the people of Davis County do just as much business in Weber County, if they belonged to the third judicial district, as if they belonged to the second. I cannot conceive then how the addition of Davis County to this district, instead of the second district, would affect the commercial business in any sense of the word. As I understand this Constitution and this judicial scheme, the design of it is to have a district court held in each county, so that the judicial business of the county will be transacted at the county seat of each county; so on the score of commercial relations, there can be no objection to this amendment. I offered the amendment for this reason, that the court at Ogden is now overloaded with business, is behind with its business, and has been for some years. Weber County furnishes at least two-thirds of all the business of the fourth judicial district, as it is now constituted, and if you add to the business of

the district, the probate court and the Morgan County business, added to it, it is certainly sufficient to keep one judge in that district occupied all his time. Since I was on my feet before, I ascertained that the population of Weber County alone as returned by the county statistician is 25,000 and over, so that the proportion as compared with the third district court, is much greater for one judge, than it is in the third district; and my motive in offering the amendment was to avoid our court being behind with its business.

Mr. MALONEY. I would like to ask Mr. Kimball one question. Heretofore, Rich, Box Elder, Cache, and Morgan, were all attached to Weber, and for that reason the docket is behind.

Mr. KIMBALL (Weber). I say with even those counties attached, Weber County has furnished two-thirds of the business.

The amendment of Mr. Kimball was rejected.

Mr. MALONEY. Mr. Chairman, I offer an additional section there as follows:

The justices of the supreme court shall be obliged to give their opinion upon important questions of law and upon solemn occasions when required by the governor, senate or house of representatives.

Mr. RICHARDS. I would like to know what states have adopted such a provision?

Mr. MALONEY. Massachusetts, Maine, Colorado, and a number of others. The reason I offer it is because, when the Legislature asks an opinion of the supreme court that they may have the advice of the supreme court, the highest judicial power of the State, so that they may not make so many mistakes. It has worked well in Massachusetts, Maine, and our sister state, Colorado. I think it is a good provision, and I think we ought to adopt it.

Mr. EICHNOR. Mr. Chairman, I hope that the section will not be adopted. If the supreme court as a body or individual judges should give their opinion to the governor, senate, or lower house, or all combined, and then if a case arises out of the matter, on which they give an opinion, the man can win the case, no matter if they were in the wrong. I think the supreme court should not act as attorneys.

Mr. MALONEY. It is for the Legislature to legislate. They may want an opinion. They may ask the supreme court to give an opinion on an act, it does not apply to any such instances as the gentleman speaks of.

Mr. EICHNOR. It is an old custom that prevailed in Massachusetts, I do not know whether it has fallen into disuse there or not, but I believe it has. I think our article, in article 22, goes about as far in this matter as it should go. I think that covers the ground fully.

The proposed section was rejected.

Mr. VARIAN. Mr. Chairman, I move we report this article when we arise——

Mr. RICHARDS. I desire to ask the chairman of the committee a question in regard to this article, if I may be permitted. I desire to know what reasons moved the committee to do away with the probate courts as a part of the judiciary system of the State. I had expected at some period of the discussion on this article that that would develop, but as it has not, I desire to know.

Mr. GOODWIN. Mr. Chairman, we found a peculiar situation in this Territory. We found territorial probate judges, for each county. We found at least the representatives of twenty of those counties declaring that their probate judges were not fit to be blown up. They begged us to remove them so that they could get competent men. That was the reason.

Ms. RICHARDS. So as to get more competent men?

Mr. GOODWIN. It was to group the

counties, and have business done with greater regularity and correctness. I consulted with some of the highest judges of the Territory and they informed me that about half of their time was consumed in correcting the mistakes of probate judges. The sentiment seemed almost to be universal that until this State or this Territory was much richer and the outside counties much more populous, it would be infinitely better to adopt the system which worked so well in California, and in Washington, and do away with the probate judges in name and have their work done by the district judges.

Mr. RICHARDS. Mr. Chairman, I desire, after hearing the explanation of the chairman of the committee, to propose an amendment to section 1. I move that the words "in probate courts" be inserted between the words "courts" and "in," in the fourth line of the section. I realize that to question the wisdom of this article, having been reported as it has by such distinguished gentlemen as those who compose the judiciary committee, may be regarded as presumptuous, but at the risk of being so regarded, I feel constrained not only by my own conviction, but by the suggestion of a number of gentlemen on this floor, to call the attention of this committee to what I believe to be a grave mistake that we are about to make if we adopt this system and exclude the probate courts. It seems to me that gentlemen have not fully considered the inconvenience that will result (putting it very mildly when I say inconvenience), from the adoption of this system. And I desire to say at this juncture that if I occupy more than my time, I have the names of several other gentlemen who have yielded me their time. Now, I want to explain first some of the inconveniences that will result from this system in some of the outside counties. Of course you will see it makes but little difference here. So far as I am personally concerned, it makes but little difference to me, because presumably we will have judges here in this city all the time, but in other counties what will be the effect? Take the district here that extends from Juab to Washington, and what will be the effect of it? The court has to be held in each county once in three months, four times a year. We will say that at the time the court is being held in Juab some man dies in Washington County, an administration is desired upon his estate, no matter how urgent it may be, no matter what the condition of the estate may be, the person there will have to wait three months, or practically that, until the court comes around, before an administrator can be appointed. Then the administrator is appointed; the bonds are filed, the inventory is filed, and the preliminary work of opening the estate is done. It becomes necessary to sell property perhaps for the support of the family, to pay family allowance, or for some urgent purpose. By the time the administrators have got to the point where they can make application for the sale of property the court has gone. They wait three months before the court comes back. Then the court comes back and here is the application for the sale of this property; it grants the order of sale, we will say, notice is then given of the sale of the property; the property is sold, and after the sale has taken place it is necessary that the sale should be confirmed. The return is made to the court, an application is made for confirmation, but the court is off in the other part of the district and another three months will elapse before the court gets back, so that a confirmation can be had of this sale; and there you have a lapse of nine months or practically that, from the time that the man died until you can get an administrator appointed and get an order to sell and get a sale and have the sale confirmed of the piece of property.

Now, I might go on, if I had the time, and you had the patience to listen to

me, all the way through the administration of an estate and you would find that it would work just in that way. You gentlemen who know anything about these probate matters understand just how inconvenient that would be. The same thing would apply to guardianship matters and to all business that would come within the jurisdiction of the court, because you would have no court there in the county except the justice of the peace. Now, it seems to me that it would be a far better system to restrict the jurisdiction of the justices of the peace to say one hundred dollars or one hundred and fifty dollars and retain the probate courts in the various counties, giving them jurisdiction, not only in probate matters, in matters of guardianship, but also limited jurisdiction in civil and criminal matters; give them jurisdiction of misdemeanors; give them jurisdiction in civil cases to the extent of five hundred or a thousand dollars, perhaps, as is the case in Idaho, where the system works very satisfactorily indeed, and perhaps give them jurisdiction in divorce. Let the appeals go from the justices of the peace to the probate court, and let them stop there unless the validity of a statute or the construction of a statute is concerned, and if that be the case let it go directly to the supreme court, or go to the district court, as may be considered best. Then, when the district courts come around, they having law and equity jurisdiction, they can attend to their business, the business is soon performed. The greater part of the work will be accomplished in the probate courts, they being there in session practically all the time. Now, the objection that is offered by the committee is that these men are incompetent—the probate judges are incompetent to perform this work. You, gentlemen of the Convention, know how far that is true; I do not pretend to know; but it does seem to me very singular indeed if there are not men in the counties of this Territory that are capable of performing this work. I know that the objection has been made and it has been said in this county that we ought to have more competent men for probate judges than we do have, because there are sometimes important matters that come before the probate court. That is true, but, gentlemen of the Convention, do you know, and have you thought, that three-fourths or four-fifths of all the business that comes before the probate courts of this Territory is simply informal matters, matters that are not contested, matters that require no great skill for the determination of them, simply pro forma? Three-fourths to four-fifths of the business, I will venture to say, that is brought before the probate courts and determined by them is business of this very character, that simply requires the following out of the letter of the statute and requires no special exercise of judicial knowledge or skill; and when these cases come on that are contested and these cases of importance that require unusual learning, let the probate judge—if you make your selections well, you will find as a rule, that the judges will give satisfaction even in those cases. But suppose they make a mistake in those cases, then what? Then, you have your district court right there in every county, and that district court can correct that mistake.

I understand very well how it has been inconvenient and difficult to have these mistakes corrected; for instance, take the district that I have been referring to, extending from Juab to Saint George. Now, as I understand it, the district includes counties from Millard to Washington. I cannot understand how it would be very difficult to correct a mistake made by the probate judge of Washington County. If it was necessary to go to Beaver in order to try that case, it would be difficult, but it would be a very small matter com-

paratively to correct that mistake, if the court goes to the county seat, the very place where the first trial was had. It seems to me if you gentlemen will consider the extreme inconvenience that is going to follow from the adoption of this system you will hesitate about adopting it. I say here, in Salt Lake City, where we will have presumably a judge all the time, that the same line of reasoning will apply that will apply in the other counties, for this reason, as I have already stated, from three-fourths to four-fifths of the time of the judge who does this business, if one judge should be set apart for that purpose, will be occupied in simply doing formal work. Now, why should a judge of greater skill and greater learning, a more expensive judge, requiring a greater salary, be employed to do this formal work? It is not necessary. We have got along very well here with the probate judges, and when my friend, the chairman of the committee, says that one-half of the time of the courts have been consumed in correcting the mistakes of probate judges, I want to say to my distinguished friend, that whoever told him that does not speak from the record.

Mr. GOODWIN. It was Judge Bartch, Mr. Chairman.

Mr. SQUIRES. He was a probate judge himself.

Mr. RICHARDS. If Judge Bartch said that, Judge Bartch did not speak from the records. I will guarantee that the records of the court in Salt Lake County or any other district in this Territory will not bear out that assertion.

Mr. GOODWIN. Perhaps I gave a wrong impression of what the judge said; when he was probate judge, more than half his time was taken up in correcting the errors of his predecessors.

Mr. RICHARDS. That is entirely a different thing. I do not understand that we are now going to elect probate judges to correct the mistakes of their predecessors.

Mr. GOODWIN. I want to call the attention of the Convention to the fact that if Judge Bartch was half the time correcting the mistakes, it must have been a terrible record. [Laughter.]

Mr. RICHARDS. I desire to say that if the records of this district or any district in this Territory are examined, it will be found that a very small percentage of the litigation that has occurred in this Territory within the last year or five years has been appeals from probate courts. Every lawyer knows that who is in active practice. We all know it—very few indeed, but what is the fact? The fact is, that these courts are encumbered to-day and the dockets are congested with cases that are sent up from justices of the peace. That is what is the matter. We had here in the district court, at the beginning of the present term, a calendar of 1,300 cases. I am told by the clerk that 240 of those cases were appeals from the justices' courts. Now, I say that those appeals from the justices' courts never ought to go to the district court. They never ought to have come to this district court. If we had any other system by which they could have been disposed of, they never would, and I would have these appeals go to the probate court and be disposed of there, because, in nine cases out of ten—I do not think I overstate, when I say that where these cases are taken up from the justices of the peace, they are taken up for the purpose of consuming time and getting delay. That is the reason. And when they come to trial one party or the other backs down, and the case goes to judgment. That is my experience in appeals from justices' courts. Once in a while, you will find one taken in good faith, but as a rule, they are taken in order to get time, because they can be taken without any considerable cost. So I say that that is not a good reason to say that so much of the time of the

court is taken up in correcting the mistakes of probate judges. It is not a fair statement of the case to say that. Now, in regard to the cost; it may be said here this will be much more expensive than the other method. I say, no, it will not be more expensive, and in that connection I desire to call your attention, gentlemen, again to that which I said yesterday in discussing this question of the judges' salaries, that the expense of the district court does not lie in the salary that you pay to the judge, but it lies in the money that is paid to the jurors that are in attendance, it lies in the expense of the fees that are paid to the witnesses who are in attendance upon the court; those things are what run up into money. As I said here yesterday, we have in this district probably fifty jurors attending court, at two dollars per diem. There is a hundred dollars a day that is being paid out by the Territory every day for the jurors in the third district court, and fifteen or possibly twenty dollars a day for the two judges. Now, what will be the effect as to economy? These district courts, if this system is adopted that we have here, go into a county; whenever the court goes there, there is all the machinery of the court; it must necessarily be there; the panel of jurors will be on hand, not enough simply to try a case, but two or three panels must necessarily be in attendance upon the court, so that when one case is tried and the jury goes out, the panel can be immediately filled. There will have to be twenty or thirty at the least calculation of jurors in attendance upon this court. What does it mean? Forty or fifty dollars per day in expense all the time that this court is engaged in this formal business that I have been speaking about, which, as I say, comprises three-fourths to four-fifths of the time occupied by the probate judge; all the time that the court is performing this formal business that requires no jury, these jurors are sitting there at the public expense; the witnesses are there at the expense of the litigants, and this expense is going on and accumulating all this time.

During the time that these district courts are sitting in the various counties, then they have all the machinery of the court there; they have their jurors there, and these jurors will have to be paid out of the public treasury. It may be said that it is not right to count in witness fees. Why should it not be, although that is not paid by the public? The fees are paid by individuals, and it is our duty in providing a system here, to consider the convenience and the economy to the individuals as it is the economy of the State at large. And so I say that when you come to consider the amount of expense that will necessarily follow this system and put as an offset to that the amount that you would have to pay to your probate judges in the various counties, because their salaries could be graded according to the work they have to do, you will find, and any man will find, who makes the computation, that the balance is in favor of the probate court system. I challenge any man who will make the computation to deny that. Of course, I could go on and elaborate it, but I have not the time, or else I would give some computations on this matter. Now, as I say, I am told that competent men can be obtained to act as probate judges in the different counties in this Territory, at salaries ranging from five hundred dollars up, men who will do the work and do it right, do it satisfactorily to the people; and I believe if that can be done, so far as economy is concerned, it will be a very great saving, and so far as the convenience is concerned, there can be no sort of question about it.

Mr. SQUIRES. I would like to ask Mr. Richards a question. If the system of probate courts should be adopted in the Constitution, would that involve a reduction of the number of judicial dis-

tricts, and a corresponding reduction in judges.

Mr. RICHARDS. It would indeed, and that was exactly the point I was going to address myself to. I was going to say that in addition to this suggestion that I have made as to the difference between the compensation of the judges and the court expenses that follow from jurors, witnesses, etc., we would also save at least two or three judges. We have here seven. There is no question but what the work can be done by five. I do not know but what it could be done by four. I believe confidently and I assert now that I have no doubt that the work can be done with four judges, because when you take out the business that I have already referred to, the appeals from the justices' courts, and when you give this limited jurisdiction, if you should do it, to the probate courts in civil cases, and in misdemeanors, you will so relieve the volume of work that comes to the district courts that four judges, in my opinion, could perform all the work that is necessary to be done in this Territory and keep the calendar up and go from county to county. I am in favor of that part of the system. I do not ask that they should be eliminated, but I say that we ought to have probate courts and then we ought to have the district courts go around into the various counties and do their work there, and four district judges, in my judgment could do all the work that is necessary to be done in this Territory.

Mr. SQUIRES. Will the gentleman answer one more question? Reading section 1, I found at the end of it these words, "and such other courts inferior to the supreme court as may be established by law." Would not that permit the Legislature in certain counties where they desired it to establish probate courts?

Mr. RICHARDS. I will say to the gentleman that I believe it would permit the Legislature to do it, but I say that if there is no mention made in this article of probate courts, it will be done by the Legislature as it is done by this Convention, it will be taken to mean to exclude probate courts. That is how they will take it and that is how they will act upon it, and there will be no probate courts established in this Territory. And so, I think, that if there is merit in this system, the system that has prevailed in this Territory for forty-five years and worked so well and satisfactorily, it ought to be retained, and it ought to appear in the Constitution. If there is no merit in it, if this system is a better system, then of course it ought not to prevail, but I think that all sides ought to be heard in this matter, before we determine what is best.

Mr. HILL. I understood you to say that for probate judges a salary of five hundred dollars would be sufficient to compensate for the difference between the district judges at three thousand dollars a year. We have twenty-seven counties in the Territory; at five hundred dollars, that would be $13,500 per annum. According to the proposition before the committee, the salary of the judges would be $28,000; adding to this the salary of the four judges, we would have $25,500. Now, I am simply making this statement as a business proposition. Do you not consider that it would be for the interests of the State to expend twenty-eight thousand dollars and carry out the proposition made by the judiciary committee, in preference to spending $25,000 by returning to the old methods of having twenty-seven probate judges? Don't you think it would be to our advantage to carry out the purport of the report submitted to this Convention by the committee on judiciary?

Mr. RICHARDS. I certainly do not; if I did I should not be advocating this, and if the gentleman had been here and listened to what I have said, I think his question would have been answered before it was asked.

Mr. HILL. I came in late.

Mr. RICHARDS. I think I have answered the question fully, and I would be delighted to answer it again, but I have no time remaining in which to do it. I do not wish to be understood that each probate judge in this Territory could be obtained for five hundred dollars; I mean that there are counties where they can be obtained for five hundred dollars. I say from five hundred dollars up their services could be had. I say that the saving in expense is not the difference in the amount of salary paid to the judge, but the difference in the court expense that would be incurred by these district courts when they are in a county with jurors and witnesses attending upon them, and they are performing formal work that can be done by a probate judge without a jury. We are in cases, as I have stated, where the expense of the court will be from fifty to a hundred dollars a day. Every day, then, that the court spends in doing this formal work, it does it at an expense of from fifty to a hundred dollars, and that expense could go to offset the difference in salary, and when it is considered and computed, I say unquestionably the balance for economy would be in favor of my suggestion.

Mr. HILL. Could not the clerk in the county perform those duties?

Mr. RICHARDS. No, sir; the clerk can perform no judicial duties.

Mr. EVANS (Utah). I would like to know if you know what the probate judge of Salt Lake County gets—what his office is worth?

Mr. RICHARDS. I do not know.

Mr. HILL. Forty-five hundred dollars.

Mr. RICHARDS. That is fees, you mean?

Mr. EVANS (Utah). I would like to ask another question; if the gentleman's system proposes to change this system, what he proposes to offer in the shape of reduction of district judges?

Mr. RICHARDS. I should reduce the district judges to four.

Mr. KIESEL. I would like to ask Mr. Richards if he would give the probate court criminal jurisdiction?

Mr. RICHARDS. In misdemeanors only, and I think it would be very more efficient service that they would render in those cases.

Mr. KIESEL. The reason I asked is this, was not Congress at one time compelled to take away that privilege from the probate courts of Utah?

Mr. RICHARDS. I will answer that in this way, that the territorial Legislature attempted to confer unlimited jurisdiction on the probate courts.

Mr. KERR. Trying capital cases.

Mr. RICHARDS. Trying murder cases and everything, and it was that that was restricted. The jurisdiction that I am speaking of conferring is conferred by the laws of Idaho upon their probate courts, and there are other states that have the same system that I suggest, and it works very satisfactorily.

Mr. KIESEL. The reason I make the remark is this, that I am afraid we will not get the ability required, and I have seen in Utah farmers acting as probate judges. While I have a respect for them, of course, I would like to see the very highest ability always in a court.

Mr. RICHARDS. I would like to see it too, but it is impossible to get the highest ability and have it always at hand. And my point is that it is a great deal better to have a degree of ability that is somewhat inferior, if in the main it is competent, than not to have these courts accessible at all, and have them absent from you two or three months at a time. That is where the great difficulty comes in, it appears to me.

Mr. CREER. Would you give the probate courts jurisdiction in divorces?

Mr. RICHARDS. Personally, I would have no objection to them having jurisdiction in divorce cases.

Mr. BUYS. I understood you to say

you would cut the judges down to four; is that four judges for four districts? There are nine judges, as I understand it, under this system, with seven districts.

Mr. RICHARDS. I would reduce the judges to five, dispensing with four.

Mr. GIBBS. I would like to ask Mr. Richards a question. When there are no criminal cases on the calendar would it be necessary for the judge to call a jury?

Mr. RICHARDS. It is necessary for the court to be there, and I suppose if it should be found that there were no cases on the calendar it would not be necessary, but I apprehend that there will always be some cases that will require a jury.

Mr. GIBBS. In our county, when there is no case on the calendar there is no jury empanelled at all.

Mr. VAN HORNE. Mr. Richards, could not the court easily arrange for disposing of business requiring a jury before it took up other business?

Mr. RICHARDS. I do not see how it could conveniently do that, coming into a jurisdiction once in three months. It seems to me it would be very difficult for it indeed to arrange business in that way so that it would not conflict.

Mr. GOODWIN. Mr. Chairman, I hope the committee will not consider this proposition. The judiciary committee went over all this ground. You will remember how we apportioned the State, and how we worked it up and how we consulted with the gentlemen on this floor, and then when we got it arranged, and paying the judges the lowest salary that we could conceive, and finally got a bill that we knew this Convention would adopt, we think it ought not to be changed. So, notwithstanding the horrible case that has just been drawn, the wrongs that might possibly be done under this system, this article in itself contains a remedy for any disease of that kind. The first section permits the Legislature to establish any inferior courts they may please.

Now, the Legislature would be in session for instance before the system is tried two months. Reports can come to the Legislature from the various districts and counties, and any defects can be cured. Again, the expense that we heard of is not in the judges, I admit, with all due respect, but it is, as stated here yesterday, in keeping criminals month after month in prison and in transporting them to some place for trial. Now, there are plenty of gentlemen here who are better horseback riders than the gentleman who has just addressed us, who will tell him that no two or three judges can go to those counties down south by any present means of conveyance and hold court there every month, so if you want twenty-seven probate judges, if you want at least seven district judges, why all this committee has to do is to refer this whole article back and have us go back to our figures which we made and ignored and call them up. I want to say that I gathered as many of the members of the bar of this city as I could find in a hasty run around town, and with one single exception they approved of this system and thought it would be an infinite improvement on the old one. I want to say that I first consulted with a great many gentlemen on this floor as to what they wanted, and I think the gentleman from San Juan expressed the sentiment of the majority when he said, "Group the counties and give us somebody that knows something." I think if there is any wrong with this it can be found out at once and the Legislature can remedy it, and if a probate judge is wanted for this county, why, then some gentleman will not want it in Weber County, another will not want it in Utah County, and before we get through they will want two in Piute and Wayne. I think this is pretty good. I know how hard you worked

upon it, Mr. Chairman, I know how much breath was exhausted, how much eyesight was used on it, how we renewed our arithmetic in making figures, how we got to be the best geographical scholars in the world in studying this State, to get it so that we could reach every point; and I do not think that a gentleman on fifteen minutes' consideration ought to get up and say that fifteen of us were idiots. If he had limited it to fourteen, the other one would have supposed it was himself and it was all right.

Mr. RICHARDS. May I interrupt you?

Mr. GOODWIN. That is all right. I did not mean to include you. When the gentleman began by praising the ability of this committee, I thought it was a little symphony that he was preparing in order to make the discord which was to follow sound all the harsher. We do not charge him with any bad intent, or harboring any malice, and I am sure, Mr. Chairman, that when that amendment is put, you will hear every no, and if your ears are a little dull to the ayes, you will be forgiven. I trust the committee will let the thing go as it is.

Mr. SNOW. Mr. Chairman, I do not think the committee ought to be in any particular hurry on this question. I had hoped that the gentleman who had just taken his seat would have attempted to enlighten the committee upon how the district courts would answer to the conveniences of the people. I do not desire to duplicate nor to repeat the arguments that were made by the gentleman from Salt Lake (Mr. Richards), in favor of probate courts, but I do wish to say that these courts have been in Utah for a great number of years, that they have been proved to be practicable, and very convenient for all the wants and necessities of the people, so far as their jurisdiction extended; that in giving us a new system, you are overturning an old one and you are depriving the people of a great many conveniences that the district courts do not give, and cannot give, as he has pointed out, and which nobody has presumed to answer. Now, I want to say for my own county, that we have a very competent probate judge, and always have had, so far as I have been able to remember, and I do not think at any time his salary has amounted to more than five hundred dollars. To-day he does not get more than two hundred and fifty dollars, and yet the work that is carried on in our probate court is of a competent character. Now, probate courts, as we all know, should be open to the people all the time. A bond cannot be approved, whether it be of an elective officer or an officer of a corporation, if the judge has just taken his departure, for at least three months, and in some cases this perhaps would invalidate, if not entirely nullify the actions of the officers whose bonds are to be approved. Everything must be needlessly delayed if district judges are to have chancery jurisdiction, and probate courts are to be abolished. Mr. Chairman, I think it is great inconvenience that the district courts will occasion the people in having probate jurisdiction that my friend from Salt Lake wishes to ask this committee to stop and think about, and especially the members from the outside counties. If we have such a probate court as suggested by him in each county with extended jurisdiction we would practically have no use in our counties for a district court. I do not think, since the collapse of Silver Reef, that we have ever had a case of any magnitude—that is any civil case, that would not be covered by the jurisdiction of a one thousand dollar limit. Very seldom would we have any criminal case that the probate judge could not try, and if we had a visit from a district court at least once a year, it would be all that we would require in our county for many years to come.

Speaking from the experience that we have had, I say that probate courts would be a greater convenience to our county than this system, and I therefore favor it.

Mr. MALONEY. Mr. Chairman, Judge Goodwin, as chairman of the committee, sought information from every source possible on this subject, from every delegation I believe in the twenty-seven counties in this Convention. When we first started in to transact this business I submitted a plan similar to that asked by Mr. Richards and Mr. Snow, only for a superior court instead of a probate court, grouping the counties into twos and threes, with probate jurisdiction and enlarged jurisdiction, giving the superior court jurisdiction of civil matters up to a thousand or fifteen hundred dollars, and of all misdemeanors. When we got to discussing that plan before our committee, I saw at once that there were objections to it, that it could not work well. Finally, after getting light from every source possible, we arrived at the plan that the committee has reported here unanimously. We have endeavored to give the counties each a superior order of judge, judges who were competent to transact all the probate and district business, to dispense with the twenty-seven probate judges and give them a very much higher order of ability. Now, my friend from Salt Lake and my friend from Washington seem to be of the opinion that the object of this article is to give them a probate court once every month in each county. That is true. You will see that the judiciary article says that at least four times a year—and if necessary the object of every member of this committee is to have a probate court once in every month in each county of this Territory. The suggestion made by the gentleman from Washington, that if the judge had just left, perhaps it would be three months before an administrator's bond could be approved—that is a matter of moonshine. The district judge could do it wherever he was and send it back. There is no law that I know of requiring court to be opened and a bond approved there. If we have a district court with probate jurisdiction once every month, it strikes me that the wants of the people can be supplied.

Mr. RICHARDS. Will the gentleman be kind enough to explain how it would be possible for the court to be in session in each county once a month? Take for example the district consisting from Juab to Washington County?

Mr. MALONEY. The idea was keep him going from one county to another every month. I am glad you suggested that, because that district formerly as we framed it consisted of nine counties, and when we got information from the gentlemen who were familiar with the cow trails out in that country, we found that one judge could not visit every county once a month; hence we divided it into two districts and gave them two judges, so that a district judge may be in every county in the district once a month.

Mr. RICHARDS. You say then that a district judge can travel from Juab to Washington and hold court in four different counties every month?

Mr. CHIDESTER. He don't have to go from Juab.

Mr. MALONEY. He don't have to do that. The object is to have him once a month in each county for probate business. He would not need to be there more than two hours.

Mr. RICHARDS. If he is in each one of those counties every month, would not he have to travel from Juab to Washington?

Mr. MALONEY. That is true, and he can do it.

Mr. RICHARDS. And hold court and do the business of the district?

Mr. MALONEY. Why, Mr. Chairman, he can do all the business in two hours. No trouble about that. Then again,

the Legislature can re-establish this probate court if they like. It is such other inferior courts as may be established by law. Mr. Richards goes on and insists on appeal from justices' courts to the probate courts. We do propose anything of that sort. I do not wish to take up the time of this committee, but Mr. Richards suggests that there will be a vast expenditure because of the number of witnesses and jurors in attendance. If the district court is competent to transact business, there will never be such a thing as a crowd of witnesses waiting. Certain days will be set apart for probate court business and district court business, and there will not be any witnesses or jurors in attendance when the case comes up. When the court comes into the county, it can transact all the probate business in the county, making a fair average in two hours. Then, it can go on and attend to the district court business. So there will not be any delay such as contemplated by the gentleman from Salt Lake. Now, if this plan is to be adopted you might as well rip up this whole report from beginning to end, because we went upon the theory that we would give them a better class of judges and have them come if necessary once a month.

Mr. MURDOCK (Wasatch). I would like to ask the question of the gentleman from Salt Lake—what qualification he considers probate judges should have?

Mr. RICHARDS. I think they should be men of good sound judgment and experience and have some knowledge of law.

Mr. MURDOCK (Wasatch). Do you think they should be admitted to the bar?

Mr. RICHARDS. Well, I would not say that it was necessary in every instance. Perhaps in a majority of cases I should say that was not necessary.

Mr. MURDOCK (Wasatch). Do you think it would be a proper thing to give a man that had no experience of law, of good judgment, probably a good shoemaker or a good farmer, jurisdiction in a case where the amount was a thousand dollars and in criminal cases up to a felony?

Mr. RICHARDS. Well, I am not prepared to say that I would. I do not presume that any such man would be elected to that kind of a position.

Mr. MURDOCK (Wasatch). In the system that you propose, would you not provide that the judge must be a member of the bar if you adopt that system?

Mr. RICHARDS. I do not know that I would provide that. I think that the judgment of the electors might be properly exercised on a matter of that kind.

Mr. MURDOCK (Wasatch). It appears to me unquestionably that this Convention should provide in the Constitution that a probate judge who is to have this extended jurisdiction that our friend proposes, in civil and criminal cases, would certainly have to have some qualification. This is a progressive age. In times past we had school teachers that had no particular qualification. If the school teacher was a moral man and had a little knowledge, he was engaged. But since that time we require that they shall have some qualifications. There is a board of examination in every county, and we are more strict in the employment of school teachers than we were twenty years ago.

If we are progressive in one line, it seems to me there should be some progression in another, and that we should have more competent men for probate judges than we had twenty years ago. It seems to me there would be no question but what if that system should be adopted, we would provide that they must be admitted to the bar, and most likely in the supreme court of the State of Utah, and that being the case, the gentleman has conceded that in the

smaller counties we can get judges that are qualified for this position at a salary of five hundred dollars. Now, taking it for granted that you can get judges for twenty-two of the smallest counties in Utah at a salary of five hundred dollars, that would amount to eleven thousand dollars. Then we have five other counties, we will place the salary of the probate judge in Cache County and Sanpete at fifteen hundred dollars per annum and in the county of Utah two thousand dollars, Weber, two thousand, and Salt Lake at three thousand dollars, which probably is less than they are now receiving in the counties of Salt Lake, Weber, Utah, and Cache. The gentleman states that if we have a system of probate judges in the Territory it will only require five district judges, paying them a salary of three thousand dollars would amount to to fifteen thousand dollars, making a total of thirty-six thousand dollars per annum for that system of judges.

Now, the system which has been reported by the committee on judiciary provides for nine judges, paying them a salary of three thousand dollars each, a total of twenty-seven thousand dollars and it would give us an opportunity to increase those judges three, making twelve judges at a salary of three thousand each to equal the system which the gentleman proposes to give us in lieu of the one presented by the committee on judiciary. Now, it seems to me that if economy is an object, and good service, that we could accept the system providing for nine district judges, and if, in the opinion of our future Legislatures, nine judges are not sufficient, they can very easily increase the number to twelve, which would not be any more expensive than this system of twenty-two judges at five hundred dollars, and the others in proportion as I have stated. There is no doubt but what we will all concede that in all business enterprises and transactions we want to get the best. There is an old saying that a man wants but little here below and he wants that little good, and I think that is applicable to law. We want but little of it but what little we do get, we want good, and for one I am in favor of what law we get around in the outside rural districts, that we have the very best that is to be had in the Territory, and for that reason I believe that nine judges can give us about all that we will want. [Applause.]

Mr. IVINS. I just wanted to say, gentlemen, if the idea prevails that all the members of this committee have been consulted in regard to this question and approved it, it is an error, because I have been continually opposed to this experiment that we are about to try. I have done a little figuring myself, and I believe that from a standpoint of economy, the present system of probate courts will be far in advance of the system that is proposed. Now, some one suggests that a court be held in each month in every county of these districts, a man would have to travel six thousand miles to hold a court in each of these counties in the five counties which embrace my district. That is out of the question entirely. I believe that a probate court should always be open. I have had considerable to do with the closing up of estates and I know that it will be a very great inconvenience if only once in a quarter people can reach a probate judge for the approval of papers and for consultation. There is never a day passes probably in any county in this Territory that the probate judge is not consulted. Executors and administrators of estates are not attorneys, and it is almost a necessity that they shall have the ear of the judge at the county seat at any day when they chance to be there, especially people living away from it.

I feel very delicate about attacking this proposition that has been returned from the committee, because I am not

altogether familiar with its details, but I can tell you that this is a question that the is worthy of serious consideration of the members of this committee, and personally, I believe, that from a standpoint of economy, we had better place a probate judge in each county. In the district in which my county is contained, we can pay five men six hundred dollars per annum each, and then the sum would only equal the amount we propose to pay to the district judge, and I am of opinion that that is double what those men are receiving to-day on an average—that is, the probate judges in that district; and there are competent men there, just as competent men for probate judges as we can get for district judge. We have to choose a district judge from that district, and really it appears to me that the expense attendant upon these district courts would be so much greater—a case comes before a probate judge—a criminal case; he can get out and empanel a jury right in the town where it is being tried, with little expense, and I apprehend, particularly if you are going to pay this man mileage who has got to travel these thousands of miles in order to hold his court, his mileage, if some mathematician will figure it up, it will be found to amount to considerable during the year. So that all things considered, I am in favor of the motion of the gentleman from Salt Lake, and if it should prevail, I would move to refer this matter all back to the committee with instructions to furnish us a probate judge in each county and four or five district judges, and we will get along with four less judges and with greater convenience to the people.

Mr. GIBBS. Would you recommend that the districts be conducted the same as they are now—the people go to the courts in place of the courts going to the people?

Mr. IVINS. That would be a question for after consideration, of course. I would not propose to destroy this whole plan without giving some other plan careful consideration. I should propose that the district courts went to the people occasionally, as often as necessity required, but I don't believe that we need a district court in Washington County once in two years on an average, if you will give us a good probate judge with jurisdiction in civil cases to a thousand dollars.

Mr. GIBBS. What would you do with your prisoners in the meantime?

Mr. IVINS. Why, we will send them before the probate court.

Mr. CREER. The chairman of the committee has remarked that the best legal talent obtainable here in Salt Lake City and probably elsewhere, were consulted by the committee before they framed this article upon this important matter. Now, I understand from one of my colleagues that the legal gentlemen of our district are in favor of the old system, but I want to say just a few words upon the matter of expenses. I do not propose to compute it by way of salaries, but I do say this from experience, that there is more expense incurred by appeals that are taken—it may not be so in Salt Lake City, but it is so in Utah County—more expense incurred in the courts by appeals from justices of the peace than would pay several of the judges' salaries. We have in a city of 3,000 inhabitants, had but one case appealed from the probate court to the district court in twenty years, so that it seems to me there is something in this matter suggested by my friend Mr. Richards, from Salt Lake. By giving extended jurisdiction to the probate courts in civil cases and misdemeanors, and by cutting off the appeals from justices' courts—I suppose you mean also from cities as well as precincts—unless the validity of a statute or city ordinance will be in question, the cases will stop there; it seems to me this is a very important matter to consider, and I think that the proposition is worth our time in look-

ing over this question as to the saving of expense, because if you cut down the jurisdiction of the justices of the peace to one hundred dollars, a great many more cases will be tried before the probate judge and will be better tried, not only in two or three counties, but a great many of the counties. We would have men that were competent members of the bar as probate judges. I believe that a probate judge should understand something about law. The surrogate branch is a branch that ought to be considered. This is worthy of consideration. I hope you will not bring this matter to a close to-night, there is not a full attendance in the committee, and we should not hurry it through. I speak from my own experience. There are two-thirds, I was going to say, of the cases that are tried by the justices of the peace in our county that are not properly tried, and when they are appealed they are reversed, there are so many mistakes made by justices of the peace; then by placing a competent man in each county it will obviate to a large extent that matter. It would curtail the expenses a great deal.

Mr. CHIDESTER. Mr. Chairman, I have been heretofore in favor of probate courts, but since this system has been reported from the committee I have been weaned somewhat from the old system, and have been inclined to be willing to try this new system, believing that the system could be changed by the Legislature, if it was found necessary. Now, our conditions are not similar to those in Washington County, as stated by Mr. Ivins. He says that they would not have any use for a district court there once in two years. We have as little use for a probate court, but we have grand larceny cases continually. [Laughter]. It is that kind of cases that we wish to handle, and I undertake to say that to give the probate judges jurisdiction in misdemeanor cases will not help us at all. I think that is a mere sham. The justices of the peace can handle them all right, and if they do not, why they will come to the district courts, and there are not many of them from our country that ever get in the district courts anyway. But, I find that the expense has been made by the traveling of witnesses and jurors, and if this old system is returned to, or if we establish probate courts, we have got then to reduce the number of district judges, and they will not be able to travel around these districts often enough so but what the criminals will have to lie in jail, or we will have to travel to the district courts. Already our county has been compelled to keep criminals until the expense has been enormous, and we have been almost unable to meet it, and I now believe that we can afford to try the new system, for I believe that the Legislature would be perfectly willing to modify it if they found that the judges could not travel around as contemplated, but if they can get around as the committee contemplates that they can in these districts—and I submit that in our district I believe they can; I am not speaking, however, for other districts, but if they can do that, I am satisfied that the expenses will be much less than to establish probate courts. Of course, as I said before, we have but very little probate business, and that may make some difference. The other counties may have more, but for all of that our probate judge perhaps receives over three hundred dollars. In figuring it up that was about what we estimated it at, and that is one of the smallest salaries received by probate judges, and if you establish twenty-seven probate judges and compel the people to run to the district courts again, then I say you might just as well return to the old system, and that is going to be expensive, that is going to compel the witnesses to travel and the jurymen to travel for the district court, and there is thousands of expense

which this new system will do away with.

Mr. EVANS (Utah). Mr. Chairman, this is once I am going to stand in straight with the committee that reported this article. I am generally on the other side. However, I am in favor of trying this new system. There are two phases to be considered in this matter. One is economy, and the other is efficiency. I have gone over this thing carefully in my own mind with the best information that I have had at hand, in regard to the question of economy, and I am fully converted to the idea that the present system will be far cheaper than the old probate system that we are just going to leave behind us. I came here in favor of the plan proposed by the gentleman from Salt Lake, to retain the probate judges and to increase their jurisdiction and give them some criminal jurisdiction, but I have been forced from that position by argument that has been made to me by gentlemen of this Convention. I have figured that it would cost us upon an average of a thousand dollars to each county. Salt Lake, I have been informed before to-night, and it has been reiterated here to-night, that the probate judge here costs in the neighborhood of five or six thousand dollars. Perhaps in Ogden it costs from two to three thousand dollars, Utah County in the neighborhood of two thousand dollars, and taking it all in all, I have concluded that about an average of a thousand dollars to each county is correct. It has been suggested here to-night that the probate judges ought to be men learned in the law. It was suggested here that they would have in most cases a man who was competent. I want to ask you, gentlemen, what reason can be given, that if it is necessary that a man should be competent to transact the business of these larger counties, that it is not just as important that the business in the smaller counties should be transacted equally as well? It has been remarked here by the gentleman from Washington that perhaps every day the probate court should be consulted by some person, administrator, or guardian, or otherwise. If you are to expect such a system as that, can you confine the fees, or in other words the salaries of those probate judges, to five hundred dollars in these small counties, as we have been figuring upon? I don't think you can, and I say that it is important that this system, whichever way it shall go, should secure efficient service in carrying out the various operations of the law. I have figured that if we shall take off four judges, which I think would be the very least that we can take off, with their salaries as fixed now at three thousand dollars, amounting to twelve thousand dollars—taking that from the twenty-seven counties at one thousand dollars each, and I do not think that we can hope to place our probate judges—that is people to do the work, even as it is done now—at a less salary than that; it will be a saving to the district or to this Territory of fifteen thousand dollars. Then in addition to that we are providing now a new system, as I have understood it, that the county clerks shall be clerks of the district court, and if that shall be inaugurated, I believe there will be equally as great a saving in that point.

It has been referred to here by the gentleman from Salt Lake that they would gather together witnesses and they would gather together jurors, and they would remain there for days with nothing to do, making the comparison with the expenses accruing from that source—would be greater than the judges. I submit to you that that is not necessary. Those terms will be set. The jurors will be summoned there, witnesses will be summoned there; those cases that require the service of a jury may be taken up and disposed of, each in its turn, and then the jury discharged, and then the court will proceed to act upon equity cases, or take up its pro-

bate business and do away with that in its turn. Now, sir, I submit to you that these clerks may be properly authorized to post up notices. These are orders that may be sent to the probate judge. It is not necessary that he should reside in the county while he does the signing. I submit to you also that bonds could be forwarded to him. It is so to-day in our counties; in every town outside of Provo in the county in which I live, we forward our bonds there by mail to the judge, and they are there filed, and it can be done in the other case. It would only be a question of a little trouble to him, perhaps, in preserving those bonds until he went to the county seat in the county from whence the bonds came, and there they would be placed upon file. I submit to you, sir, that it is important that these things should be tried properly. I venture the assertion now that if we were to go out in these outlying counties and go carefully into the record of the sales that have been made there of real estate, I would not miss it if I were to say that half of those sales were illegal and void, and it is only a question of time until these matters will be forced out into the poor counties as to-day they are being forced upon some of the populous counties. I have had the sad experience of being connected with a corporation myself that to-day is involved in litigation, and when we came to test our articles of incorporation, we found that we were not a corporation at all. This is the condition, and a great many of these things, when they are looked into and carefully examined, when they are placed upon the test and weighed in the balance, they are found wanting, and I say that we cannot afford to not undertake this system. I believe it presents the phase before this Convention that appeals to every judgment that it ought to be inaugurated and established. It is not as the laws of the Medes and Persians. We provide in our Constitution that the Legislature may reduce the number of judges or they may increase them if they shall find that the system is not a proper one, and they have the power to establish other inferior courts, and then they can establish probate courts and inaugurate the other system. But I believe we ought to give it a trial. I am in favor of it from first to last, so far as I have been able to comprehend it; there may be some minor changes. I say that I think it would have been much more prudent before we had spent perhaps a whole day upon this question, as we have done, that this amendment should have been introduced at the reading of the first section, and I hope that this committee will say to their sub-committee—the committee on judiciary, that they have drawn a good article and it will be passed upon by this committee as reported by them.

Mr. BUYS. Mr. Chairman, there are one or two things that have not been touched upon yet that I would like to call attention to. I am in favor of the system as reported by the judiciary committee. I want to call the attention of the committee to section 7. (Reads.) Now, if there is anything that is really necessary that should be done, that we cannot wait until the term comes around, a man can be appointed to look after this case. I do not think there is any necessity for having a probate judge in every county.

Mr. RICHARDS. Suppose that one party thinks it necessary that it should be done and the other party does not, then how are you going to get your judgment?

Mr. BUYS. Well, we can get it when the term comes around.

The amendment of Mr. Richards was rejected.

Mr. FARR. Mr. Chairman, I wish to offer an amendment to first section:

Until otherwise provided by law, the judicial power of the State shall be vested in a senate sitting as a court of impeachment, the supreme court, district court, and justices of the peace.

That, gentlemen, will give the Legislature an opportunity; when they have tried the experiment and it does not work to suit them, they can go to work and change that and appoint probate judges.

Mr. THURMAN. Mr. Chairman, I arise to a point of order. The amendment is not seconded.

The point of order was sustained.

The committee then rose and reported as follows:

The committee of the whole has had under consideration the article on judiciary and has recommended that the same be placed upon the calendar for its third reading.

Mr. SQUIRES. Mr. President, I move that the judiciary article be made a special article for day after to-morrow.

The motion was agreed to.

On motion, the Convention then, at 10:08 p. m., adjourned.

FIFTY-SECOND DAY.

WEDNESDAY, April 24, 1895.

Convention called to order at 9 a. m. President Smith in the chair.

Roll call showed a quorum present.

Prayer was offered by Delegate Barnes of Davis County.

Journal of the fifty-first day's session was read and approved.

File No. 377, signed by David Peebles and 15 others, from Roy precinct, asking that woman's suffrage be submitted as a separate article to a vote of the people, by Adams, of Weber.

Filed.

Committee on manufactures and commerce reported as follows:

Committee Room.

MR. PRESIDENT:

Your committee on manufacture and commerce, to whom was referred files No. 144, proposition for insertion in the Constitution article on the metric system of weights and measures; 148, proposition to protect manufacturing business against losses sustained, provided prohibition should be inserted in the Constitution; 47, to regulate and license the manufacture and sale of fermented, vinous and spirituous liquors, beg leave to report that we have had the same under consideration. We have carefully and thoroughly investigated each proposition submitted to us, and found nothing that we could recommend to be embodied in the Constitution. We refer the same back and recommend that they be filed.

HYDE, Chairman.

On motion of Mr. Eichnor, the report was adopted.

The Convention then resolved itself into committee of the whole, with Mr. Varian in the chair, and proceeded to the consideration of the article entitled mines and mining.

COMMITTEE OF THE WHOLE.

Sections 1 and 2 were read.

Mr. WILLIAMS. Mr. Chairman, I move to strike out the word "coal," in line 3.

Mr. KEARNS. Mr. Chairman, I hope that motion will not prevail, for this reason: In 1891, the Congress of the United States took it on themselves to appoint a mine inspector in every territory in the Union to look after coal mines alone. They did not go into the quartz mines or other mines. It was the danger of life that surrounded the coal mines that they thought was necessary to have a mine inspector for. The quartz miners of the Territory have not asked for anything of this kind. All the circumstances that surround all those accidents occur in the coal mines. It is unnecessary altogether to have it in there.

The motion was rejected.

Section 3 was read.

Mr. MALONEY. Mr. Chairman, I move to strike out section 3. That same question was passed upon by this Convention, and the judgment of this Convention was that private property could not be subjected to private uses.

Mr. HART. Mr. Chairman, I am in favor also of striking out this section.

We devoted some two or three days to the discussion of this question when it came up as a proposition in the bill of rights. Members of the committee may remember at that time that I favored a section declaring the rights of way for purposes that are named in this section, and also the rights of way for irrigation purposes and drainage to be declared public uses. I would have been glad at that time, if I could, of determining by a section of our Constitution that these things were public uses, because I thought that it would be better for us to define what were public uses, or at least specify that these particular purposes were public uses, than to leave the matter to judicial determination by the courts. But inasmuch, Mr. Chairman, as after a full consideration of that question at that time, it was the sense of this Convention and of this committee that we should simply declare that the right of eminent domain should exist, leaving the courts to determine what was a public purpose, I am now in favor of striking out this section. I do not think, Mr. Chairman, that we should give mining any greater preference in this State than the interests of agriculture. I think myself that the courts will be obliged to decide that rights of way for tunnels, flumes, pipes, ditches, roads, tramways, or dumps or the drainage or working of mines are a public use. I believe that they will also be obliged to declare that the rights of way for irrigation and drainage purposes connected with agriculture are a public purpose, but inasmuch as we have left the one matter to the courts, I think we should leave the other matter to the courts also. I am, therefore, in favor of giving no preference to mining over agriculture. It would mix this matter up. It would be declaring certain purposes here a public use; perhaps by the very fact that we insert this in the Constitution, the construction of the courts would be that rights of way for agriculture were not public purposes, otherwise we would have designated them in the Constitution; in order to make a uniformity in the matter, in order to give no preference to one of these great branches of industry over the other, but permit both, as I think by judicial construction, to have the rights that we desire for them, I am in favor of leaving the matter to the courts and striking out this section.

Mr. ANDERSON. Mr. Chairman, I am opposed to the motion. It is very necessary that it remain. Mining is one of the most important industries of our State and always will be. It is likely to grow in importance and it is subject to the control of the Legislature. I think these should be declared public uses. There are certain limitations put upon them by the Legislature, and in order to protect one of the greatest industries of our State, I think that this section should be retained. Therefore, I shall vote against striking it out.

Mr. KEARNS. Mr. Chairman, I hope the motion to strike this out will not prevail. I notice that every man that wants to leave it to the courts, his profession is the courts. There is not one practical man on this floor who opposes this section. While it was ably opposed in the bill of rights the other other day, and the fundamental law quoted to the whole of you, it was said that the courts would hold that it was a public use. I find here, in Lewis on Eminent Domain, that while it was held in Connecticut and in Massachusetts and New Jersey, that Iowa, Kansas, Maine, Nebraska, Minnesota, Wisconsin, California, Pennsylvania, and West Virginia, have held to the contrary. I believe the other day, in the state of Nebraska, that the question came up of putting through a great irrigation ditch there. They went to the legislature to pass on it. The legislature themselves held that the Constitution gave them no right, and therefore they could not receive it.

Now, no doubt from the statement that was used here the other day, it was the only industry they had. Everything gave way to the mining industry, and as quick as their industries went down—their mining industry, what was the consequence? They left them with forty thousand people. The mining industry controlled the state, and the gentleman said we should not give mining any more than we give agricultural industries. I agree with him, and I am very sorry that the agricultural industry did not condemn the rights of way for their channels and flumes. If they some day will be confronted with the same state of affairs that they are in Nebraska, with six counties poverty stricken with drouth, and they want to take a river along down through there and they cannot make a move until such time as the Constitution is amended, they will wish they had.

Those gentlemen that are so ably opposing this proposition know more about the necessities on the snowy white cliffs of the Wasatch range by what they read about it or by what somebody told them. They never were up there and developed any mines. If they go up some canyon for miles and there discover a mine and start a road that is going to give them a roadway into the city, and where the ground is no use to anybody on earth, they will have the practical part of it, and can speak from a different standpoint. This is a necessity—a necessity that the fixed industry of this State must have. I take it that that is the main enterprise of the State and one that goes to make it one of the greatest intermountain States in this Union—is the mining industry. And, gentlemen, I trust that there is not one of you who wishes to throw a stone in the way of that grand industry, because you have hundreds of square miles of rich mountains with untold treasures of wealth that will conquer the generations yet to come.

Mr. BOWDLE. Mr. Chairman, I am one of those gentlemen that do not know anything about mining. I will confess that, so the gentleman's remarks in that regard apply with all their force upon that proposition; but this is a proposition that we have already passed upon. We passed upon a broader proposition that included this. The proposition that we passed upon was taking of private property for other than public uses. Now, it was sought to make all these things a public use. We had that question up and discussed it before, so as to get around that theory, that you cannot take private property for a private use. I submit, gentlemen, it does not make any difference what you call it, it is the same thing. You may declare that a man that owns a little mining claim up here has the right to go across his neighbor's claim and that that right is a public use. That does not make it a public use. What is a public use? A public use is one which benefits the people generally, not where it is an individual matter. This would be in all probability where there would be one individual against another individual. How can you call that a public use? A man owns a mine up here—one single man owns a mine. A man right next to him owns a mine. Now, would you have this Constitutional Convention declare that it was a public use for that one man to go across the other man's land and take his property? That is what you would have this Constitutional Convention do. We said once most emphatically upon that question, "We won't do that thing." We said that when it was included in it, that it should be for the benefit of agriculture. Now, it is reduced down to the one single thing of mining, and I agree with the gentleman from Cache County, that if this goes into the Constitution, you thereby fix a limit and no court would say that any other thing was a public use—that agriculture was a public use,

that you could build a flume and that was a public use, unless that included the benefits to a large proportion of the area of a country. It might be in a case like that. I think there was a case that was decided in one of the courts, probably of California, where the question came up, and the question was where there were a great many people that were interested and would be benefitted by that, that the court would then declare it a public use, but I have never known a case—and I looked this matter up before it came up on the other question. I could not find a single case where it was one man against another man that the court would declare it a public use. I am opposed to this. I am opposed to it, because it is class legislation. That is the reason I am opposed to it. I recognize the great importance of mining in this country, and I would not strike a blow that would injure it in any way, unless it was necessary for the protection of the individuals of the State and the individual rights. The right to hold and own and control one's own individual property is above every other consideration, save and except that of the public use. This is not that kind of a case at all. I am opposed to it.

Mr. KEARNS. Do you take notice that Colorado, Idaho, and Montana, the states that surround us here, with the same state of affairs that applies to us, have a section of this kind in their constitution—they found it necessary?

Mr. BOWDLE. Has the court ever construed those?

Mr. KEARNS. In those states that I have mentioned—Iowa, Kansas, Maine, Minnesota, Nebraska, Wisconsin, California, Pennsylvania, and West Virginia. If you fail to find anything, you can post yourself up.

The CHAIRMAN. The gentleman will confine himself to a question. We cannot allow this discussion.

Mr. PARTRIDGE. Mr. Chairman, I would not wish to say anything, if I was sure that the Convention would stand to what they have already decided. The gentleman from Summit says that no practical man has spoken upon the subject. I think that anyone that is acquainted with me will admit that I am a practical man. While I do not pretend to know much about mining, I am willing to admit that the mining interests of this Territory are of great importance. But I am not willing to admit that they are of the greatest importance. Now, I am a farmer. My friend over here is a miner, I presume, and I hold that the farming interests of this Territory are the foundation of the prosperity of this country, or any other country as far as that goes, and that the mining interests would be but little without the farming interests to support it. And inasmuch as we have heretofore decided that there should be no provisions of this kind, depriving the agricultural interests of any privileges, rights of way of any kind, declaring it to be a public use, I shall vote for the striking out of this section unless it can be amended as to include the agricultural interests. I am not willing to make the mining interests the first and foremost to the expense of the agricultural interests of this Territory.

Mr. EICHNOR. Mr. Chairman, I am opposed to the motion to strike out this section. I also wish to be understood that I am not antagonistic to the agricultural interests of the State or Territory of Utah. I think we have made a grave mistake when we strike out the section that made the public use of these matters. Possibly we were right in striking out the section that private property might be taken for private use. It should have been declared a public use. Now, when it comes down to a practical man, I have had experience in farming. I have had experience in mining until my money

ran out. I am not engaged in mining at present, and I am glad of it. Now, I think that this section ought to stand, and when the report comes in from the committee on schedule, future amendments, and miscellaneous, that under the head of miscellaneous we should insert a clause putting the agricultural interests of this Territory on a par with mining. Let the two stand on a par with each other. It is not worth while for us here to fight against mining in one sense of the word and against farming in the other. The two exist in this Territory and they are two great interests. Now, this section provides in the latter part that the uses which are declared public are subject to the control and regulation of the State. That certainly means the Legislature. I think instead of being dangerous it would be beneficial to the mining interests, and certainly it would work no harm to the farming interests. It is a fact, the more mines you have in this Territory, the better market has the farmer for his products. The states that have prospered the best in the United States are those where great mining interests and great agricultural interests exist. I hope that the section will be retained.

Mr. Kearns hands me Lewis on Eminent Domain, and requests me to read a certain section. I do not know what it is, but I will read it:

The taking of land for water power, for running any kind of mills or machinery, is held to be for public use, and principally Connecticut, Indiana, Massachusetts, New Hampshire, New Jersey, and also by the supreme court of the United States in a case which went up from New Hampshire. The constitutionality of acts for this purpose has been seriously questioned, but nevertheless upheld either on the ground of authority or under a general acquiescence and uses in Kansas, Maine, Minnesota, and Nebraska. On the other hand such acts have been held unconstitutional as authorizing the taking of private property for private use, save in case of public grist mills, in the state of Alabama.

Mr. BOWDLE. The section you have read is where it applies simply to milling, isn't it, and in no way connected with mines?

Mr. EICHNOR. The section refers to milling. Here is one on mining:

On the other hand, the validity of such laws has been denied in California, Pennsylvania, and partly so in West Virginia.

I presume that what Mr. Kearns desires to bring before the committee, is that since these matters are declared public uses the courts cannot declare them otherwise. I think that is the idea.

Mr. ROBERTS. I would like to ask Mr. Eichnor a question. I see that the last clauses of this section declare that this matter is subject to the control and regulation of the State, which I understood you to say meant the Legislature, of course?

Mr. EICHNOR. Yes, sir.

Mr. ROBERTS. I would like to ask if the settlement of this question when under discussion in the bill of rights does not also leave not only these necessary uses of lands, etc., in regard to the mining industry, but also to agricultural uses arising upon this same principle—if that is not at present also left with the Legislature?

Mr. EICHNOR. My answer to that question is this, that in some states when they had no constitutional provision of this kind, they have enacted statutes and some courts have upheld them and others have declared them unconstitutional, and I think we would be confronted with the same thing in Utah, that if the Legislature passes a law declaring certain mining interests and certain agricultural interests public uses, it is a question what the supreme court of the State of Utah will do, that is, the question will be, is the statute constitutional or unconstitutional?

Mr. IVINS. Mr. Chairman, I hold in my hand a corrected copy, as I under-

stand it, of the bill of rights .Section 22 and 23 read as follows: (Reads.)

The CHAIRMAN. That is all stricken out—section 23.

Mr. IVINS. That being the case, I see all the greater necessity for the approval of section 3 as it has been reported from the committee on mines and mining. Section 22 of the bill of rights provides that private property shall not be taken for public use without just compensation first being made. Now, if I understand the design of section 3 of this report of the committee on mines and mining, it is simply to define that the right of way for tunnels, flumes, pipes, ditches, roads, tramways, or dumps, for the drainage or working of mines, shall be a public use, not to be obtained by any corporation or individual for its own special use or benefit, but may be declared by the Legislature to be a public use. I cannot see how this can possibly come in contact with any agricultural interest in this Territory, but I do know from my own experience that it is necessary that some such declaration shall be made in this Constitution in order that the mining interests of the State may properly be developed. Men secure titles to ground in the neighborhood of valuable mining property. Mines are located in narrow, inaccessible canyons upon the top of almost inaccessible peaks, and it is an easy matter for a man by locating fifteen hundred feet of mining ground to absolutely obstruct any approach to that property. A locator of such ground would be amply protected in the section which I have read, because that provides that this property shall not be taken from him without just compensation first being made, but do not let us give to the Legislature the power to declare the necessity of that road to be a public one and to condemn it for that purpose, after just compensation has been made. It may be said in regard to a drain tunnel, which may be necessary for development of a mine—it would be absolutely necessary to have that right of way in order to develop it. I do not think it is a good argument to say that because similar privileges were not granted for other purposes that it shall not be granted for mining purposes in case it shall appear to the members of this committee that this proposition of itself is a good one. The fact that the same thing has not been granted to some one else is no reason why we should not grant it to the mining interests of the Territory. To my mind it is proper, just, and very necessary, and I hope that it will be retained.

Mr. MURDOCK (Beaver). Mr. Chairman and gentlemen of the committee, I am very much opposed to the striking out of section 3. I think it is absolutely necessary in the interests of mining, for this reason: My friend from Washington County brought forth the arguments to a great extent that I wished to in regard to the condition of the country in which mining is carried on. I think that it is not illiberal and an interest in the mining interests should be entertained by the people generally in regard to extending more than you would to the agricultural. Still, I am not a miner, but I am a farmer, and I do not think it would impair my rights in the least, nor any other farmer's. As my friend from Washington County has stated, the character of the country that mining is carried on in is very different from agriculture. And let us look at it. I do not recollect in part or as a whole that agriculture has made any particular failure, but I do know that mining has been carried on to a very great loss to a great many people, while there are some, perhaps, have made fortunes, but few in comparison to the general whole. And I say an extension to the mining interests should be certainly tolerated in the country here, while I am willing to admit that mining and agricultural interests go hand in hand, one is dependent upon the other. To be sure, agri-

culture is that that we cannot possibly do without. We cannot possibly do without agricultural interests and the products of agriculture, but while they are as it were at the foundation of our interests, but the mining is the source from which we expect to get our money and to get occupation for individuals that are not either agriculturalists or even miners, but they are laborers, and it is that source that gives occupation, and I say that any mine is a public interest. I say that every mine, although it may be owned by an individual, it is a public interest. Why? Because, indirectly the benefits come to the general public, so does every institution that is created. There is not an institution of a mechanical character, but what is a public interest to an extent. It employs men and the results go to the general public. So I say that my feelings are that this section should be certainly retained in the interest of the general public, because, just as my friend from Washington stated, the men might, for the purpose of, as it were, blackmailing, go and take up a piece of ground for the very purpose of asking a compensation that would be thoroughly unreasonable, and I say that the section should be retained, in my judgment.

Mr. SQUIRES. I would like to ask Mr. Ivins a question. In your judgment, does the objection raised by the gentleman from Cache, that the placing of this matter in this section and leaving out of the agricultural interests of the State from any constitutional provision, prevent the Legislature from making a similar provision for the agricultural industry?

Mr. IVINS. Well, I do not know that I can answer that question. I was not here when the gentleman from Cache made his argument, and had I heard it, I do not know that I would be as competent as he to answer that.

Mr. SQUIRES. His objection is, Mr. Chairman, that if we mention these uses for mining purposes, we thereby debar the Legislature from making a similar provision for the protection of agricultural interests. If that is conceded by the lawyers, and there is any chance of having this section put in here, I believe it should be amended. For that purpose I will offer the following amendment to test the sense of the committee.

The CHAIRMAN. The chair desires to state that it does not feel like being called upon to rule upon a question of that kind, as everybody knows that I am opposed to this sort of legislation, and any ruling I might make would be misconceived. I would suggest to the gentleman it would come better on third reading, or else that the committee appoint some one else to take the chair.

Mr. SQUIRES. Would there be any harm in offering an amendment now to test the sense of the house?

The CHAIRMAN. The chair would be of the opinion that all these matters embraced within the section and the preamble and bill of rights have been finally disposed of by this Convention and cannot be interjected in the Constitution in this way, except upon the reading of the whole Constitution by a two-thirds vote, under suspension of the rules or upon a reconsideration of the other vote which disposed of it, but I prefer not to be called upon to pass upon that question.

Mr. SQUIRES. This section is still under consideration. The chair does not rule that it is not under consideration?

The CHAIRMAN. I wish to make that suggestion. The gentleman can proceed as he chooses.

Mr. SQUIRES. I move to amend so that if the section be adopted it will stand in this form, insert after the word "mineral," in line 5, the words "and agricultural," so that this provision would apply not only to the mining, but to the agricultural resources of the State.

The CHAIRMAN. The gentleman should send his amendment up in writing.

Mr. THATCHER. Mr. Chairman, I would suggest to the delegate, Mr. Squires, that he add in his amendment, "for manufacturing purposes." It is also an important industry.

Mr. SQUIRES. I understand that the courts have ruled that the use of water for manufacturing purposes is a public use and would not need to be put in here.

Mr. THORESON. Mr. Chairman, I have an amendment here for this section that I think will cover the ground—an amendment to the amendment.

Mr. HOWARD. Mr. Chairman, I wish to offer a substitute for section 3.

Mr. EVANS (Utah). Mr. Chairman, I am opposed to all these amendments and to the article itself.

Mr. Thoreson's amendment was read as follows:

To strike out from lines 4 and 5, the words "as a means to the development of the mineral resorces of the State," and insert in lieu thereof, "and for agricultural, domestic, and sanitary purposes."

Mr. Howard offered the following substitute for the section:

The necessary use of land for rights of way for tunnels, flumes, pipes, ditches, canals, reservoirs, roads, tramways, or dumps, for the development of the farming or mineral resources of the State, is hereby declared to be a public use, and subject to the control and regulation of the State.

The CHAIRMAN. I would like to ask the gentleman whether that is copied from the article that was stricken out of the preamble and declaration of rights?

Mr. HOWARD. No, sir; that is worded just the same as this other, with the addition that I have put in there, "canals, and reservoirs, and for the development of the farming resources of the State."

Mr. EVANS (Utah). Does the chair hold that that substitute is in order now?

The CHAIRMAN. The chair understands that it is a substitute for these two amendments.

Mr. EVANS (Utah). I know, but it is just an amendment, if there are two amendments already to the section.

The CHAIRMAN. That is right; the proposition should come on Mr. Squires' motion.

Mr. SQUIRES. Mr. Chairman, I wish to withdraw the amendment which I offered, as I think the substitute offered by Mr. Howard more fully covers the point we desire to gain; that will leave the substitute before the house.

Mr. THORESON. I will withdraw mine.

The CHAIRMAN. The question is upon the substitute offered by Mr. Howard.

Mr. EVANS (Utah). Mr. Chairman, I think that this matter was thoroughly discussed when we had it under consideration in the bill of rights, and after mature deliberation this Convention decided against that, and I believe that that is what they will do again. My friend from Summit decided here some time ago, that no man only he who was practicing in the law was speaking upon that side of the question. He referred to the fact that but very few knew anything about the great white-clad peaks of the Wasatch range only what they had read about. I want to say to the gentleman that I have been upon those peaks myself, but it did not help me to form a conclusion, by reason of that, that I had any right to cast my vote to enact a constitutional provision whereby one citizen could demand aid of the State to take away the property of his fellow individual citizen.

That is what you propose to do in this article, as I comprehend it; that you are going to make a constitutional enactment whereby if one person believes that his interest demands that another person's property shall be taken by giving him what he thinks perhaps is a just compensation, that he will have a right to do it, and I say

that we ought not to do that. I say that it is sufficient, as we have a lready declared, that private property shall be taken for public uses and those uses will be declared by the courts. I am opposed to this system. I believe that we have done all that we ought to do, and I do not think this Convention is prepared to say that if it shall be in my wisdom deemed proper that I should take the property of my neighbor, that we should declare that I had the right to do that. We cannot tell where that principle will strike, and, so far as I am concerned, it would make no difference to me where it would strike. I should be opposed to it upon the principle of human liberty, and we ought not to be allowed to do it. I say that it is going as far as we ought to go when we say under our organic law that private property should be taken for any purpose whatever. Those purposes should be strictly public, and they should be defined by the courts, because that is where it will go eventually. Whenever this question is tested, if you shall put that in your organic law, men will not submit to it, and it is a question that will institute litigation in this Territory and will eventually have to go to the courts to be decided upon, and I believe that if we were to take that position that the courts would decide that it was unconstitutional; it ought not to exist, that private property should be taken by private individuals for their private purposes and uses. If you follow this thing up, you will soon see that the safety of the individual, that the bulwark of his liberty and safety is broken down, whenever you insert such a provision in the organic law, and I believe that this Convention, when this vote is called upon the substitute and also upon the section as reported by the committee, while not charging them with any selfishness in this matter—I want to say to you, gentlemen, if this substitute will be voted down, as I think it will and ought to be, then when the question shall revert upon the article as reported by that committee, that the fact that they have defined in there what is to be a public use, it will be curtailing upon the Legislature, as I comprehend it, that they will not be able to say that anything else shall be a public use, and therefore, you will discriminate against the manufacturing resources of the State, against the agricultural industry of the State, in favor of the mining industry, and I do not think we ought to do it, and I do not think this Convention will.

Mr. KEARNS. Do you think the Legislature would provide the necessary laws from time to time without doing anybody injustice?

Mr. EVANS (Utah). No, sir; I do not think they would have the power to do it, if we undertake to define what is a public use.

Mr. KEARNS. If you strike it out, they certainly won't.

Mr. CREER. Mr. Chairman, I simply want to ask the gentleman a question. I want to ask if he has heard of the reputation of Mr. Choate, of New York, as an attorney. He confirms that principle.

Mr. EVANS (Utah). I do not know anything about Mr. Choate's reputation at all. It would not make any difference to me if I did.

Mr. CREER. His reputation is national, and he sustains this.

Mr. GIBBS. I wish to ask Mr. Evans a question. Don't you think it is right if a man has a farm in the center of a field, and in order to get water in to that farm that he should have the right to fetch it there some way?

Mr. EVANS (Utah). Yes, sir; I do. I believe that when the necessity becomes sufficient, the courts will so decide.

Mr. GIBBS. Well, I am in favor of having a constitutional provision providing for that emergency.

Mr. EICHNOR. I would like to ask Mr. Evans a question. Is it your idea

that the Legislature should declare these interests public uses?

Mr. EVANS (Utah). No, sir; it is not.

Mr. EICHNOR. Simply the court.

Mr. EVANS (Utah). Yes, sir; simply the court. But I say the Legislature may do it if we do not debar them by specifically setting forth one interest, by declaring it to be a public interest. These debates will be gone into in defining these questions, when they come to rule upon them. They will see what led up to it. This Convention struck the other provision all out and then inserted this.

Mr. HART. There is a matter connected with the legal phase of this question that I think should be considered. I think that the gentleman from Salt Lake, Mr. Bowdle, is mistaken when he declares that the decision of the courts in the western states at least will not uphold as a public use the taking of land for purposes of right of way for irrigation ditches, and also for manufacturing and mining and milling purposes. It is true that the decisions of the courts all over the United States are considerably at sea as to what is a public use. They are not only undecided and uncertain as to what is a public use in these different cases, but there is a difference of opinion amongst them as to the test or criterion upon which a public use is to be determined. But the decisions of the western states have very generally held, in addition to the authorities read by the gentleman from Summit County, that a right of way for irrigation purposes, for mining and milling, was a public use. It is true that there is a decision there from California that the gentleman read that does not uphold that in a certain mining case, but I can show the gentleman other authorities from California which do uphold the right of way for drainage and irrigation purposes connected with mines, such as drains, etc., from the mines. It seems to me there must have been something connected with the particular circumstances of the case that the gentleman read there that should cause them to decide that that was not a public use.

The CHAIRMAN. For one individual is the division—for one purpose.

Mr. HART. It would seem from that case that it was for the benefit of one individual solely and some other person was perhaps being injured to a like extent. Of course, if some great good shall come from some slight injury, although a few persons only were interested in that right of way, I have no doubt the court would uphold it as a public use. Therefore, if upon the first discussion of this question we could have the substitute offered by the gentleman from Weber County (Mr. Kimball), which was the Idaho constitution on this subject, I would have been glad if that had been adopted. It would have defined and settled the question to a great extent and removed the uncertainty of the decisions of courts upon this question; but we have rejected that. Now, Mr. Chairman, I am in favor of striking out this section for the reason before stated, that if we enumerate these matters connected with mines, and declare that they can be taken for public purposes, I am afraid that the courts will be hampered in passing upon the question of rights of way for agricultural purposes. I would not oppose this section for a moment if it was simply to make certain and sure something that the mines should have which it would do. I would be willing to give it a preference over agriculture by declaring and making certain in this way, inasmuch as we cannot make the other matter certain, I would fix certain that part that we can if I was not afraid that by so doing you would rule out the power of the courts by judicial decree of determining that rights of way for agricultural purposes were public uses.

I am opposed to the substitute offered

by the gentleman from Emery County for the reason that I believe it is crude and imperfect. From a casual reading of it, I am certain that it is. No layman can sit upon the floor of this house and in a casual manner produce an article that will stand the test of the courts or will give us satisfaction. Mr. Chairman, if we were going to declare these matters public uses at all, let us include the whole list, rights of way for milling, manufacturing, mining, and agricultural purposes. Let us by unanimous consent go back to the section introduced by the gentleman from Weber County and get a section that is well considered and nicely worded, and not attempt either to hamper the courts in their discretion as to what is public use by declaring some of these purposes public uses, or let us not on the other hand attempt to cover the ground by a crude and imperfect substitute that is offered upon this whole subject. I am in favor of striking out the section and oppose the substitute.

Mr. RYAN. Mr. Chairman, I would be opposed to the substitute. I am opposed to the third section and was opposed to it in the committee, but I did not see that it would or could do any good and would not answer the purpose which it was designed for. Some remarks have been made showing or tending to show that a man might take up a piece of ground below a valuable mine and obstruct the right of way for drainage, for roads, or for any other reason. He might take it up for that purpose and he might not.

One mine might be developed and be valuable. A piece of ground adjoining it might be undeveloped and equally as valuable, and if you, Mr. Chairman, wished to cross my ground with a road or a ditch, claiming it to be a public use, and I would deny your right, this section I do not think would settle the question. You would have to go into the courts then, would not you? And looking at it in that way, and taking that view of it, I cannot see that it would accomplish any purpose whatever.

Mr. SQUIRES. Would it be necessary to have more than one case taken to the courts—could not a test case be made that would settle the whole question?

Mr. RYAN. I presume so; that would settle it, without this section, would not it, so that the section would not do any good?

The CHAIRMAN. Will the gentleman permit the chair to make a suggestion, that each case would have to depend upon its individual facts?

Mr. ROBERTS. Mr. Chairman, this whole matter that has come up for discussion this morning, as I remember it, was very thoroughly considered in sections 22 and 23 when the bill of rights was under discussion. The latter part of section 22 and the whole of section 23 covered all and more than is proposed by this substitute or by section 3 in the article on mines and mining. I think, sir, at that time, the result of the discussion was that the latter part of section 22 and all of section 23 was stricken from the bill of rights and the provisions left thus:

Private property shall not be taken or damaged for public use without just compensation.

That, sir, as I remember it, left all this matter to the Legislature and to the courts. It left mining, agriculture, and manufacturing interests, so far as these matters proposed in this substitute are concerned, upon an absolute equal footing, and now to disturb the action that was then taken by the Convention, after full, free, and prolonged debate upon the question with a full house, I think it is exceedingly unwise and unprofitable, and as was suggested and brought out by the remarks of the gentleman from Juab, in the question propounded by the gentleman from Salt Lake to him, this whole question

at any rate would have to go before the courts and depend upon the decision of the courts as to what public purposes might be. And for that reason I am unwilling to disturb the candid decision of this Convention upon this proposition.

And now to spring an ill-prepared and doubtless ill-considered and hurriedly prepared substitute, to work into this Convention what was once ejected from it, is not the part of wisdom, and I think that in all these respects we can safely trust the Legislature, and we can safely trust the courts, and the miners can do that just as well as the agriculturists and the manufacturers can do it. Now, sir, for the reason that we have fully discussed in this Convention and settled these propositions, I am opposed to the section and also to the substitute.

Mr. JAMES. Mr. Chairman, I wish to call the attention of the gentleman from Davis County to the fact that it is necessary in order to secure rights of way over these mining properties that they should be declared rights of way for public purposes by this Convention, otherwise the courts would have no power, as I understand it, to declare rights of way over these private properties for private uses. We are attempting, as I understand it, in this section to determine what is a public use, and as I understand it, it is within the scope of this Convention to make a declaration of that kind.

Mr. ROBERTS. Does the gentleman not remember that substitutes were offered for section 23, attempting to declare what public uses were, in the discussion that we had on that question?

Mr. JAMES. Yes, sir; I do. You are right.

Mr. ROBERTS. Then, I ask you if you do not also remember that those substitutes were rejected on this settlement by this Convention?

Mr. JAMES. That is correct.

Mr. ROBERTS. Is not this reviving a question that was once settled by the Convention?

Mr. JAMES. That is also correct. I take for granted that if this Convention in dealing with some question should have enacted or passed some provision that they would afterwards discover that would be beneficial to the public to correct, that it would be a proper thing for them to endeavor to do so. Now, the gentleman from Beaver (Mr. Murdock), called your attention to mining as a public benefit. Now, I take it for granted that no gentleman on this floor will question the gentleman's position regarding mining being a public benefit. Now if there should be any question in any gentleman's mind regarding this statement of the gentleman, let him look to Europe. There, after hundreds of years of experience in mining, we find to-day the government of——

Mr. BUTTON. Mr. Chairman, I arise to a point of order. This Convention has decided this question in Convention, and is not it out of order to be discussing it in this committee?

The CHAIRMAN. The chair is of opinion that that matter would be properly decided in the Convention. I should not care to rule upon it as chairman of the committee of the whole. When this committee makes its reports the Convention can decide it.

Mr. JAMES. Then I will proceed Russia to-day is taxing all classes of industry for the purpose of working their precious metal mines to a certain extent. Now, if it was not a public benefit, would that great nation, Russia, be found taxing the public in order to work those mines? And is not it so, gentlemen, that Europe has for generations discriminated in the interests of the mining industry, that is, they have made the burden of taxation light upon the industry? Now, I simply mention this to you, gentlemen, as I vote that mining is a public benefit, and that is the reason why the gentleman, I sup-

pose, from Summit County has come in here and asked you to declare rights of ways over these properties public uses. Now, Mr. Chairman, so far as I am personally concerned, I have not one particle of personal interest in this thing being done. As you all well know, I am an old miner of long standing in this Territory. My titles are perfect. I am not seeking rights of way anywhere, but, gentlemen, there are poor men in this county to-day that own mining property that, if I do not see fit to give them rights of way over property that I own patents to, in this county, their properties are not worth one cent to them, and they have spent years in trying to develop them and make them of some value to themselves. Now, for the reason that it cannot injure anybody and it is a public benefit, that it is no concern to the agricultural industry, excepting to their benefit, I do not see why this question should have come up here unless there is something improper or illegal in our proceedings. I concede if there is, that we should not do it, but otherwise, there should be no question about this. I say to you, gentlemen, that are engaged in agricultural industries, this very proposition is to your particular benefit. Why? As the gentleman from St. George has told you and as you all know, because you have lived in these mountains and you are familiar with how mines are located, how they are situated, and where they are found, and know that it is frequently a narrow passage, we cannot get into the mountains where mines are without these passes, and a man, as he has a right to do under the law, has got that and located that piece of property, shutting off the right of way to that narrow passage; now, suppose, gentlemen, you vote here so that you put yourselves in a shape that you cannot get over that piece of ground, and what is the result? Why, you farmers must go up into the mountains to get that timber. You must go up there and seek——

Mr. RYAN. Mr. Chairman, I would like to ask the gentleman a question. In your mining experience, how many cases have you met such as you speak of, desiring the right of way over another man's property—how many cases have you met that you were not able to settle amicably with the claim owners?

Mr. JAMES. Well, personally, not any; but I know of several that have caused serious trouble. Now, I want to say to you, gentlemen, supposing you want to pass over this piece of ground or to get out of those mountains to take rocks or drive your cattle up in there to herd them, in the summer season, just as is done in all of these mountain ranges, just as you have the privilege to do. Providence put the timber up there for your benefit, and it should be utilized. Now, supposing I should come, and in my contrary, stubborn and selfish disposition, shut you out of there and say you shall not go up there, am I doing anybody any good? Now, I cannot understand, unless it is for the reason I speak of, why there should be any question of adopting this section with this mining article. You will all observe in the bill of rights, passing over this ground or taking possession, that cannot be done without compensating the holder of this property for what it may be worth, and what more should he ask?

Mr. BOWDLE. I want simply to reply to what Mr. Hart has said in one regard. He has challenged the correctness of my position, and claims that it is not backed up by the decisions of these western states. He has asserted that that is not the case, but he fails to bring the decisions to contradict them. Now, the gentleman misunderstands one thing. I made no assertion with reference to mills. It has been held in a great many states that milling was a

public benefit. Everybody has to go to mill unless somebody comes for them, and it was held that that was a public benefit, and all of those cases that were referred to in the Eastern states, save and except possibly one, was on that ground. I admit that, and the court here would hold that milling in that term commonly used—that a grist mill, saw mill and the like would be a public benefit, and that you could have a road to these mills. I believe in some of the states it is held that in laying out a road you can make a terminus at a grist mill, because that is a public benefit. You can make a terminus at a public graveyard or cemetery, because that is a public benefit. Everybody has to die and be buried.

Mr. KEARNS. Do you hold that mining is not a public benefit?

Mr. BOWDLE. Mining is no more a public benefit than is agriculture—no more.

Mr. KEARNS. Do you hold that both are?

Mr. BOWDLE. I hold that they are both a public benefit in this, they furnish the means of subsistence to the people. One man raises the crop from the ground and the other digs the mineral out, and simply because a mine which employed a hundred men—it is no more a public benefit than a ranch that will employ a hundred men.

Mr. JAMES. How is it that foreign governments tax the people for the precious metal mines, if it is not a public benefit?

Mr. BOWDLE. I do not know. The test of public benefit is the amount of good it does to the public, and it does not make any difference whether it be a mine or whether it be a farm, if the farm is equally productive and turns out as many dollars and benefits as many people, it is as much a public benefit as is the mine. But I do not want to be understood in this that I am antagonizing the mines, not a particle. I wish for the mines of Utah the greatest prosperity. But I do claim that when this section, if we pass it in favor of one industry, and by passing it we discriminate against another that is equally as great in this Territory, you cannot get away from the proposition that if that section passes you thereby say to the courts, "we have passed on the question of what is a public use. Agriculture and manufacturing is not a public use and you cannot benefit them by any decisions you may make."

Now, one other thing, I do not believe that it is the province of this Constitutional Convention to make a thing by declaration a public use that is not a public use.

Behind this Constitutional Convention there is a power that is greater than it. The Constitution of the United States has guaranteed unto men their property, and this Constitutional Convention cannot say to them, "We take that and declare it to be a public use." You cannot do it, and I do not believe that it means anything, that if we stand up here and declare a thing that is strictly a private enterprise or a public use, the public benefit, that that makes it so, and I am opposed to that on that ground. I am just as anxious that this Territory should improve and grow as any man dare to be in this Constitutional Convention, and every industry should prosper, but I am not willing to put that section or to put the substitute in this Constitution, because when we do, you say to one man, "You have the power to go and take another man's property," and one man stands in the eyes of the law just as good as the other, and the first is guaranteed that right and you say you will take it away from him.

Mr. HART. Just a moment in reply to a remark of Mr. Bowdle. He referred to the fact that I quoted no authority to substantiate the position I take. I will refer him to the same authority that my friend from Summit has over there on eminent domain, as

bearing out the position that I take. If I had the opportunity of reading the words, I would read them, and I am satisfied that it bears out the position I take. It is true, as he says, those cases named from the eastern states are in reference to milling purposes, but the same reason can be applied to agriculture, milling, and mining here in the west. There is no reason why a grist mill is any more a public use than a theater, and upon the same reason you could condemn a man's city lot for the purpose of erecting a theater, a public building to which all the public could go. It is just as much a public purpose as a mill is; it is not upon that ground that they sustain that line of industry in the west—the necessity of it.

Mr. EVANS (Weber). Mr. Chairman, I am in favor of the section that is sought to be stricken out. I believe that it is necessary for the development of our mining industries. I do not share in the belief that it is unconstitutional. The section simply declares that the necessary use of lands for right of way, for tunnels, flumes, etc., are hereby declared to be a public use. Now, when gentlemen argue that these lands can be taken and appropriated for anything different from what the section expressly provides, the intimation in the argument is not well founded. It is only where the use is a necessary one for these necessary purposes. That is, for the purpose of developing the mining industry. Take, gentlemen, for instance, cases where men first located upon mining grounds. They secure all the grounds around them, and if somebody happens to get a subsequent location in a situation that is surrounded by the prior location, he would not be permitted to develop his ground, although it might be rich in mineral.

Mr. SQUIRES. Did you hear the substitute offered for the section?

Mr. EVANS (Weber). I did not, and would like to hear it read.

The substitute offered by Mr. Howard was read.

Mr. EVANS (Weber). I confess I am not opposed to the substitute. I take the same position that I took the other day upon this question, that courts will determine the question as to whether these purposes are necessary; they must be essentially necessary before the courts would deprive the owner of his land, and even then the title to the land is not taken, but simply the use for the purposes mentioned. It has been suggested here that there is no difference perhaps in agricultural pursuits and that kind of mining. I think in this respect there is a difference and I will state the reason for it. In agricultural pursuits the county courts and public authorities fix rights of way and ways by which people may travel and secure access to other lands, whereas in the mining camps up high in the mountains the public exercises no such control. The Ruler of all has placed in His wisdom the minerals in our mountains for the purpose of developing them and taking them out for the use of man. Why should man be permitted to so locate or be fortunate enough to secure lands in the situation that it will prevent the design of developing these minerals and developing the country and securing that additional wealth to our new State?

Mr. CANNON. I would like to ask Mr. Evans, in the case you refer to, if the prospector were to locate a mine which was surrounded by the mines of other men, possibly patented ground, would not the court permit that prospector, on proper application, if the owners would not, to get access to his ground?

Mr. EVANS (Weber). There would be, I think, in a court of equity a way of necessity by which the court would permit such a use, but there are other uses that are just as necessary as a right of way over which persons may travel. It is just as necessary that there should

be tunnels, and equally necessary that there should be flumes, pipes, ditches, tramways and the like. I can see no injury to any man owning mining property to permit these uses to be declared public uses. He cannot be so deprived of his property that he himself will be injured. It simply permits another person, under necessary and proper circumstances, regulated by the acts of the Legislature, to use that property for these essential purposes, to develop the mining industries of the new State. Why, gentlemen, we talk about these mining industries. They are something, in my opinion, that are paramount to all other industries in Utah. They are only temporary, however, in their character. While they are being worked, let them be worked to to the fullest extent, let them be developed; do not make a Constitution here which would stay the hand of enterprises, or stay the hand that desires to delve into the earth to extract from it these precious metals, which are essentially necessary as a medium of exchange. There can be no permanent injury to any man owning mines, whether he be the prior locator or not.

Mr. HART. Do you think this Convention can authorize the taking of private property for private purposes, by a simple declaration to that effect? Would not the courts have to pass upon it anyway?

Mr. EVANS (Weber). This is not a declaration that private property may be taken for private use. The whole thing is left to the Legislature, under certain regulations and restrictions, and doubtless the Legislature will deal wisely with it, doubtless the Legislature will say the manner in which this property may be taken. Of course it could not be done without just compensation, that is clear.

Mr. JAMES. Cannot this Convention declare what shall be a public use?

Mr. EVANS (Weber). Undoubtedly it can.

Mr. JAMES. Is not that just what we are trying to do?

Mr. EVANS (Weber). That is all, as I understand it, that we are trying to do. We might make such a Constitution here that private property could be taken for private use, and then declare those private uses public, and it may be possible that our supreme court will hold that it was not a public use, but there is a division of opinion in the courts of the land upon this particular question. Our courts, I have no doubt, would decide that mining was a public use, that it was essentially necessary that these things should be permitted in order to develop the interests of mining.

Mr. BOWDLE. You have almost answered the question I was going to ask you. Simply declaring anything to be a public use, would that make it so?

Mr. EVANS (Weber). It would not. I will say that in the abstract, it would not, but many of the courts have held that mining is a public use. Gentlemen, it seems to me that it is a public use. The minerals that are deposited in the earth originally belonged to the crown. In the United States government, they belonged to the people until segregated from the domain of the United States and title given by the government. A person who locates upon public land does it by the grant of the government. He receives benefits from the government. Why should he be permitted, upon public ground granted by the government of the United States, to be put in the position, as I stated the other day, of the dog in the manger, and develop his own grounds and exclude other people who honestly desire to develop their grounds, in cases and circumstances where the person first owning the land is not injured in the least?

Mr. SMITH. Would it be taking property for a public use by my having a mine adjacent to yours, and being unable to get over to mine, to take your property in order that I might

reach my mine? Would that be a public use or a private use?

Mr. EVANS (Weber). I think, sir, under circumstances of that kind that incidentally the benefit would be to the public. It would add to its wealth. It would add to the taxable valuation of the State. It would be in its very nature public, just as much public as a flour mill or any other industry of that kind. I am firmly convinced, gentlemen, that this section would do no harm, but that it would result in very much benefit, and I hope the Convention will adopt it.

Mr. HART. Mr. Chairman, if the gentleman from Weber favored section 8, or the substitute therefor, I would ask him why he did not favor the substitute of the gentleman from Weber (Mr. Kimball), some days ago?

Mr. EVANS (Weber). I did favor it, and the records of this Convention show that I made a speech in favor of it. I am still in favor of the substitute, but I do not believe that the temper of the Convention is such that it can be secured. For that reason I hope to secure the next best thing.

Mr. SMITH. Mr. Chairman, it seems to me this is a very strange course we are pursuing. We spent two or three days on this identical proposition. I myself got somewhat startled at the proposition to cut it out of the original bill of rights, and afterwards we reconsidered the matter and did take virtually this item just as it appears here, with a little changing in the wording. Struck it out after having debated the matter for, I do not know, but some two days. To my mind this is simply rethreshing of old straw, and I am just as much convinced now as I was then. I was willing to vote that this section should go out and that it should go out now. I believe it is a dangerous course and should not be in here. The courts should have this matter under consideration.

Mr. KEARNS. Mr. Chairman, that section that was stricken out of the bill of rights, was it declared a public use and under the control of the State?

Mr. SMITH. It had not those words in it, but it amounted to the same thing virtually.

Mr. KEARNS. The section you are talking about?

Mr. SMITH. I think you are tampering with fire in this thing. We had better leave it alone. Some things we may mention and others not. By mentioning some things it will put the other matter in an unfortunate shape.

Mr. EVANS (Weber). I understood, Mr. Varian to champion the striking out of the section of the bill of rights, but he made no serious objection to declaring certain things a public use. That is exactly what we are doing in this section, and nothing else.

Mr. SMITH. My memory in regard to this matter is that so far as he was concerned, he was opposed to the whole proposition in the form in which it was presented.

Mr. EVANS (Weber). I understood him to say that in Nevada the courts have declared it to be a public use.

Mr. HAMMOND. Mr. Chairman, I am surprised at this matter being presented to us again, for we have gone over the matter fully and spent a long time in a prior debate. I am opposed to the section and opposed to the substitute. And while my friends, the lawyers here, express my thoughts, I prefer to get off some of my jag in my way, and I am satisfied that if this thing is left alone it will work all right through the Legislature and our courts. Now, sir, within the past year—you will pardon me for speaking about San Juan. I do not know how to talk without San Juan is in it—during the past year those mines have sprung into existence, and what has it done for us? Why, it has afforded a market for our butter, our cheese, our honey, our fruit, our beef, our mutton, and we are getting blessed through it—through this interchange or interde-

pendent interests, one upon another. I do not see how we can live without it. Leave it alone, sir, to the Legislature and the courts, and we will be satisfied.

Mr. THURMAN. Mr. Chairman, I shall not occupy the attention of the committee very long, but I trust this matter will remain as it was in the bill of rights. The fact of the business is, this is a question that belongs to the courts. The courts have always had control of it, and in every instance they have worked for the interest of the people. I challenge any attorney on this floor to cite one case in the books where a court ever strained a point against declaring anything a public use that was for the benefit of the public. The fact of the business is, the trend has been in the opposite direction. They have been declaring things that are strictly private use, a public use.

Mr. PIERCE. I pick up the gauntlet which he throws down.

The CHAIRMAN. The gentleman is out of order.

Mr. THURMAN. You can answer when I get through. I say that is the trend of judicial decisions, and the books lay it down that it is essentially a judicial question, and I maintain that this Constitutional Convention has no right to attempt to say that the property of a man shall be taken for private use, and if we are not here attempting to do that, what are we attempting to do? That is the question. If we undertake to say that mining is a public use, then the courts will declare that the right may be exercised. If it is a public use the courts will so declare it, every time. If it is a private use that we are trying to allow property to be taken for, I say we have no right to do it and it will have no effect. It has been determined time and time and again that where the legislatures of the states have declared a thing to be a public use, it is not a final determination of the question. The judiciary still have the right to say that it is or is not, and I say that the same principle will apply, if we in this Convention undertake to say that a certain thing is a public use. After all, the judiciary will have to finally settle the question. I think we ought to leave it as it is.

Mr. PIERCE. Mr. Chairman, I think this section ought to be retained for the reason that I conceive that the section if retained will very materially aid in the development of the mining resources of our Territory, and the mining resources is one of the principal resources of the Territory. If I recollect correctly the law upon this proposition, it is this, in the state of Nevada, some time in perhaps 1872, the eminent domain law contained a clause similar to the one that we have passed in our bill of rights. Subsequently the legislature passed a law declaring that the right of eminent domain existed in favor of mines and mining property, as a public use. That came up for construction by the supreme court of the state of Nevada, and they held that the law was constitutional under the general clause such as we have in our bill of rights. Of course, if, our courts took that construction, there would be no danger, and the right of eminent domain would exist in favor of mines and mining claims. But, sir, upon the other hand, against the decision of Nevada the weight of authority is in direct opposition to it. The question has come up in the state of California, I cannot now recall the case, in the state of Georgia, and in the state of Pennsylvania, and they have held that under such a section as we have in the eminent domain act or in the bill of rights, that the courts could not construe that mines and mining property were public uses and at the same time enjoyed the benefits of the eminent domain act, and, to place this question absolutely beyond controversy, I think it is the duty of this Convention to declare in favor of mines and leave the section in as it is reported by the committee.

Mr. KEARNS. Mr. Chairman, I will also support the substitute that is offered here. It is strange, but I have to differ with the able gentleman from Utah on the way he has laid down the law and as to the necessity and how the courts could find for the people of this country. It is strange that in 1894, in the revised constitution of New York, that that able body found it necessary to say that general laws may be passed permitting the owners or occupants of agricultural land to construct and maintain for the drainage thereof necessary drains, ditches, flumes and dykes, upon the lands under proper restrictions, etc. Now, if they found it necessary there, it is strange that the proposition should be made here that this section will not do our Constitution any good.

Mr. THURMAN. Has that been construed by the courts?

Mr. KEARNS. That, I suppose, if two parties differ on it, would necessarily have to be, but if it was an understood fact between the people themselves, it would save construction by the courts.

Mr. THURMAN. I understood you to say you differed from me in respect to what I said about the law. I said the courts would construe what is a public use and what the Legislature would do would not be final, or what this Convention could do would not be final.

Mr. KEARNS. I understood the gentleman wanted to strike out this and leave it to the courts to do this.

Mr. THURMAN. That is right under the bill of rights.

Mr. KEARNS. I am opposed to it. Also, in Colorado—coming nearer home—they find it necessary there and put it in a good deal stronger than we do. There I believe the committee on mining and irrigation is one and the same thing. They provide that all persons shall have the right of way across public and private and corporate lands for the construction of ditches, channels, flumes, and for the purpose of conveying water for the domestic, for the irrigation of agricultural lands, and for the mining and manufacturing purposes, and for the drainage, upon payment of just compensation. Now, gentlemen, I do not think there is any danger in leaving this to our future Legislatures and I hope that the amendment will prevail.

The question being taken on the substitute offered by Mr. Howard, the committee divided and by a vote of 40 ayes to 43 noes, the substitute was rejected.

The question being taken on the motion to strike out the section, the committee divided and by a vote of 50 ayes to 32 noes the motion was agreed to.

Mr. EVANS (Weber). Mr. Chairman, I desire to now move to strike out sections 1 and 2 of this article.

The motion was agreed to.

The committee then proceeded to the consideration of the article entitled prohibition.

The article as reported by the minority of the committee was read.

(See journal, pages 204 and 205.)

Mr. RICKS. Mr. Chairman, I move that when this committee arise, it report the adoption of the majority report.

Mr. ROBERTS. Mr. Chairman, I move as an amendment to the motion of the gentleman from Sevier, that the committee adopt the majority report and so report to the Convention when they arise.

The CHAIRMAN. I understand that is the motion of Mr. Ricks. You second the motion.

Mr. IVINS. Mr. Chairman, I am opposed to the motion, and as an amendment I move that the recommendation of the minority be adopted. The disposition of at least some members of this committee seems to be to dispose of this question without any discussion whatever. It does not seem to me that that is the proper thing to do. It is a

fact which we must all recognize, that a very large number of people in this Territory have petitioned asking us that this question of prohibition be submitted to the people as a separate article, to be inserted in the Constitution.

Now, Mr. Chairman, I wish briefly to define my position upon this question. I am and have been a prohibitionist. I do not want to be misunderstood in regard to the position that I take. I have contended against the saloon element and existing laws which make the sale of intoxicating liquors respectable and legal, for years and years, and I do not wish now upon the floor of this committee to allow a question of this character to pass by without at least entering my protest against it. My conclusions in regard to this question have been largely the result of personal experience. I shall not attempt to discuss it at length, but, Mr. Chairman, as I have remarked from my own personal experience and observation, I have become opposed to the licensing of saloons for the disposition of intoxicating liquors. In the early part of my life, for the lack of better material, I was used as a prosecuting attorney in one of the counties in this Territory. During my experience I came in contact with many criminals. I was required to prosecute men for a great variety of offenses, and I want to say here that from my observation more than three-fourths of all the criminal cases that I ever had to deal with were the direct results of the use of intoxicating drink. I have prosecuted men for murder, for arson, for incest, for larceny, and almost without exception, when those men were brought before the bar of justice, it became apparent from the testimony adduced that their misdeeds had been the result of the use of intoxicating liquors. I have it from the statement of an old attorney, one who has had years of practice at the bar, that out of four thousand criminal cases that have come under his direct observation, in many of which he appeared as counsel, three thousand were directly traceable to the effect of strong drink, and many of those were indirectly traceable to the same cause.

I tell you, gentlemen, that I believe that fully half the expense of our court proceedings in this new State may be abolished if you will first abolish the liquor traffic. So, from a point of economy, I am in favor of this provision, and I stand here and advocate it today, and if it shall go before the people I shall advocate it there, and I shall advocate it in the hope that it may be incorporated into this Constitution and become a part of the fundamental law. I have no faith that good results will come from local option. I have no faith that high license can abolish this system; but you make it a part of the constitutional law, let it be removed from politics, and I believe I know the people of Utah well enough to say that if they once make up their minds that the liquor traffic shall be abolished, it will be abolished. Why, gentlemen, every man who reads the papers knows that this thing is sapping the very foundation, undermining the corner stone of this government.

I remember reading of a young man who, in a paroxysm of drunken rage, struck down and killed his own father. And when he was arraigned for murder, it was brought out in evidence that the liquor which he had procured had robbed him of his reason and prompted the murderous blow, and that it had been obtained from a saloon hard by, the keeper of which had been licensed to dispose of that liquor by the very court before which he was being tried for murder. I remember the case of a young man who struck down and killed his bosom friend, and when the saloon-keeper in whose resort the deed had been done was placed on the witness stand, he testified that his license to dispose of that drink had been granted by

the very court before which he was then being used as a witness. I remember a little child being struck down by a blow from the hands of a drunken mother, of a wife whose head was cleft in twain by an ax in the hands of a drunken husband, of one who struck down in drunken rage and killed his only brother, and these criminals, when they when dragged before the bar of justice, crying in the remorse of souls for pity, were living witnesses that they were not murderers at heart. No. The element that was responsible for those bloody deeds was a dollar's worth of the meanest whisky on earth, that a Christian had licensed a respectable citizen to place to their lips. In my own short experience, I have sat by the grave of a drunkard and looked back to a time when he was at the head of a happy household, sheltered by a roof, where plenty abounded, peace prevailed, and the happy prattle of children made the homecoming of the evening the most pleasant anticipation of the day; but this demon, this tempter, came into that household and I thought as I looked down into his narrow resting place what legacy he had bequeathed to his heartbroken wife and tattered children, his will could be written in a few short sentences: "To my heartbroken, poverty stricken wife, I bequeath the recollection of broken vows, blasted hopes, and a life of penury and woe. To my little children, I will and bequeath lives of degradation, shame, and sin, and to the rest of my kindred I bequeath the recollections of a misspent life and the monument of a drunkard's grave." How many thousands of such wills, gentlemen, are filed before the courts of heaven every year for probate, God only knows, but we know that they are many, and I say that when a time shall come that all men receive the reward of their merits, we, who are the framers of the law, will not be found guiltless if we shall give our sanction to the enactment of laws which make the saloon respectable and which is surely and relentlessly making criminals of otherwise good and honest men during every year that this earth turns around on its axis. I have no quarrel with men who are engaged in the liquor traffic. Under existing laws their business is made respectable, and I would not in any way interfere with them. It is a source of regret to me that I am obliged to stand here to-day and take the position which I know brings me in opposition to the ideas and the views of many good men whose judgment is equally good and perhaps better than mine, but, gentlemen, I cannot be misunderstood upon this question. I am a captive to my conscience, and my conscience prompts me to contend here in favor of the incorporation into the Constitution of the new State of this article, because I believe that the safety of our sons depends upon it.

I shall not discuss the question of the infringement of personal rights. No one here will protest against laws which look to the extermination of the opium joint. There are no such great interests involved as this committee says in its report. It applies more particularly to the Chinaman, but when you come to apply it to the free born American, then you are attacking his personal prerogatives. I want to say that I am ready to take chances and have this incorporated in our Constitution, notwithstanding the great property interests that may be at stake. What are property interests in comparison with human life? There is no other argument. I have talked with saloon men and I have never met one in my life that attempted to justify his traffic, except from a position of gain, "Gold, give us gold, no matter what the cost." For it, men murder, rob, steal, women sell their virtue, and men place in the trembling hands of their fellows the maddening drink, when they know from their step and from their trembling hand that every drink they take is

bringing them nearer to death, and not only ruining the body, but placing their souls in jeopardy. Gentlemen, I shall vote for this minority report. I shall contend for it. If your wisdom shall say that it is not right, proper, and expedient that it should be incorporated in the Constitution, all well and good. I have not much faith that it will be. I did have some little faith, some little anticipation, some hope previous to the junketing trip we took to Logan the other day, but that spoiled it all.

Mr. ROBERTS. I would ask the gentleman if he knows how many signers to these petitions asking for the submission of this article have been filed in this house?

Mr. IVINS. I understand that these petitions have been signed by a very small minority of all the people of Utah, but I stand here to-day advocating that that minority should be heard [laughter], and I hope the gentleman will not stand in opposition to me upon this question.

Mr. ROBERTS. I wish to ask another question, and that is, if the reputation that this Convention has established in regard to dealing with the petitions of the people that chance to be in the minority, leads the gentleman to expect that the Convention will pay any more respect to this minority petition than it did to a certain other minority petition which the gentleman voted not to accord? [Laughte:

Mr. IVINS. Mr. Chairman, I voted not to accord what the other minority asked, because I thought that they asked for the wrong thing. I vote to accord what the present minority ask, because I think that they come for the right thing.

Mr. CHIDESTER. Mr. Ivins, you stated you prosecuted a great number of criminals, and it transpired that the leading up to the crime was brought about by the liquor. I want to ask you if that was sold from saloons or from private individuals?

Mr. IVINS. It was from saloons in mining camps. I do not refer, gentlemen, to little cases of misdemeanors. I refer to cases of very grave importance that came under my observation at Silver Reef and other mining camps while I was prosecuting attorney.

Mr. EVANS (Weber). I would like to ask the gentleman if the wine that is produced in Dixie has the effect upon individuals that he has described?

Mr. IVINS. I want to say that while I come from a country where a great deal of wine is produced, I do not drink much of it. I believe that the gentleman himself is better capable of answering that question than I am. [Laughter.]

Mr. MAESER. Mr. Chairman, although a signer of the majority report, I have come to this Convention with a full conviction within my heart to cast all my influence and all my efforts for the cause of prohibition in whatever form or shape this Convention might deem proper to advocate and promulgate that cause. I endorse every word that the gentleman from Washington (Mr. Ivins), has been saying. It corresponds with my own experience and my principles. There is not a man on the floor of this Convention that has worked so long and faithfully in the cause of prohibition, I dare say, as I have done in my capacity as a teacher of the people. I have suffered personal insults times over and over again from the saloon element from trying to keep young men that have been under my charge from those influences that are so destructive, and that have been so vividly painted before us by Mr. Ivins. I say I come here with the full determination to cast my influence and all my efforts for the cause of prohibition, but this has been my first experience in legislative labors. I have never gone and entered into politics. My life has been spent in the school room exclusively, and all the labors connected therewith. My views, I must acknowledge, have

been broadened somewhat. I find myself in a new field that has been to a very great extent foreign to me before, and with this, in regard to methods of dealing with matters and things, have had to undergo a change somewhat. I am just as much for prohibition as ever I was. My whole heart is fully devoted to this. I have seen the evils of the saloon element among our youth. Hundreds of cases I have had to deal with; labored hard and faithfully to rescue young men from the downward course on which the saloon element was driving them. This I have done over and over again, and perhaps more sacred work I have had to do in this respect than I wish to dwell upon on the floor of this house just now, but when I found that I had an oath given to help frame a Constitution, before all things a Constitution that would be acceptable to the people of this Territory, in order to secure statehood for Utah, this was my oath. I was not to come here only for the sake of prohibition, nor for any other special purpose, or scheme, but this was the main principle to which I was devoted by my oath here on the floor of this Convention, and I found by my close observations—you know all I have not been much of a talker on the floor of this house, but I have done a considerable amount of thinking. I found there was a great opposition to the movement of putting it into the Constitution, and not only directly in the Constitution, from this Convention, but also by separate voting of the people.

We cannot afford—I must acknowledge my fear, my want of faith, perhaps, my apprehension, I must acknowledge that I am perhaps too weak, too cowardly, that I have not strength enough to face the music and see it through. All this I may acknowledge, but it is my devotion for the Constitution that we want to secure and for its safe carrying through and the vote of the people that causes me to subscribe to that majority report. When the Convention accepts this majority report and it is left for the Legislature, as the majority report states that it should be done, for the reasons assigned there which I do not desire to enter upon, at any great length—when that is all done the people of this Territory will find how energetically I shall vote for the cause of prohibition to carry it through to a successful issue, that the next Legislature may pass a law of prohibition, being mindful of the invested rights, which we have no time to do here, and I do my utmost that men be sent to that Legislatnre that will pass a prohibitionary law, and then we can see it for two years to what extent it will work; and this is the position which I thought I owe, to my fellow citizens, that have been approaching me and reproaching me for taking the stand which I have done. A prominent clergyman of this city gave me a most severe lecture. I thanked the gentleman for the candid expression of his feelings in regard to it, but it has not changed the stand which I have taken now, and I hope the Convention will endorse and accept the majority report.

Mr. MURDOCK (Beaver). Mr. Chairman, I regard this as I do many other questions that come before this body of men, that this is the most important question—one of the most grave questions; I do not think there is any that is more important than the one that is now before us. Mr. Chairman and gentlemen of the committee, here is a body of men that is chosen from all parts of the country. They are supposed to voice the mind of the people from the districts from which they come. And this is a question that is in the minds of all the people. I realize this fact, that it takes a man of stamina to meet this question, and I am proud that I seconded my esteemed friend from Washington County—that I seconded his motion to accept the minority report. I know that this is a very im-

portant question in many respects, and that I have got no feelings against men who are in the business. I presume they have chosen that business because to them it perhaps is the most paying business that they could enter into with all the surroundings. I do not wish to say anything about the matter, but here is an evil, gentlemen, as I regard it, as an evil, and I think the great majority of the people of this Territory regard this as being an evil.

Let it be ever so paying to individuals in the business. I know it touches the interest of a great per cent. of the people. I realize this fact and there are many great investments that have been made, many outlays that have been gone into for the purpose of the business. There are other businesses possibly even worse and more disreputable than this, that men make money out of, but the fact is this: let them be tolerated. We propose to start out in this as nearly perfect as we can in all our fundamental principles. That is what we are aiming at. That is what we are struggling for, although many minds differ upon the principles that are set forth, but is there anything that is more important and of greater interest to the commonwealth and the people than this principle of traffic in intoxicants? Is there anything that is more—while it may pay a great revenue and results in advancing their interests, we want to look at the interests of the general whole—of all the people. Now, I endorse the minority report for this reason, the responsibility to-day is upon this body of men. A responsibility rests upon us, and now do we want to shift that responsibility and place it upon the people? I do, most emphatically. I want to shift it from off my shoulders and place it upon the people. For that reason, I thoroughly subscribe to the minority report. What does it say? It does not ask anything unreasonable, and I am pleased to be associated with the men that had the stamina to move that we reject the majority report and accept the minority report. For this reason it was got rid of, or it seemingly was. There might have been much said. You will excuse me, gentlemen, it was seemingly got rid of very easily, I must say, for the majority of the committee shifted it off very easily. I know it takes something to reverse this idea. I realize that fact. I like a bold man, and if there is an emergency, that he has the stamina to stand up and meet an emergency. This is an emergency, and we want to take hold of it like men.

While I do not like to impair the interest of any man or any set of men in business, yet here is a great evil. It is not simply the evil in just drinking an intoxicant, that is not all the evil there is in it. Of course my friend from Washington portrayed what the results of drinking these intoxicants led to. We might spend hours here in detailing this. It is the experience all over the country, but saloons are places where, to my understanding—though I am not a customer in any of them, either at home or abroad, but the great evil amongst them is the allurements. Saloons are made most fascinating, they are made most enticing, they lead the young, not only the young men, but the youth as it were—lead them in there, and if I am able to judge of what I hear, there are not many fine examples set or virtues set forth there, but they are places that are calculated for enjoyment of that class, and consequently it is continually leading our youths and our children, as fast as they get old enough— it is leading them into those places which I think are very contaminating, and I think it is very injurious to the general public. It may not be injurious, you will excuse me—to a certain per cent. of people, but it is very injurious as a whole, and for this reason I feel thoroughly to endorse the report of the minority and give the people the privilege and the opportunity of exonerating this body of men. We

do not want to bear the responsibility of saying that we have not the manhood, the stamina, to step forth and look after this matter. It is one of the most important interests. It is growing. If it is an evil, which I say it is, to a certain extent, it is an evil, and shall we leave it and not undertake to do anything to stop its progress, or shall we stand up like men and do what we can to stop such an evil that is growing in our midst? There are many evils and that is one of them. While, as I said, let me repeat, there are other avocations that perhaps are remunerative, that are of a worse and of a lower character, and let us handle these matters with wisdom and with judgment. I am not opposed to the men. Many men are in the business that are my friends, and I believe that I am their friend, in many respects, as citizens, but here is an evil, gentlemen, that we have either got to shoulder or let the people dispose of it, and that gives an opportunity for the people to take this responsibility off from our shoulders and say what they will have.

Mr. DRIVER. Mr. Chairman, after listening to my friend, Mr. Ivins, from Saint George, I thought that I would like to make a few remarks upon this subject. I have no doubt in my mind but what every word that he has spoken is true, and that his experience in the country from which he came has brought him into contact with men who have been guilty of these crimes, and these crimes have been traced to the improper use of intoxicating liquors. I am also with him on this proposition. If it was possible that by this Convention endorsing this minority report and that it would forever prohibit the sale of intoxicating drinks in these United States and make of every man, woman, and child, water drinkers, I would be in favor of it. Some have suggested that I am engaged in the sale of intoxicating liquors. I am. I never went into that business with the idea of making money. In fact, I am one of those unfortunates who in the faithful discharge of his duty in certain directions in this Territory—was suggested—I don't know how to term it, I was promoted. The reputation that I had obtained from the faithful discharge of my duty induced my friends to try and improve my condition. I was recommended from the president's office to go to William S. Godbe and ask him to give me employment. William S. Godbe at that time was a dealer in drugs and intoxicating liquors. Up to that time possibly in all my life I had never tasted liquor. I had never smoked a dozen cigars in my life, and at that time I was thirty years of age. I have listened to this gentleman narrating these awful details of crimes that have been committed through the use of intoxicating liquors. I have never seen the effects myself. Possibly I have not been associated with the class of persons that he has been brought in contact with, and I will say, Mr. Chairman, that if this is the result—the sale of intoxicating liquors, and that became universal, it would be better that we had prohibition to-day and for all time. I do not think that we should engage in any occupation that has a tendency to destroy life, and I would think that it would be proper and right for this Convention to deal with all subjects where it can be proved in the history of the world that human lives have been sacrificed in its support.

We know if we read the history of the past that religion has had a great deal to do with the sacrifices of human life, possibly has cost more wars and bloodshed than has the sale of intoxicating liquors since the first time that the still was discovered. I never hear any gentleman say we must abolish religion because of the massacres or persecution of one class of Christians by another. I have never heard anyone attempt to stop the water that

flows between Utah Lake and Salt Lake, because some people have been drowned in the river. My idea is that if we want to enforce this prohibition article, if we want to keep the people from intoxicating drinks, convert them. Convince them that it is wrong to drink it, and use it, in any form whatever, and when you have done that you don't need a prohibition article. Now, Mr. Ivins has made the remark that he knows the people of this Territory, that they are in favor of this thing, and this little minority report will accomplish it all. It will do nothing of the kind. Here is a community in these valleys that have lived here a number of years. There are men over them for whom they have the most profound respect. They would give up their lives for them. They have a book in their Doctrine and Covenants called the Word of Wisdom. If its power and influence in this Territory is not sufficient to make temperance men and prohibitionists of every man, woman and child in this Territory, I do not see how the introduction of this minority report or this article in the Constitution or out of it is going to accomplish anything of the kind. It will not do it. It will make sneaks of men. It will make honest young men to-day dishonest. I will show you one little instance, if I may be permitted. If this article is enforced, it will not stop the introduction of liquor into this Territory. There are certain kinds of business that cannot be carried on without brandy, or whisky or alcohol, alcohol, especially, in the preparation of certain medicines. Now, for instance, I will go—after this article is inserted in the Constitution and the people have voted on it that we shall have prohibition, I will go into a drug store. I will single out the Co-op., in preference to any other [laughter]. They have three or four young men in there, honest young men, sons of good families, sons of pioneers in these valleys. Their fathers have known the history of the people and have been associated with them for forty years, some of them. I go in there and I say, "Sir, give me a pint of alcohol." This good young man, a member of the mutual improvement association, and possibly teacher in the ward [laughter], will say to me, "We don't sell it." "Well," says I, "I must have it; I don't need it for a beverage; I don't drink it;" and I wish right here to say to this Convention that I do not use it either, and I do not drink whisky, but you will say to this young man, "I have a sick wife; I have sick children, I need this alcohol to burn." The young man says, "We don't sell it." Well, you start to go out of the store and the first thing you know you are called back; he says, "We don't sell it, but we sell liniment. I can let you have a pint of liniment." "Well," you say, "give me a pint of liniment." You take it home and examine it and you find it the very article that you asked for in the first place, that the young man said he did not sell. I say you make young men liars and frauds. I say that this is wrong, to drink liquor to excess, to get drunk, to encourage gambling and all this kind of things, and if I had my way, if a man got drunk and came up on the street to annoy his neighbor or any citizen, I would put a ball and chain on his leg and make him work out his fine on the public streets; but I say it is wrong for men to say that the use of wine is altogether improper, that the use of liquors is altogether improper. I know it is not. I have had people come to me—female relief society ladies [laughter]. They say, Brother Driver, "I want a pint of wine for the sick." I give it to them. They say, "Bless you, God bless you." [Laughter.] The next day possibly the husband of this lady comes in and he wants a bottle of wine and I sell it to him; he says, "You are a sinner." Now, I cannot see it. In one case if I give a bottle of wine I am a saint, in the next, if I sell it, I am a sinner. Well, now, I believe in the proper

use of all things, and when they are properly used and not abused, when they are used for the purposes for which God created them, and gave men knowledge how to produce them, it is no sin or crime, and I will say one thing, that there is no more danger of men bruising their wives' heads, or killing their children, or striking down their fathers or stealing, or doing anything of the kind through the drinking of one glass of wine than there is in going to a church and hearing one minister abusing the whole community and raising an emotion in the audience that creates mobs and finally ends in a loss of life.

Now, my doctrine is, abolish everything that you can ever read of in the history of the world that has ever been the cause of one person's death and especially those that have been the cause of the death of many thousands, and where would they be? The gentlemen say we must not take this whisky as a beverage. Why not include everything else? Why not include Jones' ale, Bass's ale, Ginnis's stout, Moritz & Keyser's beer, Hires's root beer, and everything else, and when you get through the whole of it, when you have told us what we shall not drink, be kind enough to tell us what we may drink, and then we will know where we are at. Now, I do not want to be understood in this Convention that I am speaking one word in favor of drunkenness, nor the temperate use of intoxicating liquor; but I say this one thing, that the gentlemen that have introduced this article do not know what they are doing. They are wise men, good men, benevolent men, religious men, but they do not understand the outcome of this article. They cannot prohibit it. It will be shipped into the city and all over this Territory and come back itself labeled all kinds of things, possibly vegetables, with a demijohn in the center of the box, and in all kinds of things, groceries, and everything else, and the people will have it if they need it, and my doctrine is, convert them—convert them by your example and by your precepts that they should not take it, that it is injurious to them; and I say when you have done that you will have no use to incorporate in the Constitution an article prohibiting the sale of intoxicating liquors for a beverage.

The committee, on motion, then took a recess until 2 o'clock p. m.

AFTERNOON SESSION.

Mr. EVANS (Weber). Mr. Chairman, there is no doubt but that if liquor could be successfully prohibited the journals and records of crime would be greatly reduced and mankind no doubt benefitted. I believe it is stated by some of those who have studied the question that there is more money expended for the use of liquor than there is expended for the combined uses of food and clothing. All these facts, together with the myriads of people who indulge in its manufacture and in vending the same, are appalling.

At the same time, I cannot help but agree with the gentleman from Utah (Mr. Maeser), who says that the question is a practical one, rather than a theoretical one. Gentlemen of the committee, will a prohibitory law in the Constitution reach the evil which is intended? It is very clear to my mind that it will not. You cannot legislate away the appetite of man. You cannot, by putting a prohibitory law upon the statute books, prevent the sale and use of alcoholic spirits.

Mr. CORAY. Could not prohibition prohibit in regard to Indians—did not the prohibitory law passed by the government prevent the sale of liquor to Indians?

Mr. EVANS (Weber). That law is rather more stringently enforced than others, and yet it does not prohibit. But, gentlemen, this question is not a new one. We have experimented with

it throughout the United States. Take the states of Maine, Kansas, and Iowa, and in the latter two states such laws have proved to be complete failures.

Mr. MILLER. Will you dare to assert that the prohibitory law in Kansas is a failure?

Mr. EVANS (Weber). I say in part it is.

Mr. MILLER. I deny it.

Mr. EVANS (Weber). Well, there is simply a difference of opinion between the gentleman and myself. I will come more nearly to the people at home, and give some little practical experience which we have had here. I, too, like the gentleman from Washington, have had occasion to prosecute many people who were charged with crime, and many crimes that have been committed have been directly traceable to the use of alcoholic spirits. But, gentlemen, there was a time in Utah when the city council had the power, and I believe they have it yet for that matter, to prohibit the sale of liquor within the territorial boundaries of the municipalities. At Provo I happened to have the honor of witnessing the prosecution against the violations of the liquor law. At that time there was a law on the statute books which permitted a person desiring liquor to go to a drug store and sign a certain register or take a certain oath that he was sick. At that time drug stores were the principal means of carrying on a successful business. They grew rich. The use of liquor did not diminish. The officers undertook in good faith and in honesty to enforce the prohibitory law and it proved to be a hollow mockery. We found young men, and old ones, so far as that is concerned, going into these places, committing perjury, declaring to the druggist that they were sick, and we found crime in those places reeking from cellar to garret, and yet with all the moral forces and the forces of the execution of the law by the officers, the whole matter was a complete failure. I will tell you, gentlemen, why it is a failure and why it always will be in any locality, and that is this: According to the Constitution and laws of the United States, it is an interference with inter-commerce between the states to prohibit the shipping of intoxicating liquors from one state to another, so long as the packages are not broken; while the liquor is in its original package the laws of Congress require that they may be shipped from one state into another, so that whatever law we may pass here, whatever we may put into the Constitution, we cannot exclude the importation of these liquors in the Territory or new State of Utah.

Now, can any gentleman so deceive himself as to say that if liquors can be shipped into this Territory the sale of them can be prohibited? The experiment was tried at Logan. A like failure was made there. The experiment has been tried in other localities, and the only way by which this law could be made effectual would be for the nation to enact laws to prohibit the manufacture and sale of liquor, and indeed I believe it would have to be international before the execution of the law could be properly carried into effect. I believe in leaving these things to the moral agencies of the community. They do very much good in that respect, and I commend their efforts in that regard, but I do say that a law written in the Constitution of the new State would be a complete failure. It would be a hollow mockery. We would find men vending liquor, drinking it in as great quantities as they drink it to-day, where they can go openly into a place where it is sold and satisfy their thirst.

In those localities where liquor is prohibited by law we find that the community is deprived of the revenue. Not only that, but we find that people send to distant points and receive it, and when they receive it they drink it in larger and more excessive quantities than they drink it where they can get it

at will. Another thing, now, gentlemen, with respect to this question which we have before this Convention, and it is a very serious one, and that is the danger in which our Constitution will be placed if we undertake to insert this, even as a separate clause, because if that be done, already there is some dissatisfaction with what the Convention has done. People will conceive the idea that by submitting it separately it may carry and that if it does carry it will be inserted into the Constitution as a part of it, and an organized movement will be made throughout Utah to defeat the very Constitution which we are here to frame. Besides all that, the committee has stated in this report it is nothing but experimental at least. Insert it in the Constitution and it will be difficult to have it amended. Leave the matter to be dealt with by the future Legislatures, and if it then be found to be a mistake the Legislature can repeal it, if it ever should enact it, even upon the floor of the Legislature. With the experience that I have had upon this question I should vote first, last, and all the time against prohibition, and yet I do not desire to say that I believe in the use of these liquors in the excessive form in which very many times they are used by various individuals.

Mr. MILLER. Mr. Chairman, the question of prohibition from the beginning has had a very hard chance for life in the committee of committees and in the committee on schedule, future amendments, and miscellaneous, and I am glad to see that it is in such a thriving condition to-day. It is a live babe, gentlemen. It is going to grow, and in the future it will master the situation. I believe that all the arguments that have been produced so far by the opposite side amount to nothing. They are only assertions, old straw that has been threshed over in regard to this question in every state where it has been brought up. The gentleman from Weber who has just taken his seat asks, will a prohibitory law cure the evil? I say, yes, and I wish to emphasize it that a prohibitory law with officers under oath to enforce it will cure the evil. He also made the remark that the law in Kansas was a failure. I want to inform you that even the Kansas Pacific railroad and the Sante Fe and the Rock Island recognize that law in their journey through the state, and I claim that it is not a failure in Kansas. It is true the liquor traffic is not annihilated, but it is prohibited, and there is no crime that is annihilated by any law that has been placed upon the statute books; but I say that if a prohibitory law shall be placed in the hands of men who will see to the enforcement of it, then it will not be a failure, but it will work the object for which it was intended. I infer from some of the remarks that were made this morning, especially by the gentleman from Weber (Mr. Driver), that he has been reading some of the old cast off arguments that have been hurled at Kansas. In his remarks this morning, he stated that it would only throw the business into the drug stores and there they would use the blind tiger, and he would go in and he would call for liniment or call for beef tea or call for lemon juice, or any other name that he might call for, and the clerk would hand him out beer or whisky, or intoxicating liquor of some nature. Now, I want to state to the gentlemen upon this floor that Kansas met that and she crushed it out. She laid her hand upon the tenement, the house in which the blind tiger was run. So that the law can be enforced in regard to the blind tiger, or sage tea, or catnip tea, or liniment, or whatever you may call it. All we need at the helm is a man that will guide and direct the ship of state and see that the laws are enforced. I do not believe that the gentleman from Weber who closed the remarks this morning before recess is a very close observer. If my memory serves me right, he said that he had

never seen any of the evil results from liquor that had been stated upon this floor. If my memory serves me right, I saw the gentleman one evening when he was very warm under the collar through beer.

Mr. DRIVER. No, sir, you never did.

Mr. MILLER. I heard him get up and ask a gentleman if he had ever been in the Blackhawk war.

The CHAIRMAN. We cannot permit that kind of remarks.

Mr. KIESEL. I call the gentleman to order.

Mr. DRIVER. I wish to say that is false in every particular.

The CHAIRMAN. Proceed, Mr. Miller, in order.

Mr. DRIVER. And I want the chair to understand that it is a lie.

The CHAIRMAN. I will say, Mr. Driver, that the direction of the chair must be observed.

Mr. MILLER. I did not wish to cast any reflections upon Mr. Driver. I just merely desired to call his attention to a fact that did transpire, that is all.

Mr. DRIVER. It is a dastardly lie.

The CHAIRMAN. Proceed, Mr. Miller.

Mr. MILLER. Then the gentleman says the only way to cure the evil is to convert the people—convert the drunkard. Mr. Chairman and gentlemen of this Convention, if a man is in the grasp of habit it is impossible for him to release himself without some power coming to his aid. If a man has contracted the habit and love for intoxicating liquors, it is impossible for that man through his own individual power of will power to release himself from that habit. Hence, we that advocate prohibition do it from a humane standpoint and from a desire to help our fellowmen. Mr. Chairman, I have been brought under the damnable influence of intoxicating liquors, and as the gentleman from Davis said "I am terribly in earnest in regard to the suffrage question," I am in earnest in regard to this. I say that it has entered the households of thousands upon thousands in our fair country, and families have been ruined. Though I do not wish to be understood, Mr. Chairman, as having anything against the gentlemen who are engaged in this business, I have not one thing in my heart against them. It is the business that if I had my way about it, and had the power to do so, I would wipe it out of existence, not only out of the United States, but out of the entire world.

Now, Mr. Chairman, I had almost hoped in the very beginning that the merits of this question might not be entered into here upon this floor. I had no thought myself of entering into merits of prohibition, inasmuch as I do not believe that this is the time or the place for that. Our petitioners who come before us, gentlemen, come asking that we insert this in the Constitution. They come to us asking that we give them the privilege of voting upon this to submit it to them as a separate proposition and allow them to be the judges whether or no they desire prohibition in the Constitution or not, and if the measure shall have passed (and I haven't the least hopes that it will), but if the measure shall pass through this committee of the whole and shall also pass through the Convention at its third reading, and shall go before the people of the Territory to be voted upon as a separate measure, then will be the time to enter into the merits of prohibition. Then will be the time to hold before the people the merits and demerits of the question. But as I also anticipated after the first speaker had taken his seat this morning, I discovered at once it would be impossible for me to make any remarks upon this without going into the merits of prohibition. In regard to the report from the majority, I look upon the majority report as meaningless—as a makeshift to evade this question—a kind of a makeshift to shift the responsibility from the committee onto the shoulders of this Convention;

and now seeing we have proceeded so far, I am really glad that there have come before this committee two reports, that of a majority and a minority. Now, Mr. Chairman, in regard to this being an experimental question, one would suppose from the remarks that have been made upon this floor by the opposition, that it was an experiment. They seem to know all about it, and I claim that so far as Kansas is concerned, it is not an experiment, but it is a real fact and that prohibition does prohibit. But Mr. Chairman, it did not prohibit until the people had united upon every hand to put down the evil, and until they demanded from the keepers of the law that they should protect the prohibitory law as well as all other laws upon the statute books. And I see no reason why, Mr. Chairman, prohibition may not be just as successful here in Utah as in other places. They tell us that we are peculiarly situated here, that we are set down in this intermountain region, surrounded on every side by states who have placed no restrictions upon the liquor traffic, and hence if we pass a law like this, we will become the dumping ground for the refuse of these other states. Don't believe it; don't believe it.

I do not believe that there is a lawyer upon this floor, who is in love with his profession, but what, if he was called upon to protect the prohibitory law, would throw all his being into it and would defend it from every standpoint. If he would not, then he is not in love with his profession. It is true, there may be as there were in Kansas, county attorneys elected to that position who were scallawags. They were bought up by the element that desired to have the prohibitory law become a nuisance. But, sir, those things were removed. Now, in regard to legislation, I do not believe that any legislature in any state can legislate against this and make it a success. I claim that it must become a part of the organic law of the state, in order to be made a success. Now, gentlemen, all our petitioners ask for—in the minority report they have given you their feelings and their ideas. We do not ask you, gentlemen, to commit yourselves in regard to next November. A vote to send this before the people does not commit you. Neither is it for or against prohibition. It just merely leaves it in the hands of the people to vote it up or vote it down, and I claim that the petitioners ought to be recognized, and if I mistake not the gentleman from Davis in his determined fight to bring woman's suffrage before the people as a separate article appealed to this Convention in like manner and held up the fifteen thousand petitioners that had petitioned this body to submit woman's suffrage as a separate article. I know that the petitioners who have petitioned this body asking that prohibition be submitted as a separate article do not number less than ten thousand.

There has not one petition come into this body, sir, asking that it be not recognized, and I claim that we ought to recognize the petitioners who have thus asked us to give them recognition.

Mr. ROBERTS. Will the gentleman submit to a question?

Mr. DRIVER. May I rise to a question of personal privilege?

The CHAIRMAN. You cannot rise to a question of personal privilege in committee of the whole; when we get into the Convention you can.

Mr. ROBERTS. I ask the gentleman if he does not recollect a petition that I myself introduced, signed by more than two thousand people from this city, asking that prohibition be neither put in the Constitution nor submitted as a separate article?

Mr. MILLER. I have no recollection of it, sir. It may have been presented when I was not present.

Mr. ROBERTS. It is a fact, however.

Mr. MILLER. If that be the fact, Mr. Chairman, I recall the assertion that I made.

Mr. THATCHER. Mr. Chairman and gentlemen of the committee, this is a matter that demands careful attention, as I view it, of this honorable body. Petitions have come here signed by prominent men from various parts of the Territory, and while it may appear a waste of time to discuss this subject, I do not think it can be passed by without giving it the attention it deserves. I listened with profound interest to the remarks made this forenoon by my friend from Saint George, and my emotional feelings were moved at the beautiful pictures, touching in their nature, which he drew, and I would call your attention to the fact, as stated by profound writers upon this subject, that the people of England and the United States expend enough money each year for intoxicating liquors to buy their bread and meat. They spend more money for intoxicants than would clothe them, and certainly there is no evil with which civilized people have to meet and contend greater than the drinking habit. Every building on the shores of Great Britain might be wiped out by a single calamity, every rail of her roads might be torn up and in an hour her merchant marine might be blotted from the seas and her war vessels sunk to the bottom of the ocean, and yet if her people were to be temperate and should cease to expend their hard earned earnings for this demon in disguise, they could replace them with the money saved in five years, so that the use of liquor in that country and in this has proved a greater scourge than war and famine and pestilence combined. And when we bring it down to the home, many sad pictures could be drawn that come near to our hearts here in Utah.

Twenty years ago, I remember to have seen on the quiet streets of Logan, early in the evening, the winter snow glistening in the cold moonlight, two friends struggling in a physical contest, all in good nature; one having tapped the other gently in good humor upon the cheek, angered him, because his blood was fevered with whisky. An angry speech, a few steps backward, out leaps from the scabbard the deadly pistol, and the messenger of death sped through the heart of his friend, and his heart's blood gushed upon the pure white snow. How well I remember how his slayer was tracked by night and by day for more than a week, and the angered citizens of that quiet village were wrought up in their feelings so that when the half-starved drunkard was finally caught, the patience of the people broke over all good judgment, they overrode the law, taking it into their own hands, lifted to a telegraph pole the slayer, and a leading citizen, while watching the people do a thing of which they have always been ashamed, took sick and in a few short moments dropped dead upon the streets in broad daylight. Thus three lives were lost through the use of whisky that fevered the blood, and our little town north has never forgotten that tragedy. She will never be able to wipe from her record that stain of awful triple murder. And yet, gentlemen of this Convention, how shall we meet this evil? Shall we not be consistent and reasonable in our thought and in our legislation? I think we should be. Now, permit me to give you, having in our minds this sad experience to which I have referred, our attempt at prohibition in the north. Public sentiment was wrought up through the press and from the pulpit. Ninety per cent. of the people felt just as my friend on the left has expressed himself, that that great curse should be wiped out, and they petitioned the city council to enact an ordinance that would accomplish that end. What was the result? Instead of three saloons under the eye of the guardians of the law, an attempt to prohibit the use of liquor in that town developed sixteen dives—dark cellars in which liquor was given to all classes of people surrepti-

tiously. These dives became holes of iniquity and nightly carousals were had there, notwithstanding we doubled our police force and had spotters and spies who were employed and paid a heavy salary to root up this evil. The people's sympathies went with the illicit dealers, rather than with the law or with the detectives. Thousands of dollars were expended to put down, and as my friend on the left says, crush it out, but sumptuary laws, in my opinion, will never destroy man's agency. The white armed wife and the delicate sister may lift out of the ditch the husband or the brother, but there is agency, and if men through the exercise of that agency cannot be controlled through their moral and religious convictions, I have grave doubts as to the accomplishment of that end by sumptuary laws. In eighteen months, under prohibition, the town of Logan lost all revenue, which is but a small point, for the people there would give half of all they have in the world if they could only accomplish prohibition in the use of liquor, opium and morphine, for they are kindred devils under the same form. But, sir, our experience in the north proved that in eighteen months of an attempt at prohibition, there were sixty-two arrests by the officers of the law and convictions for drunkenness and crimes growing directly out of the use of liquor. We employed lawyers to fight it down before the courts, we employed detectives to root it out of these dark places. All to no avail, until at last the people were as anxious to petition the city council for a high license and regulations as they were in the first instance to petition for prohibition. It was scattered all over that town and it acted just as a loathsome, contagious disease would do.

And, gentlemen, as I believe the attempt has been done recently in Salt Lake City—drive an evil off from Commercial Street and scatter it around this city as you scatter the small pox—it is better to keep it within control and under the eyes of the guardians of the law than in undertaking to prohibit, to allow it to grow up in every part of your cities. There was twice as much liquor drank in the town of Logan during an attempted prohibition as was drank before or immediately after. Sixty-two arrests, as I stated, occurred in eighteen months, but when they introduced high license—twelve hundred dollars a year, the utmost extent of the law, five saloons opened and in eighteen months under that system the arrests were twenty-seven instead of sixty-two, and now we have but three saloons in Logan. I would that we could get along without them, but those saloons are under the watchful care of the officers of the law. Our experience has taught us when there is a decrease in the use of liquor it is under the moral influences which ministers of the gospel, so called, exercise. This is their mission. That is the mission of Christian societies, young men's Christian associations. That is legitimately the field in which mutual improvement associations and Sunday school teachers should occupy their time and attention. Gentlemen of this honorable body, if we could secure prohibition in this fair and new State which we are now laying a foundation for, how gladly would I vote for it, but experience and observation lead me to this position, however I may be regarded by my friends, I shall vote for the rejection of this clause and leave it with the Legislature and with the cities.

One moment upon the proposition contained, even if it should be passed. Why should we prohibit the manufacture of these stimulants? The law will permit liquor to come into this new State, as I understand it, just as it came into the city of Logan when we were trying to prohibit. Why, it used to come in I believe from my friend from Ogden.

Mr. KIESEL. My trade increased during that time.

Mr. THATCHER. Yes, it came there as mineral water.

Mr. EVANS (Weber). You would like to have prohibition, Mr. Kiesel, would not you?

Mr. KIESEL. I have no objection on that account.

Mr. THATCHER. It came into the town as mineral water and to citizens who had great pride in their name it would sometimes come incased in dry-goods and crockery cases; but at all events, gentlemen, I do not believe, whatever else we do, that we should seek to attempt to curtail the business in this new State of manufacturing beer or wine or alcohol. The solution of the question of the sugar factory may devolve upon that point. If we prohibit at all, let us prohibit the use, but not the manufacture. In Utah, we will rival California in our business and the beet progress may lift up our sugar factories out of their present condition of bondage and of debt. And so, gentlemen, I say I shall vote against it. I can readily understand how people in the country can be induced to vote for prohibition. The petitioner comes along, "Won't you sign this petition and won't you vote for the insertion of this particular clause?" "Why, no, I would rather not, I do not believe in it." "What, you a Christian—you a so-called Saint, believe in drunkenness in preference to prohibition?" How few have the moral courage to refuse to sign or vote for such a proposition. I think this has nothing to do with the Constitution and I shall vote against it and leave it with the Legislature.

Mr. HAMMOND. Mr. Chairman——

The CHAIRMAN. Do you speak on any other gentleman's time?

Mr. HAMMOND. No, sir-ee, if I cannot get through on San Juan's time, I won't speak. [Laughter and applause.] If there was any subject that has come before this committee or the Convention, this is one I believe I should turn loose on, but I have come instructed on this subject and am the only one from San Juan. It is true the minority—quite a respectable minority, two of whom consist of one Christian and a Cherokee Indian by birth, owner of large mining interests there, and I believe he is a Christian—if we have any in San Juan, and he on my departure—he would have voted for me if he had the vote, but through some tinkering of the Utah Commission or something else that precinct was thrown out and he could not vote [laughter], but he insisted upon having a provision in the Constitution of this new State forever prohibiting the manufacture or the sale of intoxicating liquors. Now, I would like to represent that gentleman as correctly as I can. Now, other than that no voice have I heard from San Juan in regard to their position upon this question. To revert to a little of my experience in this matter, from 1882, I think, when the first wave came over from the east we—we New Yorkers are called Yankees when we get down in Virginia—there was a temperance wave came over there about that time and our great Christian people on Long Island, where we had no drunkards at all, except one gentleman by the name of Silly Billy, we used to call him—used to get him to grind up our old axes, that we would give him a pint of New England rum to turn the grindstone to grind up the axes. Other than that, I do not know of one soul that was called a drunkard in that town. After this righteous wave the people would not have cider. I returned there after twenty-one years and a half to my native town, making the entire circuit around the world and visiting nearly every climate, except the Antarctic, and my experience was this, where we had one old Silly Billy to turn the grindstone, we had scores and hundreds of them under the effort to prohibit men from getting drunk. That was my experience in my own native town, and it has been largely my experience in every

state, town and city that I have traveled in from that time to this, no matter where the clime. Man, if you say to him he shall not get drunk, will break his neck finding something to get drunk with. On the Sandwich Islands another righteous wave came over there in my experience, away back in 1843. They tried to prohibit the natives from using a root which makes them drunk. It don't make them so crazy as our rotgut whisky; they get good and boozy and lie down and go to sleep. I never saw them fight in my life. Well, through legislation instigated by our Christian friends, they actually prohibited everything of that kind, and my experience was the same there. Where we found one drunkard in former times, where there was no prohibition—free trade and sailors' rights, why we found scores and hundreds of them, full of leprosy, full of sores, full of everything that is mean. Now, I am opposed, as has been said by this gentleman, Mr. Miller—the cyclone gentleman [laughter], if I could wipe this out by one stroke of my pen that the stuff should be banished from earth, I would do it; but, sir, in doing that, I would have to wipe out corn, wheat, barley, potatoes, peaches, everything else that I know of that is good to eat, nearly. I would have to sweep the whole off the earth, for they will make it. They will manufacture it in crooked stills, and moonshine stills. I remember down here in Sanpete, not long ago, they found them making beer with a little crooked still or something or other. Well, so it would go. There is no prohibiting.

Mr. THOMPSON. Mr. Chairman, I am in favor of prohibition in the strictest sense of the word. I think it is the greatest evil that exists in the world—the use of intoxicating drinks and allowing it to be publicly sold. It induces people to indulge and by licensing saloons men acquire a habit that they cannot control, and if we can come to their rescue—and it is two-thirds or three-quarters of those people that do not wish to indulge to their harm, but they cannot control themselves, and I think it is the duty of the members of this Convention and will be more to their credit than anything that they can do, to vote to submit as a separate article to the people prohibition, and let the people vote on it, and then I think if the people will vote to have it put in the Constitution it will be the best thing that the people can do, and then after that is done, it is an organic law, and the officers that are elected in the State of Utah to execute the law will execute the law as thoroughly as they will do in case of murder and theft and other crimes. It will be a success and there will be greater prosperity in Utah by this course than anything that will ever come to Utah. It leads men into vice, sorrow, trouble, and woe. Why not prohibit it? And to say that the people of Utah Territory cannot prohibit the sale of liquor here for purposes that will degrade the community, is not saying right of them. They are able, they have the wisdom, they have the energy, they have the power, if they will exercise it, but the trouble is the past experience has been the failure for the reason that they have just tried it for an experiment and they have calculated, "Well, in two years, if we do not make a success of it, why, then we can change it," and they have just been expecting to change it when the two years come around, but if they started in with a determination to accomplish that purpose, they are able to do it, and we would receive the benefits of it. Now, I do not say that we shall not sell liquor in the country for useful purposes. I believe it is right to have it for sale, and I can tell you one thing, gentlemen of the committee, that if officers are on the lookout, as they are sworn to be, to execute the law and do their duty, the men that indulge in drink and that get up these private

places to gather together and indulge in drink, and men sell in a private way, they will find the marks that will lead them to those places, because men that drink do not always keep straight, and there will be such conditions that officers can ferret out these evils, and it is only saying of us what is not true to say that we cannot handle this matter, to say that the people of Utah Territory cannot handle this matter; I think it is underestimating them; they are able to do it, and to do it in a way that will be a benefit to the people of Utah at large. Where will you find a man that has been working hard and laid up quite a small amount of money, then because of these saloons that are open to the public, why he, because he cannot control himself, will go in there and then spend his money, in a day what he has been six months earning, and then it just leads men into vice, into gambling, running chances they will not otherwise indulge in; and if we can come to the rescue of such men, and hinder them by laws that are enacted and executed here, we are doing the community at large a great benefit, and I will never admit that we cannot handle this matter. As I said before, we have only just tried it as an experiment and we have been just calculating that after we tried it about so long, it will be a failure. If the officers looked after this gentleman over here, whom I have no fault to find with in the least, when his business as he claims was increasing during the time prohibition was in force in Logan, why he would have been stopped in that matter and his business would have been cut short instead of increasing.

Mr. FARR. Mr. Chairman, I do not wish to say but a very few words on this subject, and wish what I do say to be said in candor. I do not wish to create any excitement or hope there won't be, although it is quite an exciting question, I admit. I, of course, have given encouragement to the prohibitionists. They have come to me and wanted to know if I was for prohibition. I have told them invariably that I was a strong prohibitionist and am still to-day, and I am not alone in it. The great Lawgiver of the universe is a prohibitionist, and He has made some of the strongest laws of prohibition that we have on record in the great constitution—that is considered the great constitution of the Christian world, the Bible. There are ten commandments that prohibit murder, stealing, drunkenness and all manner of vice and crimes, and I tell you, gentlemen, there is a penalty in every one of them and the penalty will be inflicted and we can pass laws to prohibit and will have a right to, but I am opposed to passing any law in this Convention. I do not propose to lumber up our Constitution with anything of the kind. That should apply to the Legislature. That is where it belongs. We can pass laws and so can the Legislature, to prohibit, but will it prohibit? And the way the great Lawgiver, whom we claim has all power, the Creator of the heavens and the earth, why does not He wipe out all this business of sin, of violating the ten commandments? Why don't He wipe it out? He can do it. He is able to do it; He don't choose to. He chooses to give every one their agency and we can make a law to prohibit people making liquor and selling liquor, and so on, but I can tell you it will cost millions. But we can do a great deal towards encouraging the good work and the good Christians. I say go on and use all your influence you can to prohibit, and say I, when you come to make laws to prohibit you cannot do it, but it is right and just we should make laws—the future Legislature should make laws and they should place the highest license that it is possible for the people to endure, and through that license they will succeed a great deal in putting down that terrible sin and evil, and as I have told the prohibitionists in public

and private, the best thing and the nearest thing to prohibition is to establish and enact woman's suffrage law. That will do the most for it, for nearly every woman in the country with few exceptions—I am sorry to say it—but with few exceptions they will vote for men that will pass measures and use their influence against the selling and using of intoxicating liquors. Nearly every man on this floor that believes in and encourages liquor—still they are opposed to prohibition, because they know what they will do, so, I say now, gentlemen, and I say it to the ladies, if they will hear it, if you want to get prohibition, you sustain woman's suffrage, for I can tell you they are the individuals that will vote against the selling of intoxicants. We have had that portrayed here by gentlemen, the sufferings of women and children, and they feel it, and they know how it goes, and they will use their influence to put them down. And now, gentlemen, we want to let this proposition business pass by. I feel as though we should not spend our time on this. Let the Legislature pass as stringent laws as they can to prohibit, and it will accomplish more than we can accomplish here in this Convention. We do not want to encumber our Constitution. We do not want to send it abroad with that proviso in it. Let them go free and untrammeled. We want all the votes we can, for I am anxious to have a State and I expect to get it, and I expect there will be opposition to it and if we encumber it up with provisions of that kind we will find heavy opposition. I do not wish to take up your time. I wanted to throw out a few remarks of my feelings in regard to that matter, as I am committed to prohibition, but not to insert it in the Constitution. I cannot do it, so I leave it, gentlemen, with you.

Mr. PARTRIDGE. Mr. Chairman, I have had some experience in observing the evils of the liquor business and the benefits to be derived from prohibition. I am in favor of anything that I could be convinced would mitigate or lessen the evil of intemperance. I have felt to give considerable consideration and weight to the petitions which have been sent in here asking for the submission of that question in a separate article, and I have been somewhat undecided in my mind which way I would vote. But what I have seen here to-day and witnessed has pretty nearly decided me. I have thought that the people should have the privilege of voting and the majority to say how it should go, but when I consider the condition that we have to confront and when I have witnessed what I have here to-day on this floor, the excitement that might be raised upon this question, were it submitted to the people and become a part of the campaign, has pretty nearly decided me which way I will vote. Now, I am in favor of prohibition, or at least I want to do anything that will lessen drunkenness, and I have about concluded that high license will do that for this reason: If it is prohibited people will drink it all the same, but it will be cheaper. If there is a high license, I have reason to believe that they will drink more water, because men will not sell the whisky straight. I was speaking to one of my friends who was in the whisky business a year or two ago, and I tried to get some little information as to the amount of profits that he made on the traffic of liquor. It was in a little outside town. It was nothing of course to compare with Salt Lake City or any of these mining camps, but it was a quiet little town where farmers live, and he said that his profits or his sales were about twenty-five dollars a day, and said he, "you know that is most all profit." Well, now, I did not know that, but I was glad to hear it, because I understood from that that he was selling water instead of whisky, and I think that was the best thing that he could do for the com-

munity. I do not want by any action of mine or any vote that I may give, to increase drunkenness, neither do I want to create in the coming campaign such an exhibition in every political meeting that may be called as we have seen here to-day. Mr. Hammond called it a cyclone. Well, I am a peaceable sort of a man and it always annoys me to get into a hubbub, and I have avoided political campaigns as a rule, but I would like to see the campaign that we enter into hereafter to ratify this Constitution carried on peaceably, without any hubbub, or any noise, or confusion.

Mr. RALEIGH. Mr. Chairman and gentlemen, I do not design to go over any ground that has been gone over in this matter, but I wish to accord to everybody their rights, as near as possible. I consider it the right of every person that has the right of suffrage within this Territory, to vote yes or no on prohibition, as a separate article, when the Constitution shall be submitted to the people for ratification, and this is the principle upon which I intend to vote, not that I am a prohibitionist. I am not in any way. I believe in the broadest free will and agency of man. He can do as he pleases, good or evil, right or wrong, but he must abide the consequences. I happen to be the man that started the high license business. In the city council a good many years ago I moved to adopt that principle, and it was two weeks at that time—we only met once a week at that time, and it was two weeks before I got a second to that idea, and then it was referred to me to present a bill, and when I presented a bill, or rather when I got the opportunity of arguing that point, it was referred to me; I got up a bill and it subserved its purpose and object very well for many years. And I suppose perhaps from what I learned when I traveled afterwards, some twenty-five years ago, in the New England states, that almost every gentleman I met—it is a great temperance country there—asked the question how we controlled the liquor traffic in Utah, and I informed them how we were doing it at that time, and they all acknowledged that it was better than they succeeded themselves and they had voted prohibition—some of them at least, as state measures.

Now, I am going to vote—and I am going to do it because I want to believe that every man who is a registered voter in this Territory has the right to vote yes or no on that or any other question—any other important question, or on any question, so far as that is concerned, as directly as possible, and not through us. I do not consider that I have a right as a member of this Convention to say that he shall not have a right. It is not my privilege, that is the way I look at it. I do not know how men take these things, but I became qualified here to do my duty. I am under obligations here to do my duty to the people of this Territory, not only my constituents, but when a point of this kind comes up, or a question or a proposition, it is my duty to accord to them the right that they inherited by virtue of the form of our government. That is the idea. Men believe that the government is for the people and by the people, and so on. Why, they are the people, they are the sovereigns, and they have the right to vote yes or no. That is the reason I am going to vote for it. I do not know how can men look at this thing that are conscientious unless they look at it in that light. Now, a great many men talk about expediency. I do not care anything about your expediency when it comes to the rights of man. I am for the rights of man all the time, everywhere, and every place; that is what I go upon. Either vote it up or vote it down, but it is their privilege to vote and I shall not look at it in any other light. I cannot possibly look at it in any other light. The people have the right to vote upon it. That is the way I look at things. I have heard men say

that the priest and the mother made the conscience of men; well, I think we better, some of us—some people in this country, I think they had better——

The CHAIRMAN. Your time has expired, Mr. Raleigh.

Mr. BOWDLE. Mr. Chairman, I wish I could see this matter in the light that some of the men here who have been talking see it. Gentlemen, I cannot say what has been said of one gentleman on this floor, that he is and has been for a long time a prohibitionist. I am not here to argue the question of prohibition, and I do not know that you will know what my opinion upon that question is. I think that prohibition is not on trial to-day. There is a deeper principle than that that is on trial to-day, gentlemen. The people of Utah have not asked you to decide the question of prohibition. They have never said to you, you decide and determine this question. They say to you, "Let us decide this question." We are not the people, gentlemen. Don't forget for a moment that proposition. We are but the agents of the people. We are not here to do our will, but we are here to do the will of the people. Whenever legislators get the idea that they are the people and that in them lies the sovereign power, it is time to step down and out. Don't you know, gentlemen, that that is the mistake to-day? That in these United States the people have a growing distrust of the legislators? They have a growing distrust from the simple fact they send them to a position, and they forget the will of the people who sent them there. You have heard that cry growing up for the last two years against the legislators of our general government, that they forget the wants of the people and the wishes of the people; that they stand there to do their wishes and the bidding of the mighty corporations and to bow at the power and throne of money.

Now, gentlemen, the question that confronts us to-day is, in the beginning of the State of Utah, are we to teach the people that lesson? The people say, let us vote upon this. Let us decide this question. You let this alone and keep your hands off of it. It is none of your business. I admit that. And I am glad the people say it. I do not want to decide this question. By no vote of mine would I vote to-day to put that article in the Constitution; but I do say that upon all great principles, when it is possible that the people can express directly their will, they ought to have that right and that privilege to do it, and you dare to deny that proposition—any man on this floor, then he denies a fundamental principle that underlies the American government. Looking down from that picture—that kindly, benign face, from those lips fell one sentence that has become immortal, "this is a government of the people, by the people, for the people," and whenever we forget that principle we forget the principle that underlies every institution of America—every one. That is the principle upon which I stand here. I want to say with reference to this majority report that I think it is the frankest, most manly report that I have seen; that report says that this is a question that ought not to be dealt hastily with. Now, what question? The question of submitting this to the people ought not to be dealt hastily with? Why, in that action there is this, that you are afraid of the people; you do not dare to trust the people; you cannot get away from it. Right in that committee report it says, it should not be dealt with hastily; they say that they had under discussion the question of submitting this to a separate vote of the people. Why, gentlemen, if the people say "keep it out, keep it out," or if they say, "put it in there," why it is the will of the people and they ought to control in this matter, by all means. Why, if I were to vote for that majority report, I would

have to throttle the voice of this coming new State on the first proposition that they have asked to be heard upon. I would have to say to them, "You do not know enough about this. You do not understand this business; we have grown large since you elected us. We came up from your side, and knew no more than you did then, but we have grown wonderfully wise in a few days, and now we say that you do not know enough to consider this and you cannot be trusted in that matter." That is exactly our position to-day. It is a question whether or not by our vote here we shall turn down the will of the people. Suppose this should be submitted and it should be defeated, what vested rights would be disturbed? What great enterprise would be overturned? What great amount of property would be disturbed? None whatever, and yet that report says that this involves all these questions and must not be hastily dealt with. It is six months almost until this Constitution will be voted upon. Have not the people the time in which they can decide and make up their minds and vote intelligently upon this proposition? I am in favor of the people every time, I do not care what proposition it is. Whenever it comes to the question, that can be referred to them. What we have heard all the time here as the sovereign power of the State—let it go to that tribunal and let us abide there and let us not make the people think that these are high sounding phrases that were made up for platform occasions, in conventions bidding for votes, and all that kind of thing, but that it is in this State a fundamental principle—that the people shall be heard, and their voice is from the sovereigns in that regard. But a few days ago there were a great many petitions came rolling in here on another proposition asking to be permitted to vote upon that proposition. We have irrevocably said, "You cannot do that. We have made our vows to our political cause and we must pay those vows and we still pay them. We promised when you elected us here that we would put woman's suffrage in the Constitution, and although you want to absolve us from that promise, we cannot take it back, even if you were mistaken. We cannot do that thing." But there are no political pledges here, gentlemen. Here is a place where you meet the people face to face upon this proposition. And now, do we purpose in this Convention to say to them a second time, without any pledges upon us, without any duties to be performed in that regard—"You cannot be heard, you do not know enough?" Then, when we meet in Convention it will be sufficient for us to say, this is a government of the people, by the people, and for the people, and when we get on the stump we will say the same thing; when we get elected we will say, "This is a government of demagogues to control the people," and that will be exactly true. Whenever we cease to listen to that voice that comes up from our constituents, we are no longer worthy of sitting as their agents, because the agent is not greater than his principal. Therefore, gentlemen, I shall not vote for the majority report. That much I will say. As to the minority report, the result will show whether I will vote for that or not.

Mr. EVANS (Utah). Mr. Chairman, I have listened to the arguments upon this question with so much interest, in hearing gentlemen give their various experiences on the floor, that I would like to add a word upon this important question. I remember that when I was but a boy in the quiet little town in which I still reside, that in the merriment of childhood our schools had been collected together for the purpose of participating in what we termed the celebration of a Christmas tree upon a beautiful Christmas eve. While we were there in beautiful merriment, with one of our noble citizens among the

throng, seeking to make happy those that had gathered, that a ruffian appeared upon the scene whose cowardly form and brain had been maddened by intoxicants, and raised a disturbance at that time, and the result was that he shot down before our eyes one whom we had learned to love through his kindness and affection. That picture was imprinted upon my heart and I felt that if it was in my power, that never should a scene occur like that again by reason of intoxicants. The merriment of that happy throng turned into grief and sadness. That loving husband and kind teacher was a corpse before our eyes. The anguish of his loving wife beamed forth upon the hearts of all who were present, and in consequence of the convictions that were made upon me upon that occasion and others while it was my good fortune to mingle as a member of the city council, where I reside, I have stood as it were when I was a beardless boy beating back the inroads that were sought to be made upon the breaking down of the non-license system in our city. I was successful for the period of years that I served there in combatting back the licensing of saloons in our city. I was called away, however, for a period and when I returned, changes had taken place. High license had been instituted, and I have been forced to the conclusion that perhaps in all those years of my anxiety and zeal I had been mistaken, and in recalling back that sad scene which to-day causes my heart to throb with anguish, I call those scenes to remember that was in the day of prohibition.

It has been said here that we ought to leave this matter to the people. I want to say to you, Mr. Chairman and gentlemen of the committee, that my contract with the people, as I understand it, was laid down by them in their platform when they presented before me their contract and I accepted of my nomination upon that. Upon the 6th day of November they fulfilled their part of that contract and they sent me up here to this Convention, and I expect to fill mine to the very letter in my poor judgment. I may deviate from it, but as I shall have the light portrayed before me I shall follow out that contract to the very letter. And this question that is now presented before us was not one that entered into that contract. I am willing that the people should be heard upon this question. I am willing that when we shall finish this Constitution, when it shall roll forth from our hands to go before the people, I am willing that they should make a declaration in their coming platform and that the man that places himself upon that platform shall either stand or fall, and they may put in a demand that the officers who shall constitute our coming Legislature shall be men who will guarantee unto them by the laws of our country and of the new State that prohibition shall be inaugurated; but if that shall be done, then I shall ask the right, as an American freeman to say whether I am willing to accept a nomination if it should be tendered to me upon that platform or no. I will state briefly my position upon this question. I say that from all I have been able to glean by observation and hearing, that prohibition under the existing laws is a failure in the broad sense of the word; that states cannot control this system under the present inter-commerce laws of these United States. That cities have tried in vain, by employing detectives, by putting spotters on the trails of offenders; when they have followed those men to a successful issue and brought them before the bar of justice, the courts have refused to execute the laws that have the desired effect in stopping the traffic. I am in favor that there should be laws enacted whereby each district—each particular locality shall have the right to say that within the borders and confines of that particular part of the country where they re-

side and they control, that if the majority of the people residing therein are in favor of putting the hard hand of the law upon the traffic of liquor that they shall have the right to say so. I would be in favor of making it a penal offense—I would be willing to fix the maximum limit or punishment of offenders, and that be imprisonment, when the people in a particular locality shall declare in favor of prohibition. I would fix a maximum and I would make it a penal law that the judge who refused to enforce that that he should be deprived of his office, because he did not do it; because I believe that the will of the people should be the mandate of heaven in these questions where their vital interests are at stake. But perhaps the interest of Salt Lake City would not be the interest of Lehi, where I hail from, and for that reason I am in favor that this matter should be submitted to the Legislature; let us go before the people upon our own respective platforms, either for or against it, either for it in part, or against it in part, if we so desire. I mean by that that we shall go before them on the platform of local option laws, that where any particular locality decide by the majority of the people that they are not for prohibition I am willing that it should be submitted, and we will go before the people with that issue and then when we shall go to the Legislature; the people will have the right to demand of us as their servants that we shall carry out to the very letter the law, without turning to the right or the left, the agreements of our contract that we have made with them when we asked their suffrages for us.

Mr. BOYER. Mr. Chairman, I have been listening with much interest to the many speakers and expecting to hear from some of them some remarks in relation to the prohibitive proclivities of the constituencies from which they hail. I will say that I come from a prohibition town, and unlike my friend and worthy colleague from Provo, I also come as a prohibitionist, and I hope to return a prohibitionist. I do not expect to be converted to any other cause. In Springville we have had prohibition for a period of a score of years or nearly so, and it has worked well with us—a portion of the time not so well, but to-day and for a number of years in the past it has done well. I think that we there, having a population of some three thousand people, have a peaceable, quiet little city. We have made no particular wealth out of high license or licenses at all. We have no particularly large and spacious buildings or improvements upon high roads, or anything of that character that has grown out of the license money, but we have an improvement that is very noticeable in the happy homes of the many dwellers in the town from which I come. Their sons and daughters have not places to go to as are found on the north and on the south of our little town. It may be said and has been said that where prohibition reigns the dive is a necessary evil, and is a concomitant with that character of legislation. I will say that four, five, six, and eight years ago, we had the dive continuously under prohibition, and the whole fault was in the character of officers; not but what we had good officers, but those officers were usually men that would take a drink frequently themselves, and at that particular time we had judges that were not so favorable to the enforcement of prohibition laws in the first district as we have had latterly. I say to-day, that the officers under prohibition enforced the law, and I challenge the finding of any of those dives or by-places in Springville to-day. We have not got them, unless they have been established within the last two weeks. The last man that has been running a business of that character now for the second time is serving an eighty-day sentence in the jail. I believe in the principles of prohibition. I

come here representing a constituency of Springville more particularly, while I am of Utah County. They said to me in numbers in presenting an application from a religious association asking how I stood on the prohibition question, whether favorable to submitting it is an article or a part of the Constitution to be voted upon. I passed the matter around among the leading men from my town, and they invariably made this remark, "That is a question, like all other questions of innovations of a public character and of as great a character as that is in its magnitude, that should certainly be submitted to the people to be voted upon." And we stand here this afternoon claiming that that question should be submitted to the people. As the gentleman from Salt Lake (Mr. Bowdle) has stated, we are not here for the purpose of deciding upon the question of prohibition. We are only here to permit that question to go to the people or not to go to the people. It is our right, it is our privilege and our bounden duty.

Mr. PIERCE. Mr. Chairmam, this seems to have turned into a testimony meeting to some extent, and I arise to give my testimony. I was raised in the good old state of Vermont. It is a prohibition state, and sir, I state to you, and gentlemen of this Convention, that I never in my life saw a drunken man in that state until I had arrived at man's estate, and if you want an instance where the prohibition law is enforced, turn to the state of Vermont. I did not intend to speak upon this question, upon the merits of the question. I do not think the question is before us in that light. It is not a question that needs to be discussed upon the merits, but when the gentlemen discuss it upon the merits I desire to say a few words upon that proposition. Gentlemen of the Convention, one of the very first articles that we passed in this Constitutional Convention, was an article upon the declaration of rights, following out the principle laid down in Magna Charta, and the principles in our own Declaration of Independence, that the right of petition shall never be ignored, and we have in our article on the declaration of rights declared in favor of the right of petition. I understand that there are some ten or twelve thousand signers to petitions that have come up before this Convention, asking for the submission of the question as a separate proposition. I have listened these many long days to see whether there was any opposition to this question, and I have not yet seen one single signature or petition in opposition to this question. So I say, gentlemen, that as far as we know it is the will of the people of this Territory that this question shall be submitted to them, and I for one, without stating how I shall vote upon this, say that I shall vote for the minority report to submit it as a separate proposition.

In answer to the argument made by the gentleman from Cache County, Mr. Thatcher, in regard to the original package decision, I desire to call this Convention's attention to the decision in that case. The original package decision was rendered in the United States Supreme Court (135th U. S., page 100;) after that original package decision was rendered the original packages came into the state of Kansas from other states, and into the state of Iowa from other states, but in order to meet that, on the 8th day of June, 1890, the Congress of the United States passed what is known as the Wilson law, and the case went up which was decided by the United States Supreme Court in re rera 140 United States, page 545, that held that law was constitutional and valid and that it could be enforced in the state of Kansas. So I say that as far as this question now stands, it is the duty of this Convention to submit the question to the vote of the people.

Mr. EVANS (Weber). The recent act

of Congress is not such as to prohibit commerce between the states on this particular question, is it?

Mr. PIERCE. No; I understand not.

Mr. EVANS (Weber). Then we could pass no law in the State which would prohibit the importation into the State?

Mr. PIERCE. That law was enacted for the very purpose that when the original package arrived in the state of Kansas the state of Kansas could confiscate it under its own local law, and that was the decision of the United States Supreme Court.

Mr. EVANS (Weber). That is true. This article which you propose to submit separately to the vote of the people prohibits the importation of these things into the State?

Mr. PIERCE. I have not examined the article very carefully. I believe the present status of the question requires us to submit it to the voice of the people.

Mr. JOLLEY. Mr. Chairman, it appears to me that we cannot altogether ignore the petitions, when they have come five to one in favor of our consideration of this matter. There are two questions that stare us in the face, that is the high license or the prohibition. The high license is simply robbing the starving children of the drunkard, that the saloon keeper is pocketing the money from the children and giving him poor whisky in return at a very high price. It is true there is perhaps one virtue in it, and that is that the rotten stuff that they drink will kill the drunkard off all the sooner, but in doing so it is robbing the children at home of that that they might have if the liquor was put down at a low rate. Now, in relation to prohibition not being a virtue, and more arrests would be made, I will have to call your attention to the early days of Montana. I was up there at the opening of the gold mines or soon after, and I found myself in a wild country—in a lawless country where crimes were committed without any restraint whatever, until the people that lived there—the honorable part, took the law in their own hands and enforced it, and it was the same as prohibition probably would bring; there were more or less, for they hung some thirty-six men in one season, but they did not give it up at that, and to-day you can go through that country and the laws of the land are acknowledged. They protect the traveler and he can travel in safety where he could not have done at that time, and this is the way that I would view with the limited knowledge that I have in relation to prohibition.

It is possible to me that if the law was against the sale and the manufacture of intoxicants in any state that for a short time there would be more drinking done, simply because they would feel that they would do it for revenge, and for spite work, because they were deprived of having their own way; but a legitimate time—I think I would be safe in saying that there would be a limit and a restriction upon those things and the benefit would be derived by the little children, when the drunkard comes into the house reeling to and fro, having to run and scatter and hide from their earthly parent, they would be clothed better and he would come in now and then with a smile upon his face. And laying this aside, as I said before, when there is five to one that come in for us to consider this question and we are the servants of the people, and that the laws are made by the people and for the people, I consider that there is but one thing for us to do to-day, as I did when the majority came and asked us to put the suffrage clause in the Constitution. The majority asked for it, and I felt duty bound to do so on that account. Therefore, I cast my vote in that direction, and I am willing under the circumstances to cast my vote again, for the majority of the people have asked for this thing.

Mr. THURMAN. Mr. Chairman, I

have but a little to say. I will say, however, that I am from Kentucky, while men are giving their experiences as to birthplaces as affecting this question; but that is not the only reason that I have for proposing to vote for the majority report. I wish to stand on this question as I have tried to stand on about every question that has been submitted to this committee, and that is, that those matters which are more proper to be left or can more properly be left to the Legislature for their action, should be left there and not inserted in this Constitution. If a mistake is made by the Legislature in enacting a law, that mistake can be corrected as quickly as the Legislature can be convened. If a mistake is made by this Convention, we all know from the nature of the act that we are adopting here about how much expense and trouble and inconvenience it will be to rectify it. I feel that this ought not to be made an issue next fall in connection with this Constitution. The Legislature can deal with it. It has been decided by the law of the land—by the judiciary everywhere, that they have the absolute control of the question of the sale of liquor, and I am in favor that the matter be left to the Legislature, and the people can elect their representatives to carry out their will.

Mr. KIMBALL (Salt Lake). Mr. Chairman, I shall vote against submitting this to the people, and say that I am just as pronounced against prohibition as I was in favor of woman's suffrage—to give to our fellow creatures their liberties. I maintain prohibition interferes with them, and this is one reason that I shall vote against it. I might name a great many incidents in my experience regarding the use of liquor, and the evils that have grown out of it right in my own dear family associations, but I maintain that it interferes with the agency of man to undertake to prohibit it in this way. I will have to sustain any action of the Legislature that will make it local option and high license. I believe by this that any city, town, or settlement through this Territory can govern their own affairs. I do not find any great evil from the liquor traffic here in Salt Lake, not nearly as much as I find in the smaller settlements. There I notice that the young men, having no particular attraction in the way of lecture halls, of theaters, or anything of this kind to draw them in the evening to entertain them, they naturally associate in the saloons, and young men who are naturally addicted to the use of liquor learn to drink in this way. But if the city councils or the presidents of towns go to work and enact such laws as shall restrain the saloons and keep the minors out, allowing them to sell the beverage in a respectable house, I do not believe there will be very much harm come out of it. And as to the manufacture, gentlemen, I do hope that we will not take any action to interfere with the manufacture of anything in this Territory. It is an evident fact that there are hundreds and hundreds of people out of employment, and I believe there are thousands and thousands of dollars that are paid out annually here to our employes and for the materials that are grown on the soil, for making this product, and even if we prohibit the drinking of it or the selling of it, let us not prohibit the manufacture of it.

Mr. HAMMOND. Mr. Chairman, I just want to say a word or two in reply to my honored friend and fellow-laborer from Weber County, Honorable Lorin Farr. I think if I understood him right he quoted scripture, that the mandates of the Almighty were for prohibition. Now, I submit that if the Lord could not prohibit so that His good old servant Noah in his ark would not plant a vineyard and get drunk, what is the use of us trying to legislate against it? Now, local option is my doctrine and local self-

government. If San Juan wants to get drunk, like a fool, let them do, it. If Salt Lake City, the great over-grown brother of mine, wants to sell whisky, and drink it, and get drunk, with their high schools and colleges—excuse me, university, and all these things, I am in favor of their having it.

Mr. ROBERTS. Mr. Chairman, I want to call attention to the report made by the minority of the committee in the article they propose to submit for separate vote of the people. They say not only that the manufacture for sale or gift as a beverage of intoxicating liquors shall be prohibited, but no person, association, or corporation shall import any of the same for sale or gift, or sell or offer to keep the same for sale or gift, barter or trade, as a beverage. In that particular, sir, I think at least the minority have undertaken to do something that is impossible for them to do; in other words that we cannot, under the decision of the supreme court of the United States, prohibit the importation into this State of intoxicating liquors as a beverage, and I would ask gentlemen who intend to vote for the submission of this clause to take that matter under consideration. I think it is something you cannot do. In considering a question of this character I cannot for the life of me understand how you can consider it separate and apart from the merits of the question. The merits of the question are inevitably involved in it, and necessarily ought to be, because upon the merits of the question depend the propriety of either putting it directly into the Constitution or permitting the people by their vote to put it into the Constitution; and I hold, sir, that the majority report of the committee is correct, wherein it states that prohibition is but an experiment, not only in the way of legislative enactment, but also by constitutional provision. I think it was only last year that the good people of the state of Iowa rooted out of their constitution the prohibitory clause on this subject. I lived for some length of time myself in the state of Iowa, when that was a prohibition state by legislative enactment, and I know not what the experience of other gentlemen may be in prohibition states, but I wish to declare that I know that in that state prohibition was nothing but a hollow mockery, and the very fact that the people have but recently even repudiated the constitutional prohibition, is very strong evidence to me that this matter is but in its experimental condition and that we cannot afford to undertake that experiment by constitutional provision; and as stated in the majority report, if tried at all, it should be undertaken by legislative enactment.

Now, sir, I am of the opinion that there are things worse than even intemperance in the use of intoxicating liquors, and one of those things worse than the intemperate use of intoxicants is the demoralization which comes to a community which threatens civil government itself, and that is disrespect and disregard of law. Such is the nature of this question that it is not a difficult matter to evade the law, and wherever it has been tried, men have evaded the law and that successfully—more successfully in respect to sumptary laws than in respect to other kinds of law. I say that it is easy to evade this class of law, and when you teach a community or when you create conditions which lead a community to disregard law, you create a greater evil even than the evil you attempt to crush by law. And for this reason I do not want to engraft into the Constitution this prohibition clause. I believe it is the right of this Convention to determine what to put into a Constitution and what would be more proper to leave to the Legislature, and for that reason I think it is quite competent for this Constitutional Convention to say to the people, notwithstanding the peti-

tions that are before us, that it is not a proper matter to insert into the Constitution. I believe, sir, that that right and power is here in this Convention and that it is a proper exercise of that kind of judgment. Now, sir, prohibition being an experiment, and for the most part an experiment that has failed, in my judgment—other gentlemen of course may differ from that, but it is a difference in judgment, but being an experiment that has failed, I hold that there is nothing binding upon us to attempt it by constitutional provision.

There is no gentleman upon this floor but what is aware of the evil of intemperance. It is not because I am in favor of patronizing saloons and that I have no regard for the evils of intemperance, that I am connected with those gentlemen who made the majority report on this question, but my observation teaches me that the proposed remedy for that evil is not equal to the task proposed for it. I am against it. It is for that reason that I shall vote against submitting this clause for a separate article on prohibition. There is another question connected with this subject, and that is recognizing the impracticability of prohibition either by constitutional provision or legislative enactment. In consequence of our being surrounded by states and territories where they may manufacture and sell these intoxicants as beverages in spite of all that we could do, they would import these beverages into our Territory and they would be sold, and the result would be that we would not materially lessen the evil, but we would pay out a revenue to surrounding states and territories that we absolutely need here in our own new State. And I cannot close my eyes to the fact that it would be increasing the burdens of taxation upon the people of this Territory and at the same time not curing the evil at which this prohibition clause is leveled. Now, these are considerations from which we cannot remove ourselves, and I think it is competent and proper for this Convention to favor the adoption of the majority report of this committee on this issue. I believe that we can better control this question—this evil of intemperance by locating it where we know the evil is and where it can be under the guardianship of the law and strictly regulated, instead of having blind institutions about us producing evil and yet we know not the source of that evil. I am firmly convinced that you cannot legislate men into morality. I am persuaded that it is impossible to make men temperate by legislative enactment. I do not close my eyes to the fact that there are other forces in the world than legislative enactment and congressional provision. Why, sir, I want ministers of the gospel to have something to do, and there are better forces to be arrayed against this evil than legislative enactment. I believe in the liberty of the individual, and if you want to know how dear to me the liberty of the individual is, I want to tell you that, quite contrary from the position taken upon the floor here this morning by the gentleman from Sevier County, notwithstanding all the array of blood curdling incidents that may be related as growing out of the acts of men under the influence of intoxicating liquors, notwithstanding all that, so dear to me is the liberty of the individual that I would pay that price for it, and if I could, I would not destroy the liberty and agency of man.

Mr. MILLER. May I ask the gentleman a question? How about the weaker ones—the wives and children of the unfortunate men?

Mr. ROBERTS. You may add that to the list also, if you will. I recognise, sir, that Omnipotence has the power to blot this thing out of existence and yet He withholds His hand. He permits it to exist. You will see, therefore, gentlemen, that I am prepared to vote against the amendment which adopts the

minority report, and in favor of the motion to adopt the majority report.

Mr. BOWDLE. I would like to ask the gentleman a question. I either misunderstood him or else that was simply a slip of his tongue, did you state that there was ever a prohibitory clause in the constitution of Iowa?

Mr. ROBERTS. That is my understanding, sir, that there was.

Mr. BOWDLE. Don't you recollect that the prohibitory clause was submitted—was supposed to be carried to the supreme court, afterward decided that it was not, through a clerical error or something of the kind, and it has only been statutory all the time.

Mr. ROBERTS. No, sir; my understanding is that prohibition by constitutional provision was rejected by the people after it had operated for some time.

Mr. BOWDLE. You will find that is wrong.

Mr. L. LARSEN. Mr. Chairman, I have not occupied a great deal of time on this floor, but I have thought a great deal. I sense that it is not popular to take the side on the floor here that I expect or undertake or intend to take. I do not know how popular it will be with my people or constituents from where I come, but I realize that we have petitions before us of over ten thousand people of this Territory. They have asked us to submit this question to the people on a separate article to come before them with the Constitution. Now, the question is with this Convention whether they will ignore these ten thousand people's request. There is no one that has asked us to do to the contrary. There are a great many—but a minority, so far as I understand, that have asked us to insert it in the Constitution. We have carried one subject—a difficult one, as it were, over a great gulf successfully. Now, we are on the verge of another gulf again with another subject or another question. Now, it is the question, shall we successfully carry that over a gulch or shall we land it in the mire? This is now the question before us, as I understand it. We have a right to ignore the petitions of the people if we so say and the majority of this Convention say so. Now, I will say here I am not a very strong prohibitionist. If time permitted me to make a few personal remarks—but I suppose it will not unless some gentlemen had time to spare. It may be they will all want to speak. Perhaps they all have spoken or very nearly so, or at least signed their time away.

Mr. MACKINTOSH. I give you my time, sir.

Mr. LARSEN. Thanks. The question of prohibition came up in my own town a few years ago. We had prohibitory ordinances. Our neighbors on the north about six miles away—Mount Pleasant, they had a license system. On the west of us, some five or six miles they had a license system; our boys had such a very nice chance, they could take their girls and ride over in the wagons or buggies and go up to our neighboring town and get drunk. The girls wouldn't, but they did it anyway when they were alone. That I do know. And they would come back as it were and raise hell. [Laughter.] Our police force was weak. The city hadn't the means to pay them to keep order and good peace, and it came up before the city council. I happened to be mayor of the city at the time. I was opposed to the license system. I am a prohibitionist personally, soul and body, for I do not believe in drinking liquor. I never had from a young man. I made a determination before I became in my teens that I would never drink liquor or chew tobacco, and have stuck to it, and all the liquor that I ever drank in my life could be placed in a quart cup, I believe, but when the question came up as to whether we should license in our town or not, the council took this matter under advice, and when the people found that the council had it under

advice they sent in a whole flock of petitions asking us to let that matter alone, not to license liquor saloons in Spring City. Well, we considered it very carefully for several sessions, and we came to the conclusion finally—why, to say if we ignored the petitions of the people—I must say we did, for it was a fact we did it. But we were forced almost to do it under conditions under which we were placed. We had the evil of it and derived no benefit from it, but I do hope that this Convention will take this matter or look upon this matter in another view.

I believe that the prohibition system can be governed under statehood far better than it can as it were in localities. It is useless that one town a few miles from another town can prohibit, and the other selling liquor. This is a useless thing, but under statehood, I believe it should be tried. I am willing for one to try it and I am willing to risk it, and when the people to-day—they have sent their tens of thousands of petitions to this Convention, I believe they should not be ignored, and for my part, I am willing risk it and take the consequences. That is the way I stand at the present time. Then, I cannot see that we can do any better than this, but as I said before, I do not believe—but I hope I am happily disappointed—I do not believe that we will be able to carry this question over a gulch, but it will sink. That is about the way that I feel, but it will not be because I will sink it, for I will adopt this or I will submit my will to the petitions and will of the people, and I will vote to submit it to them at the next election as a separate article with the Constitution.

Mr. MORRIS. Mr. Chairman, I have been interested in the speeches that have been made pro and con on this great question. I think it is the question of the day, gentlemen, and Mr. Chairman, I am fully convinced from a life time experience that prohibition can be carried out but not complete; but I do not believe it can be carried out that far that it will improve upon the conditions of the human family to-day in every nation. I believe in prohibition, from the degradation and misery that I have seen in the world as well as I have seen in this city, and I believe that we, as a people, above all other people, claiming and professing as we do, should be a unit in establishing this in our new State. Some argue that it cannot be done. That is very true; laws are enacted in every land against thieving and against shedding of blood, that does not stop it. But I am inclined to believe that it reduces it a great deal more. I believe that the law that exists against stealing prevents hundreds and thousands of men under a load from committing crimes, hence, I believe that it will pay us well to try the experiment as long as the people are asking for it. They have not asked us to place it in the Constitution. But they have asked us to submit it for the majority to rule in this, and I believe that is right.

We, on this floor, claim that the majority has a right, and the people only ask for a right, to submit and place it before the public to choose for or against. Then they are responsible for it. It has been argued on this floor that a great deal of property is invested. That is very true, but I have come to the conclusion, gentlemen, and Mr. Chairman, that if we were in a condition financially, it would pay us as a people to purchase these breweries and saloons and it would be a mighty good speculation. That is what I believe. It is not so much for those who are advanced in age, who have become chronic to this custom of drinking, but it is the youth—our children, our sons, that is where the evil comes. Imitation and invitation in every possible way, to invite them to the saloon and to the billiard table and to the gambling, before their judgments are matured, that

is where the evil comes. I have no objection to the old heads who have been accustomed to it, and let them drink to their fill, until they are satisfied, but I claim that something should be done to prevent this evil that is sapping the foundation of Utah as well. I remember living in this city when there was not a saloon in this town, when a drunkard would not be seen from one year's end to the other, but since civilization has reached us now we find them on every corner of the street, and there are open doors to invite our youth there, and there is where they are ruined before they mature in better judgment. And for that reason I am in favor to—if you will allow me, Mr. Chairman, if we cannot get this I would like to get something next to it. If it comes to enactment of the Legislature, I would like to see it placed in the hands of each incorporation to handle that themselves and be subject and liable for their conduct and their actions. I understand that there are such customs in other nations where the city takes this matter in their own hands where they open a saloon, but not a seat, nor a chair nor a lounge inside of that room. If they are thirsty, come in and take a drink and go about their business, and the corporations are liable and subject for all disorder or mismanagement in that regard.

Mr. ELDREDGE. Mr. Chairman, I did not anticipate saying anything on this question, because I did not anticipate it was going to assume such proportions as it has seemed to have done. When we enter on the field of prohibition, it seems to me that it opens into a very wide space, and if the measure which is introduced by the minority report should prevail, it seems like it would bring a question before the people to prohibit the use of a certain article. Now, in my experience, I have noticed that the use is not what we should wish to prohibit, but it is the misuse which we wish to prohibit. If the misuse of the article brings disastrous results, if it brings injury to the individual and to those that he is associated with, and by reason of this fact we are to prohibit its use in every form and in every shape, to what extent can we apply this principle?

I remember not long since of seeing a railway train going down a certain incline with irresistible force and run into another. I saw a human being under that wreck, bones broken and life destroyed, to that extent that it made the blood curdle, and by reason of the misuse of this element which had been brought into use. If we can apply it to one principle or one element, we can apply it to another principle and another element, and to what extent might we then apply the rule that we expect to apply unto this one article? Should we take time to go into the discussion of this question, we can point out element after element and property after property that has brought misery and destruction—misery to life and destruction to life and property all over the universe. And by reason of this should we then prohibit its use? Mr. Chairman, it is just as consistent in my mind to pass a law here to prohibit the production or the raising of the article from which that liquor is made as it is to undertake to prohibit the manufacture of it, just exactly. I believe that man is endowed with certain agencies, and I look upon him as a higher being than the mere worm that creeps upon the face of the earth. That he is here for a special purpose and the only way that he can develop that particular purpose is in the exercise of his agency, and then you begin to prohibit the exercise of that and you deprive him of rendering an accountability unto that life which gave him life. So that the question which we have under consideration is broader in its sphere than the mere taking of a glass of whisky or beer. It enters into man's very existence and it takes him from the time that he came

here through all eternity, and if you destroy his agency in one sphere how is he going to develop unto his associates and unto the life that gave him existence an opportunity to be like the metal that has been extracted from the hill—tried and refined, so that when he is brought before his Maker, he reflects His own image? It is a principle that I shall oppose—the minority report. If I should allow my sympathies to be drawn out and given expression to what I have seen as the results of the misuse of this in this land and in other lands, I could also say that I have seen in regard to the misuse of other properties and other elements. I remember once upon the borders of Wales of seeing a train coming out with seven passenger cars, all loaded with tourists, many of them from America, many of them from other parts of the world, and it was going up an incline and in the midst of a hill it ran into an oil train——

The CHAIRMAN. Gentlemen, you are annoying the speaker.

Mr. CREER. Mr. Chairman, I wish to speak to one point that has been touched upon. I claim to have a great deal of experience in the matter of prohibition for something near fifteen or twenty years. They attempted to establish prohibition in our city, and I was police magistrate for a number of years and then afterwards city attorney, but I have seen more perjury committed in cases that were brought up under prohibition, altogether, than I ever saw combined in anything else. I have seen young men who would tell me that "If you put me upon the witness stand you cannot get the truth out of me." I have seen attorneys come into our town and go to work and take our own witnesses and take them into a place or dive where liquor was sold and tell them what to say, and they would come right into court and swear exactly as he told them, every word of it was a lie, until I became almost disgusted with humanity. Therefore, if we want a new State predicated upon principles of honor, let us avoid this one thing. If you undertake to remove this question from the legitimate channels with the individual agency that exists, and there you simply relegate it back then to this that I refer to, for they will swear falsely every time.

I remember a case where the chairman of this committee prosecuted here. and the officers of our county through their vigilance had the testimony as perfect and solid as it could be; they were the aborigines of our country here who came in, and they told the truth, but the white man made himself a slave to the vendor of liquor and they perjured their souls, whereas the Indians who had not been tutored in this did not do so. Not only that, but talk about petitions, why we had petitions from respectable men, too; there is one certain case I am reminded of where two men held prominent positions in the dominant church here in this Territory, and the one swore he got the liquor and the other swore he did not, and the result was the man who swore he did not, although he did get the liquor, why the jury believed him and the case went against the city, after it had gone to the district court. Many instances I could tell of where witnesses were taken out of the Territory in prohibition cases into other states, and when cases were about to be decided upon the witnesses were frittered away. So I say upon this point let us rely more upon the conversion and upon the honor and upon the natural instincts that men have rather than perverted ones. And, gentlemen, if you attempt prohibition, there is more danger of changing or perverting these natural instincts and attributes than there is otherwise. Now, I expect I shall be relegated because quite a number of prominent citizens of our town sent in their petitions asking me to present

them and I did so, but I am firmly convinced by twenty years' experience, notwithstanding the gentleman who spoke in favor of the minority, who lives in the town next to it. How is it, only the other day the young men came to the town there and beat our marshal with some kind of a weapon and also some citizens came from Springville, too? We had to take the brunt of this. Now, these are the practical facts of the subject. I have had as much experience on this matter as any other man on this floor. And, gentlemen, it cannot be carried out. You cannot do it. I believe in being aggressive, however, and if you saloon men have all the advantages when you frame your laws and be aggressive also, but you cannot enforce a prohibitory law. It is contrary to nature itself.

Mr. CORAY. Mr. Chairman, when Horace Greeley was asked in regard to the slavery question and the Clay-Missouri compromises, he made the assertion that there was no such a thing as a compromise between good and evil, between right and wrong, and I submit, Mr. Chairman and gentlemen of this Convention, that there are very few members here but what will concede that the whisky business in its different ramifications is ninety-five per cent condemned through wrong—materially wrong, and therefore, I think it is the duty of any honorable man to stand up here and combat those institutions. Connected with the whisky business there is the demi-monde and the gambler. They are one and inseparable. They are triplets, from the same mother, and I think when a man fights one he is fighting the interests of the other, and any man or any set of men who will stand up here and defend the whisky business, I consider their just reward will be to live to see their children and their grandchildren gamblers, drunkards, illegitimate, and prostitutes.

Mr. BOYER. I want to ask Mr. Creer a question, whether or not the liquor that was used in this drunken row by the party from Springville was not obtained at the saloon at Spanish Fork?

Mr. CREER. Certainly it was; yes, sir.

Mr. CANNON. Mr. Chairman, I am not in favor of the minority report. I believe that in refusing to accede to the petitions that have been presented, I am not denying the right of petition, because I believe the sentiment of my constituents is that it should not at this time be presented to the people. I think after the Constitution has been adopted, if at any time they desire to make this an issue, they can present it to the people and the people will have more time to carefully consider it upon its merits. I shall, therefore, vote for the majority report.

The motion to adopt the minority report was rejected.

The motion to adopt the majority report was agreed to.

The committee then proceeded to the consideration of the article entitled corporations other than municipal.

Mr. JAMES. Mr. Chairman, have I permission to make a few remarks before the clerk proceeds to read? My purpose is to explain certain matters as we go on with this article to the committee.

Mr. BOWDLE. I suggest this will come up properly when we reach the article.

The CHAIRMAN. At the end of each section.

Mr. JAMES. It was in reference to some amendments that may not take place during the reading of the article, and I wish to call the attention of the committee to them so that they would not amend one article that would come in conflict with others after it would be amended as proposed by the committee, since the report was made from opinion that has been gathered by the committee.

The CHAIRMAN. There seems to be objection to it, and if there is you will have to wait until the amendments are proposed.

Section 1 was read.

Mr. PIERCE. Mr. Chairman, I move that section 1 be stricken out.

Mr. GIBBS. Mr. Chairman, I move that we strike out all after the word acts, in line 3.

Mr. PIERCE. Mr. Chairman, the reason I would move to strike out the section is that the legislative article, section 31, provides for just such a case as this. Here it is that corporations may be formed under general laws, but shall not be created by special act. That is a general law in the legislative act, and it seems that there is nothing in this section that is not covered by that general law. Then the principle that all laws relating to corporations may be altered, amended, or repealed by the Legislature, etc., is a principle of general law, which we do not need in a constitution.

Mr. GIBBS. Mr. Chairman, I will withdraw my amendment.

Mr. THURMAN. Mr. Chairman, I trust the section will not be struck out. It may possibly be covered, but if it is, the committee on revision, who will have this whole matter in their hands, can decide where they will retain it, whether here or in the legislative article. I think we ought to make this complete as we go along and leave that kind of business to the committee on revision.

Mr. EVANS (Weber). I would ask Mr. Pierce why he wants the balance of the section struck out. He did not make any explanation at all about that.

Mr. PIERCE. Mr. Chairman, I do not think it serves any purpose. It is pure legislation. The laws relating to corporations can be amended, altered, or repealed at any time by the Legislature. Then, there is another provision in our Constitution that we have passed which prohibits the granting of unlimited charters, and it seems to me that the second clause of the section is purely a subject of legislation, and the first clause of the section is covered by our Constitution.

Mr. JAMES. Mr. Chairman, I believe it will be proper for me to make a few remarks right here, and I hope the Convention will indulge me for a few moments, for the reason that I am anxious that the best thing shall be done by this Convention that it is possible for it to do in the interests of the people as well as the interests of corporations. Mr. President, this matter has been under consultation by a committee for over forty days—a committee of gentlemen, Mr. President, that you appointed that have come together whenever it was possible for them to meet and when the chairman has asked them to meet with him and consult upon this article. The committee for some reason or another—an impression has gone out in the public that this committee was hostile to corporations and other institutions in this community. I want to say that there never was a greater mistake made. I have not seen one instance or one idea from any gentleman upon that committee, only conscientious action in behalf of the people that he represented in this Convention.

The matter which guided the action of the committee regarding these matters was that of the conventions that have been held in the United States since we became a nation. If you will go back to the early conventions—1778 was about the time they began. You will find that there was but little attention paid to corporations or matters of this kind. As times progressed and our country grew and these matters became important in the nation, you find they commenced to be noticed in the constitutions of the United States. And as time passed along and we come along down to the late period, which we now represent, you find all our later

constitutions have taken hold of this matter and have dealt with it most thoroughly, and they have been our guides in our actions. This committee has, in all instances, so far as they possibly could, been governed by great examples that have been set them in these new states that have come into the Union recently. Now, I want to say so far as striking this section out is concerned, to me it is a most remarkable surprise, and when the gentleman gets up on this floor and says it is pure legislation, I have a wonder in my mind where he draws the line and where he makes a distinction between legislation and constitutional provision. It says what the Legislature may do. Does it legislate? Does not it leave it open to specify and set forth for the people in your State what the law shall be in this provision? And if we are going to take up an article that you find in Washington, California, Montana, Idaho, and every state that has come into the Union in the past fifteen or twenty or more years, and strike it out simply because it has been fashionable here on the streets and other places in the last few days to raise a question about the work and the acts of this committee, you might as well strike the whole article out and be done with it, gentlemen, because it only makes child's play of this committee for the last forty days.

Mr. EVANS (Weber). Mr. Chairman, I would not say anything upon this question were it not for the fact that I believe the sentiment has gone abroad that the article which we are considering in the committee ought to be practically emasculated and stricken out. The sentiment is abroad that our Constitution is too long, a good many matters existing in it of a legislative character; and this article happens to be unfortunate enough to be among the last articles which are lengthy, and for that reason I fear that we may do the State an injustice if we do not give this subject a proper consideration. This article, gentlemen, deals with the most vital question which this Convention will have before it. It is the question of the power of corporate institutions which receive their charters and their franchises from the State, and it becomes a question now as to whether the State shall deal with those corporate powers and whether it shall have the power to restrict them in the future. Upon this particular question I do not think it will be inappropriate to read a few words which were uttered in a private letter to a friend in Illinois by the martyred Lincoln. He says:

> We—yes, we may all congratulate ourselves that this cruel war is nearing its close. It has cost a vast amount of treasure and blood. The best blood of the flower of American youth has been freely offered upon our country's altar that the nation might live. It has been indeed a trying hour for the republic, but I see in the near future a crisis approaching that unnerves me and causes me to tremble for the safety of my country. As a result of the war corporations have been enthroned and an era of corruption in high places will follow and the money power of the country will endeavor to prolong its reign by working upon the prejudices of the people until all wealth is aggregated in the hands of the few and the republic is destroyed. I feel at this moment more anxiety for the safety of my country than ever before, even in the midst of wars. God grant that my suspicions may prove groundless.

I only read this, gentlemen, for the purpose of calling your considerate attention to this great and important question that we are now considering. The words of the immortal Lincoln, uttered in the letter to his friend in Illinois, and the prophecy which he then made, has, I say, been literally fulfilled. Corporate influence and power in this country are beginning to grow so great that it has accumulated the wealth of the country. It has taken from the people many important rights which belong to the people, and it has secured it through legislative franchises unrestricted by constitutions, so that when

the grants of power have been made the people have been powerless to regulate by legislation this power which has been granted to corporations. It is an elementary principle and one of law that in the absence of any restriction upon corporate power or upon corporate franchises, the corporation, when the grant is once made, secures it as a contract between itself and the state, and the future legislature has no power whatever over it or to control it. So that we should step cautiously. We should act wisely upon this question of corporations. I believe that I know that in this city influences have been working for the purpose of treating this article lightly, that it might be stricken out in the main, so that the Legislature would be free to deal with the question unrestricted. This influence has been exerted. The chairman of the committee knows it; other men upon the floor of this Convention know it, and since this motion has been made right upon the very threshold to strike out the first section which retains all power of the Legislature over these corporate franchises and, I fear that unless we consider it more carefully a great injustice will be done.

Mr. HART. Mr. Chairman, I believe that the first sentence in this section has been incorporated in the legislative article, but certainly the latter part of it has not been. And this is the proper place for this sentence anyway. The latter part of this section will permit legislatures to control and restrict corporate power. There has been a contest in the courts of this country ever since the decision of the celebrated Dartmouth College case, in about the year 1812, in which Mr. Webster, the great orator, pleaded so eloquently for his alma mater—ever since that case which decided that a charter was a contract between the power granting the charter and the corporation to which the franchise or privilege was granted, there has been an effort on the part of the courts to get away from that decision. There has been an actual attempt upon the part of the courts of the United States to relieve themselves from the position that the Dartmouth College case decision placed upon them. Under the Constitution of the United States the respective states were prohibited from passing any laws impairing the obligations of contracts, and as a charter privilege was construed to be a contract, when the legislature once granted a corporate privilege, under the decison of that case the state itself no longer had any power over the corporation. I think, Mr. Chairman and gentlemen of the committee, that we should solve this question here, and that we should put the corporation under the control of the State, and simply because you give them a corporate privilege—a franchise at one time, if they abuse that, and if there is any necessity of recalling, restricting, and controlling that, I think the State should have the full power to do so, and this is all this section gives to the State.

The motion to strike out was rejected.

Mr. BARNES. Mr. Chairman, I move that the words "at any time," commencing at the latter end of line 4, be stricken out. I think they are not necessary there.

(No second).

Section 2 was read.

Mr. CREER. Mr. Chairman, I would like to ask the chairman the object of the latter part of this section, "at the time of the adoption of this Constitution" about being compelled to file in the office of the secretary an acceptance?

Mr. JAMES. That is to put all corporations, as far as we possibly can, upon an equal footing, that they shall accept the laws as provided under this Constitution.

Mr. BOWDLE. I want to ask the chairman of that committee a question. Would that, as the committee under-

stood it, modify the charter of existing corporations?

Mr. JAMES. No, sir; but all corporations' charters expire in a certain length of time, and then they will have to come under it.

Mr. BOWDLE. They would anyhow, would they not?

Section 3 was read.

Mr. SHARP. I move to amend this section by inserting after the word "not," in the first line, the words "by special act."

Mr. MALONEY. Mr. Chairman, that is provided for in other parts of the Constitution.

The motion was rejected.

Sections 4, 5, 6, 7 and 8 were read.

Mr. HART. Mr. Chairman, I move that section 8 be stricken out.

The motion was agreed to.

Section 9 was read.

Mr. RICKS. Mr. Chairman, I move to strike out section 9.

Mr. MALONEY. I would like to know what ground the gentleman asks that that be stricken out on?

Mr. SMITH. Mr. Chairman, it is legislation pure and simple.

Mr. RICKS. I cannot see anything to be gained by that. And it seems to me it is pure legislation.

Mr. MALONEY. Then, Mr. Chairman, the Legislature may incorporate companies to run street cars, lay their tracks down through the streets and highways of Salt Lake City, electrical plants operating, to put their poles where they please without the authority of the city at all. I say that the city authorities should first be consulted, they should have the say as to whether or not any corporations shall be entitled to the franchise of the street.

Mr. EVANS (Weber). Mr. Ricks, do you understand that that simply is a limitation upon the Legislature so that it cannot permit these things without the consent of the city authorities?

Mr. RICKS. Yes, sir; I understand that.

Mr. EVANS (Weber). Do you believe that the Legislature ought to grant these rights without the consent of the city authorities?

Mr. RICKS. No. sir; I do not think they ought to. I do not think they will even if that be stricken out.

Mr. SMITH. Mr. Chairman, there is a section in the Montana constitution just like this. That was submitted to Mr. Thayer, a constitutional lawyer, and I see he has stricken it out of the Montana constitution. It is pure legislation. Mr. Thayer is the constitutional lawyer of Harvard college.

Mr. EVANS (Utah). Mr. Chairman, I am opposed to it going out if it was struck out of Montana.

Mr. HALLIDAY. Yes, sir; so am I.

Mr. EVANS (Utah). I think it ought to remain in here. I do not think that the Legislature ought to have the right to say that there shall be railroads, telephone lines, or anything else of that description located and passed through these cities without the authorities being consulted and their consent obtained, and I hope this will remain in here.

Mr. BOWDLE. I will ask the chairman of the committee—as I understand this article—section 1, the word "may," that will be construed to be "must;" that is, corporations must be permitted, if permitted at all, under general laws, and shall not be created by special acts. Would not that limit the Legislature from passing any special legislation of this kind?

Mr. CREER. It may not be special legislation.

Mr. EVANS (Weber). Suppose the Legislature says that these companies should run through all the cities alike in this way, without the consent of the city authorities. That would be a general law, wouldn't it?

Mr. BOWDLE. It would be a general law, it is true.

Mr. ELDREDGE. Mr. Chairman, a portion of that section seems to me is

very consistent and the proper thing to retain here, and there is a portion of it that seems to me might work against the commonwealth. And, therefore, I would move to strike out the word "telegraph," in the third line, and the word "telephone." There might be a case in which the telegraph line was coming to a city with a view of extending it through and going on to some other section of the country, and it was not local in its character. It was simply a continuous line, and if the city authorities took a notion they could make objections to this provision and an inconvenience that the Legislature should not be hampered with in that particular.

Mr. CANNON. Mr. Chairman, I am opposed to the proposition offered by the last speaker, because if it were a telegraph line, there is not one case out of a hundred where they could not, if they saw fit, go around a town if they needed to, and I think if they get into the town, it should be under the regulation of the corporate authorities wherever they are. I am in favor of the section as it stands.

The motion of Mr. Eldredge was rejected.

The motion to strike out the section was rejected.

Mr. HOWARD. Mr. Chairman, I would like to offer an amendment to section 9; strike out in lines 1, 2, and 3, the words "by the legislative assembly."

The question being taken on the motion of Mr. Howard, the committee divided and by a vote of 35 ayes to 27 noes, the motion was agreed to.

Section 10 was read.

Mr. CORAY. I would like to ask for information if the law at present does not provide for that same thing? I do not see any necessity of putting it in the Constitution.

Section 11 was read.

Mr. ROBERTS. Mr. Chairman, I have a substitute I wish to offer for section 11:

No corporation shall have power to engage in more than one general line or department of business, which line of business shall be distinctly specified in its charter of incorporation.

The present section 11 provides that no corporation shall engage in any business other than that expressly authorized in its charter. I believe, sir, that that is a good provision. I do not think it goes far enough in this matter. I am of the opinion that corporations should be restricted to one general line of business. I do not believe that corporations should be organized in our new State that would have power to engage in any number of occupations that they might deem proper to engage in, because it could be possible under silence of the Constitution for a great corporation to be formed that would lay its hands upon all the resources or nearly all the resources of the new State, stifle all competition, and reduce the people to the condition of being drawers of water and hewers of wood. I believe, sir, that this provision, which is found to be in several of the states, and notably the constitution of the state of Wyoming, from which this section is a copy, could be very well inserted in our own Constitution. I take it, sir, that one great evil that threatens our land and which promises to overthrow the institutions of our country more than any other danger, is that of corporate power, and unless a limit be placed upon the lines of business in which these corporations may engage, there is no end to the evil that may result from the building up of these mighty corporations. I call attention to the fact that this danger comes not from within our own borders, but foreign corporations; by which I mean combinations outside of our State, and represented here only; by agency, may organize and place a destructive hand upon the industries of

this new State and monopolize our magnificent resources to themselves and strip the people of the opportunity which our natural resources bring to them. And, therefore, sir, I for one am willing to serve notice upon such foreign corporations that there is no field for such gigantic oppressions in the Territory of Utah. I wish to explain further, sir, that if this section or this substitute which I offer shall carry, I expect to follow it up by offering another section which shall say there shall be no consolidation or combination of corporations of any kind whatever to prevent competition, to control or influence productions or prices thereof, or in any manner interfere with the public good and general welfare, believing, sir, that these sections will be absolutely necessary to protect our people and their industries from the invasion of foreign corporate powers. But at this present time, I offer this substitute, and whatever shall befall this section that I now submit for the consideration of the committee, I shall also take the liberty of inviting their attention to the wisdom of adopting this last clause also that I have named.

Mr. CANNON. May I ask the gentleman a question? Will you kindly name one of the foreign corporations that you have in mind that would be affected by this provision that you now introduce?

Mr. ROBERTS. No, sir; I do not know of any that this section would now affect. I simply, sir, offer it as a provision to protect the State from corporations. I have no corporation at the present time in my mind that would be or could be affected by this section whatever.

Mr. SQUIRES. May I ask the gentleman a question? Do you believe that the operation of this section will be against the organization recently formed in this Territory known as the Utah company?

Mr. ROBERTS. No, sir; I understand that corporation to be already in existence and I do not believe that any provision in the Constitution could have an ex-post facto operation. I do not think that it touches that company at all.

(Mr. Hart was here called to the chair).

Mr. CANNON. Mr. Chairman, I am opposed to the substitute offered, for the reason that I believe that it would prohibit some of the institutions that now exist from being conducted, that I believe have been of great benefit to the people of Utah. As I understand it, for instance, it would prevent a manufacturing and merchandising establishment operating. If we were to take the case of the Z. C. M. I., one of the largest corporations within our borders, and one which I believe has been a benefit, not only to the stockholders, but to the people of Utah generally. It comprises departments that embrace several branches of business, not only all branches of merchandising, but also manufacturing in many lines. As I understand, the substitute would prohibit that incorporation or a similar corporation from operating as it has done in the past. I understand, of course, it would not apply to those corporations now doing business until their charters shall expire, but the principle is the same. Again, the foreign corporations to which the gentleman refers—while he was speaking I tried to think of one that could be affected by this substitute. I am in favor of doing what we can to protect the people from trusts of various kinds, but I could not recall one, and hence I questioned the gentleman, asking him if he had any in mind, thinking of those different trusts, the sugar trust, the Standard Oil trust, the lead trust, and others; each one operates in a special line and could not be affected at all by the substitute offered by the gentleman, and I believe that the original section as reported by the committee should be adopted.

Mr. HAMMOND. I would like to ask a question. The case comes to my mind of the Pullman Car Company, where, if I remember right, the attorney general went after them and tried to annul their charter because they had gone into land purchasing and building churches and houses, and a great many business operations other than that to which their charter empowered them as car builders. I remember something of that. I don't know whether it touches this case, but I think that is in point.

Mr. JAMES. You will observe that section 11 stipulates that no corporation shall engage in any business other than that expressly authorized in its charter. Now, a charter cannot be obtained without going to the Legislature. Now, if an incorporation cannot engage in any other business only what is set forth in its charter, the Legislature knows what they are granting them a charter for whenever they apply for it and when they grant it. Consequently you see the protection to the people in the shape it is in. I want to say in answer to Mr. Roberts's amendment, I considered the section that he has offered for amendment here and considered this one, and so did all other members of the committee. Now, we were afraid that we might go a little too far, and while we thought that this section in the shape that it was in would protect the people sufficiently, we did not want to go far enough to interfere with some condition of things that might arise where a charter was applied for something like this. Supposing the gentleman up in his county desired to build a railroad to some coal field somewhere, and he might incidentally find some little business for the road outside of hauling his coal, but he would be desirous of going to the Legislature and asking for a charter to build a road to those coal fields, and express in his charter to mine and ship coal from those coal mines, which belonged to him. Now, we don't want to go far enough to shut out the opportunity of his including that in his charter, and if the Legislature see fit to grant him a charter to carry on that business in that shape, he might get a charter of that kind without danger to anybody.

Mr. CREER. Do you understand that they would have to apply to the Legislature to get a charter?

Mr. JAMES. Why, certainly, he would not get a charter without he went to the Legislature. Well, it might be a municipal charter.

Mr. CREER. And a private charter for a private corporation, would he have to apply to the Legislature to get that? I understand section 1 says general laws shall be passed.

Mr. JAMES. Exactly so, but it would come from the Legislature.

Mr. CREER. Mr. Chairman, I am opposed to this substitute. I think it will work a great injury, should we be allowed to supplant the present section. It will work a great hardship, as the gentleman from Salt Lake has said. There are companies in this Territory that have done a great amount of good by introducing one, perhaps two, or maybe three—anyway I am connected with an institution that I can say has worked no possible harm whatever. In its charter it is provided that it may enter into mercantile and manufacturing business. Now, unless it had been separated in that way—that is, unless it had received its impetus from this organization, we would not have the manufacture of boots and shoes which we now have in our city. We more than supply the inhabitants of that city with a little manufacturing we have there of boots and shoes. We are running in connection with that a grist mill, and rolling mill. Now, what possible harm could there be in that? Should this substitute obtain, that would shut off from that, not only in this line, but also it seems to me in mining business, both in coal and the precious

metals. They would not be allowed to run a railroad nor to operate their coal mines, and so in regard to other mines. But it seems to me, to confine this to a particular object, it would deprive the people of this Territory or State of the advantages of the investment of capital that could not be got otherwise than by corporations.

Mr. THURMAN. Would it not be better if of necessity you wanted to engage in two lines of business to form a new corporation and work it in harmony with the others?

Mr. CREER. Where is the harm in incorporating in both, so far as that is concerned? It seems to me there is nothing that is contrary to the provisions of the one in the other. That is in manufacturing and in commerce or in trade. Now, this would deprive a woollen factory from buying any little manufactory to manufacture their goods. Many industries that might be considered under the law as it now stands would be cut off by this and could not be properly introduced—many things. It seems to me that it simply turns the wheels of progress backwards. Nearly all the industries that we have established in our Territory up to the present time have been established on this principle, and I think it is dangerous to deviate from this route.

Mr. EVANS (Weber). Mr. Chairman, I think Mr. Roberts means in this, articles of incorporation, and I think Mr. Mr. James also, in section 11, meant to say articles of incorporation. I want to say I favor the section as reported by Mr. James, but it is not as complete, in my judgment, as the substitute offered by Mr. Roberts. The substitute is more restrictive and will give better results. Now, gentlemen, speaking about the Z. C. M. I., there is no difficulty about each one of those institutions incorporating separately. The shoe industry could incorporate for that purpose; the general mercantile business, for the sale of goods, for another purpose, and the benefit of that is this, that each corporation then stands upon its own footing. People doing business with it will know exactly what its resources are, will know exactly what its profits are, and all about it, separate and apart one from the other. And it is the same with the grist mill spoken of by the gentleman from Utah, and the mercantile establishment, they are connected together there; they could be easily incorporated separately and the business could be kept separate. You would know exactly the condition of each, the profits, expenses, and everything connected with it.

But, gentlemen, these are very small things indeed, so far as this question is concerned. They are small things as compared with what is intended to be reached by the substitute offered by Mr. Roberts. If that substitute be not adopted, then the section will undoubtedly be adopted as we now have it. That will permit an incorporation to simply name in its articles of incorporation all the manifold classes of business that might be carried on. That is, a live, strong foreign corporation could come into our new State and file articles of incorporation under our general laws, saying, "we will incorporate for the purpose of carrying on the real estate business, for the purpose of carrying on a railroad business, for the purpose of manufacturing, mining, and everything else," and right there is what this substitute is intended to restrict and prevent—corporate power from taking possession of our new State and controlling its entire business and leaving the people to hold an empty sack.

Mr. SQUIRES. Would you prevent this same power from coming in and taking out articles of incorporation in all these lines of business separately?

Mr. EVANS (Weber). It may do that, it may do that; but there is another article here which prevents combinations for the purpose of controlling

prices, etc. But one of the other real benefits is for the purpose of permitting the public to ascertain the financial status of each corporation. That overshadows a good many other considerations, so that the creditor, when he is dealing with these corporations, knows exactly what their profits are, what their expenses are, and all these things incident to the running of the business. It certainly can do nobody any harm, not even those institutions mentioned, and might result in a vast amount of good.

Mr. CREER. Supposing now, for instance, that the shoe factory of the Z. C. M. I. should not for probably two or three years be able to maintain itself, whether anything is wrong in the other branches of its business supporting that? By this suggestion, each industry standing by itself, you could not use the capital of the one to support the other.

Mr. EVANS (Weber). Nothing wrong about it, but I think if the shoe institution did not sustain itself they would not run it at a loss. No business man does that.

Mr. CREER. During their inception or the infancy of these institutions they have to run at a loss.

Mr. EVANS (Weber). Then you say it runs at the expense of the general mercantile business?

Mr. CREER. Yes.

Mr. EVANS (Weber). Then, what prevents the general mercantile business from giving a portion of its dividends to the shoe factory? Nothing whatever; they should be run separately, but you permit a combination of them and there is trouble.

Mr. SNOW. I wanted to ask a question of Mr. Evans. If they were incorporated separately, would it not require a separate board of directors?

Mr. EVANS (Weber). I think not.

Mr. SNOW. Could they act as officers for each corporation?

Mr. EVANS (Weber). I think so.

Mr. MURDOCK (Beaver). Would it not also increase the machinery to carry on the two separate businesses—but would not it increase the expense of the institution, being that they were all under one head, only had to get up separate corporations for each individual business?

Mr. EVANS (Weber). You must realize that a corporation is in law a person. It has the right to contract with another corporation just the same as you and I have the right to contract together, and there is no reason why the expense should be increased at all. It is simply a safeguard so that we will each know just how our business stands.

Mr. CREER. Supposing that a certain portion of the stockholders should object to subscribing a portion of the dividends to the other?

Mr. EVANS (Weber). That is a mere sham pretense, and nothing else, when you say the business is going to be run continually at a loss.

Mr. CREER. I don't say continually.

Mr. EVANS (Weber). The corporation might loan its credit.

Mr. MURDOCK (Beaver). Mr. Chairman, I realize this fact, that perhaps this State has a great prejudice against corporations. I realize that fact, and it is like other innovations that are being made, it has a hard struggle in many parts to hold its footing; but I am in favor of corporations for the benefit of the general whole, and I do not believe in fencing out capitalists that might come into the country for the purpose of going into business. I do not believe in fencing them out so strong and so persistently as to stop our own moving ahead in this business. You cannot help the capacity of a man. If he has got capacity, you cannot keep him down, and it is men of capacity that can see further perhaps than I can and many others do, that they can go forward and institute corporations that will be a benefit to the people, and there

is no corporation in its incipiency that knows just what it does want. Flour mills may go into a business, of manufacturing flour. They might also want to add to buy something that would be an adjunct to that business such as merchandising. Something will present itself before them as they move along that they might want to do, and the business, that they might be able to support themselves, and I think this substitute that has been offered would be detrimental to men going into business. I do not believe in curtailing men that want to push ahead. They are not only going to benefit themselves but the general public.

Mr. THATCHER. Will the gentleman permit me to ask him a question? If this substitute shall be voted down then your argument is just as much against the original section, because that expresses clearly that corporations shall not be formed except when express——

Mr. MURDOCK (Beaver). I have not taken the original. I am opposed to the substitute and I may be opposed to the other. I cannot tell until I get to it, but I am opposed to that. I notice that men that start into business start perhaps on a small scale, but as they move along there is something that will assist them in keeping vitality in their corporations, whereas if they are limited to prescribe every identical thing in their franchises or in their constitution, perhaps it would be calculated to discourage, and they would come to a break down and would not be in a condition to move ahead, but if they had already the privilege of doing something else—to illustrate, you go into a woollen factory and you might conclude that you could not only manufacture woollen, but you might also produce wool and ship it and sell it for the purpose of keeping up your expenses, whereas if you were confined to simply manufacturing in a woollen factory and prohibited from buying wool or going into something that would assist in the maintenance of that institution, it would be very detrimental.

Mr. MORRIS. Mr. Chairman, I am opposed to the substitute for section 11 on the ground that we want to encourage all the industries of manufacturing that we possibly can, to create all the labor and modes of travel that we can. If I understand the substitute, it is to prevent incorporating into one more than one article or subject. We know well that in manufacturing there are many things that can be manufactured. We will take, for instance, the sugar factory. If that corporation was for manufacturing sugar alone, it would prevent that company manufacturing two or three other articles from the residue of that factory. They could be incorporated under one head——

Mr. THURMAN. What else can you manufacture from the sugar, anyway?

Mr. MORRIS. Vinegar, alcohol——

Mr. THURMAN. And Ogden liniment.

Mr. BARNES. Mr. Chairman and gentlemen, I cannot favor the substitute offered by my friend, Mr. Roberts, because I believe it is too far-reaching. Holding the position I do in connection with the Z. C. M. I., I know something of its workings, and were they compelled to separate their business, incorporate under two separate corporations, I feel confident that it would work a very serious hardship. Now, the question would arise with the shareholders, perhaps, and some would say, "I don't want to have anything to do with the manufacturing department." Now, we are all stockholders, that is, those that own stock in the institution. They own it to-day in the mercantile and manufacturing interests alike, and to say that they shall be divided, why, is something that I think would work a very great injury. I do believe that we should do all we can to foster home industries. That is what we want here at home—right here in our midst, is to foster home industries.

Give them all the aid and encouragement we can. Now, from what I know of the manufacturing interests of the Z. C. M. I., I doubt very much if it could have existed alone without the mercantile interest standing at its back. Now, if that be the case, shall we support that so that this manufacturing industry shall go down? They are employing probably two or three hundred individuals. Shall it go down? I fear that it would if the gentleman's substitute is adopted, because if I understand section 2 aright—perhaps I do not—it compels corporations to accept the provisions of this Constitution if they are to get the benefit of them. That is the understanding I have of it. Perhaps I am wrong in this, but I am willing to stand corrected.

But, sir, I speak in defense of home industries and I cannot favor the substitute for the reasons that I have stated. Were we to do away with our home manufacture, hundreds of persons now employed would be thrown out of employment, and what would be the result? I think we would discourage capital from coming in here and establishing home industries. I do not want to take up the time here, but simply to say in our efforts here and in our doings here, let us do what we can to establish home industry, and nothing that will pull one of them down.

Mr. SQUIRES. Mr. Chairman, after this good republican speech from my good democratic friend from Davis, and owing to the lateness of the hour, I shall not occupy but a very few minutes. I can see one particular consideration in which the operation of this section would be detrimental. Under the provision of this section no corporation could incorporate for mining and milling purposes together.

Mr. EVANS (Weber). Do not you think that would be the same general purpose?

Mr. SQUIRES. I should say not. Mining and milling are two separate occupations. They are just as much distinct as any other two lines of business—and smelting. I think in the protection of the mining interests of this Territory, I should object seriously to the adoption of any such section requiring men to be at the trouble and expense of forming two corporations to do that particular business which ought to be together.

Mr. THURMAN. May I ask you a question? Is not the object of mining solely to extract the mineral wealth and get it into marketable shape?

Mr. SQUIRES. Mining is extracting ore. Milling is a separate occupation.

Mr. THURMAN. Is not that the purpose of it, and does not everything that will tend to do that form a part of that general line of business?

Mr. SQUIRES. I believe not. I should say that the construction to be placed upon the substitute would separate the mining and milling industries; I do not want to take any chances on it. I believe, gentlemen, that the section as it stands in this article gives sufficient protection to the people, and I believe it should be adopted.

Mr. ROBERTS. I would like to ask Mr. Squires a question: what protection the section, as reported from the committee, gives to the people?

Mr. SQUIRES. Well, the corporation would not be able to engage in any business except that specified in its articles of incorporation.

Mr. ROBERTS. I ask him if there is anything in the section as reported from the committee that would prevent any corporation from engaging in ten, fifteen, or twenty different lines of business, if they chose to specify that number of lines of business in their articles of incorporation?

Mr. SQUIRES. There is not, if they were fortunate enough in securing their charter and articles of incorporation that would give them that privilege; but under the operation of his own section as admitted by the gentleman from

Weber, they can engage in all those different lines of business, so that that corporate capacity could go in here and be worked just in that line as indicated. I do not see what would be gained.

Mr. ROBERTS. I would like to ask the gentleman another question, and that is, if the article that I gave notice would follow this one, looking to the prevention of the consolidation or combination of corporations, in connection with this article, would not prevent what he says here might be done under the substitute offered?

Mr. SQUIRES. It might not be a combination of all those different enterprises, but each one can be conducted separately under the same general board of directors.

Mr. CANNON. Mr. Chairman, the hour is late, and I think this a very important subject that should not be passed upon hastily. I move that the committee now arise and report progress.

Mr. MILLER. Mr. Chairman, I would like to make an explanation to this committee before we arise, if it is in order. I have just learned that in my remarks they were construed as insinuating that I had seen Mr. Driver under the influence of liquor; such was not my intention. I believe I prefaced those remarks by saying that I did not think Mr. Driver was a close observer. I thought I had seen him hot under the collar. By that I suppose he thought I intended to insinuate that I had seen him drunk; but if I had been allowed to finish my remarks, I should have finished this way, because of a man under the influence of liquor.

Mr. DRIVER. Mr. Chairman, Mr. Miller has explained this matter satisfactorily to me, and therefore, I wish to say that I do not believe that he lied.

The committee then arose and reported as follows:

Your committee of the whole have had under consideration the article on mines and mining, and report the same back with the article stricken out. They have also had under consideration the article of the two committees, minority and majority, of the committee on schedule, future amendments, and miscellaneous, and recommend that no action be taken on that subject.

On motion, the Convention then, at 6 o'clock p. m., adjourned.

FIFTY-THIRD DAY.

THURSDAY, April 25, 1895.

The Convention was called to order at 9 a. m., President Smith in the chair.

Roll call showed a quorum present.

Prayer was offered by Delegate Brandley of Sevier.

Journal of the fifty-second day's session was read and approved.

Mr. CHIDESTER. Mr. President, it appears to me that a good many members of the Convention have determined to leave here on Saturday for home, and it appears to me that by crowding this matter a little we might get through, and I therefore move that it be the sense of this Convention that when we adjourn this afternoon we take a recess until 7:30 and have an evening session. My reason for doing that is because I believe by holding evening sessions we can complete all the work before us by Saturday evening.

Mr. SQUIRES. Does the gentleman have any idea that the work can be so completed that the members can leave here for home on Saturday?

Mr. CHIDESTER. No; I do not believe they can, but I believe if it was all done up ready for revising and arranging, that they would be content to remain over until Monday.

Mr. SQUIRES. Well, has the gentleman an idea how long it is going to take after our Convention work is completed before the Constitution itself will be completed? The committee on com-

pilation and arrangement has to get its work in to be reported here. Then the entire Constitution has to be engrossed, and then it requires the signature of every gentleman of the Convention. It will take at least a week before you could possibly finish this business.

Mr. CHIDESTER. That is very true, but that is one reason why we should hold these evening sessions.

Mr. HOWARD. I think, Mr. President, we would have to suspend the rules if we did that, for the rules provide that that committee shall have not less than five days to complete their work.

Mr. HEYBOURNE. Mr. President, I have been credibly informed that the committee on compilation will not detain the members more than a half a day before they will be prepared to report. I understand from one of the gentlemen that they are about up with the business.

Mr. SQUIRES. The gentlemen do not seem to realize that after the committee on compilation has reported it will require considerable time, perhaps two or three days, to carefully examine the work and see that what work has been passed by this Convention has gone into the Constitution, without any mistake—the work of comparison and ascertaining whether we are absolutely correct or not. It is going to take a number of days of careful scrutiny on the part of the best men in this Convention before the work can be declared complete.

Mr. LAMBERT. Mr. President, the gentleman stated that the committee on compilation would be up. It takes considerable time to correct these articles, and all of those articles will have to go through the hands of the printer again before they appear before this Convention for final action, and it requires time and care, and it is work that cannot be hurried.

Mr. THURMAN. Mr. President, if what Colonel Squires and Mr. Lambert say is true, all the more reason for holding night sessions, and we ought to have begun a week ago; I favor this motion.

Mr. MALONEY. Mr. President, I trust these gentlemen will not be in a hurry to get away from here to go to their homes. They are now getting to the most important part of the work. Every member will get his salary in full, and I hope the members will not be in a hurry. I sincerely hope that every member will remain here if it takes all next week and even longer; let us do this work properly.

Mr. SQUIRES. Mr. President, the only objection I have to night sessions is that there are so few present. Now, we had one night session, we adjourned to meet here at half past seven, at a quarter to eight we had a quorum, and the last of the members came in about a quarter to nine, and the highest number we had present that night was sixty-five out of a total of one hundred and seven. Now, I do not like to see important Convention work done by a handful of the Convention. If it is necessary to institute a Convention composed of one hundred and seven men to do this work, I do not believe that we should so arrange our matters as to have the work done by sixty-five. If there is any way of compelling attendance here at night sessions, I should be very much in favor of evening sessions, but I do not like to have the work done by a small handful of the Convention.

Mr. BUTTON. Mr. President, I do not know as I would object to having night sessions, but I cannot attend night sessions. I am perfectly willing the rest should, but it is impossible for me to attend night sessions.

Mr. KIMBALL (Salt Lake). Mr. President, I do not think the willing workers should be held back by those who are indifferent. There are some of us whose business actually suffers for our attention. While I am an employe, the business that I represent in the way

of the home manufactures here in the Territory is actually suffering for want of being represented throughout the country, and while I am willing to work harder and more hours if necessary in order to accomplish this work and do it well, I think those who are not so situated ought to be willing to make some concession to let the country members get home to attend to their affairs and let those who have business get away from here so that we can do it.

Mr. HEYBOURNE. Mr. President, I do not think that the per diem is cutting such a great figure as some of the gentlemen here think, in relation to their statements here this morning, so far as the country members are concerned. As the gentleman has just stated, it is a season of the year when their presence is needed at their labor where they reside, and I do not think that those who are willing to labor should be held back, and I just ask this Convention now to look over these vacant chairs and see who there are that are delinquent here this morning, and there has been no night session last evening. I am in favor of proceeding cautiously and intelligently in this matter, but not wasting time, and I think that we could with propriety hold a night session or two to expedite this business.

Mr. JAMES. Mr. President, of course we all have our opinions and now is the time to express them, regarding the extra hours of work. I am in full sympathy with all the gentlemen that have expressed a desire to finish up this work and get away from this Convention. I know that it is important, and I say to you, gentlemen, that there is no man that regrets so much having to be tied down here in this Convention as I do. I have got business and matters that I want to attend to, and I ought to be away from here, but I want to say this to you, gentlemen, man has just about so much capacity; he can do about so much work in twenty-four hours and do it well. Now, if he undertakes to go beyond his capacity, he will slight his work. That must be so. Now, this is an ill-conceived room for such a large body of men. The air, although you may have the windows open, gets very bad during the day. When night comes a man is dull and needs sleep. His brain is not active, and if you keep a man working here from 9 o'clock in the morning until 6 o'clock in the evening, you have got about all out of him that nature intended you should get out of him in this kind of work.

Mr. THURMAN. May I ask the gentleman a question? Can you explain how it is on this question of capacity that the members from the country seem to have more capacity for standing this city hall with its bad air and its ventilation than the members from Salt Lake? They are absent—with the exception of yourself. I will give you credit, and Mr. Squires and Dennis, but the others are absent whenever they please. But anyway, explain that question, it is a physiological one.

Mr. JAMES. We all know that the good material comes from the rural districts. I guess that must be the explanation of this. Now, I want to say, gentlemen, in my little observation of constitution making, which I took a little pleasure in examining in the past six or eight months, I found this, coming from the lips of one of the greatest constitution makers that this nation ever produced, in a speech, as to the time occupied in framing a constitution. He says, "Gentlemen, I would not give one fig for a constitution that was formed in less than twelve months." Now, since this Convention has convened and our work has come upon us, the remark of that gentleman has come very forcibly to my mind. It used to be the old rule of conventions to meet and formulate their work, put it into shape, print it and have it go before the people, take an adjournment of four or

five months, come back, and then put four or five more months in upon that work, and by that time they got something that they themselves were satisfied with and the people at large were contented with. And it was what they wanted. Now, I only call your attention to this for the reason that I say do, not be in too big a hurry right now; it is the winding up and finishing up and polishing up of our work that will give it its true ring and will satisfy you afterwards or dissatisfy you, and it will be the same with the people, and I think you had better come here and do a good day's work and take your time and finish this up as it ought to be. Now, here is an article on incorporation. You cannot push things too fast, gentlemen. From the time this matter has come before the committee up to the present time they have been receiving information from the public and advice from the people in reference to this very thing, and you have got to take a reasonable length of time to do the work or else it will not be well done.

Mr. EICHNOR. I would like to ask a question of the gentleman who made the motion; is it the intention to have a night session every day during the session?

Mr. CHIDESTER. No; for to-night.

Mr. EICHNOR. Well, Mr. President, I am going to try it again.

Mr. CHIDESTER. Well, try it once more, and if it does not work we need not try it again.

Mr. EICHNOR. Mr. President, I do not want to praise myself, but I have tried to be a faithful attendant. I do not think it is right for members to get up here and fire promiscuous shots at members from Salt Lake County. Censure those who do not come, but it is not right for those who come here and try to do their best to be insulted. I am trying to do my duty and represent my people, and I say gentlemen ought not to hurry this matter too much, but I am willing to try night sessions.

Mr. RICKS. Mr. President, I believe when members want to go home the best thing they can do is to put a bridle on their tongues. I have discovered that we have wasted more time here than would have given time to frame three or four constitutions. I believe if that will be followed by country members as well as Salt Lake members we can get away from here shortly. I am compelled to get away from here either Monday or Tuesday. If we let an impression get out over this assembly that when a man talks fifteen minutes he is costing the Convention fifty dollars the speeches will be shorter.

Mr. SQUIRES. Mr. President, ever since I learned that the country members had held a caucus, with a view to shutting off debate in this Convention, I have left the country to do all the talking. Up to the present time this morning, I believe I have not made a speech, and I do not intend to take up the time of this Convention except when I consider it absolutely necessary. I thought they wanted to get away, but they have done all the talking ever since the night they held that caucus.

The motion of Mr. Chidester was agreed to.

Mr. RICKS. Mr. President, I move that it be the sense of this Convention that all the committees report not later than to-morrow morning.

The motion was agreed to.

Mr. ALLEN. Mr. President, section 14 of the article on elections and rights of suffrage was reconsidered last Monday and laid on the table, and inasmuch as some that are here now were not here then and will not be able to vote intelligently as to the taking up of this question, without an explanation, I wish to say, the motion was to this effect, that section 14, and that section only, of the article on elections and suffrage was to be reconsidered, and in order to place the election of judges at

the time of the general election, and a great number of the delegates being absent, it was thought wise to lay it on the table, which was done. Now, this morning the judiciary article comes up and there will be a slight change in that, providing that this motion to reconsider should carry and the section be amended. That is one reason for having this called up this morning. Another reason is, the committee on printing are waiting to see what the result of this motion to reconsider will be. Therefore, I move to take from the table the motion which was laid on the table last Monday, tending to a reconsideration of section 14.

Mr. THURMAN. I do not see why gentlemen are so persistent in wanting to bring this matter to the front. It was out of order to bring it up at all. There was no motion to reconsider that on the day on which the matter was disposed of, and to say the least the only way it can be done is by suspending the rules.

Mr. CRANE. Mr. Chairman, the object of bringing this matter up is that the committee on compilation and revision have now quite a number of articles to hand to the printer; we are trying to keep up with our work as close to the Convention as it is possible to do with revising and compiling the different articles that passed the third reading, and there seems to have been some misunderstanding in regard to section 4. I had an idea that the article as amended provided that the judicial officers should be elected the same year that the State officers were. I do not know what the opinion of the gentleman from Utah County is. I think we both agreed on that matter. There were some objections to it, but I had an understanding that that passed in that form.

Mr. THURMAN. I am in favor of the article just as it passed this Convention myself.

Mr. CRANE. And the way we have it in the revised copy here, as received from the secretary, it makes it that the judicial, municipal, and school officers should be elected in the odd years, when we do not have any State elections, and that there shall be a separate election for that purpose. It was understood, I believe, at least by me and others on the floor of the Convention, that the judicial officers should be elected at the same time that the State officers were, and thus save thirty or forty or fifty thousand dollars for a general election, that would be necessarily held to elect these judicial officers.

Mr. EVANS (Utah). I arise to a point of order. The point is that the motion to take from the table is not debatable.

The PRESIDENT. The point of order is well taken.

Mr. SQUIRES. Mr. President, I want to inquire if the motion to reconsider was made at a proper time to make it a valid motion?

The PRESIDENT. That is the remembrance of the chair in regard to the matter.

Mr. THURMAN. My understanding is that the motion to reconsider was not made at the proper time, but the motion made last Monday was to suspend the rules and reconsider. This requires a two-thirds vote.

Mr. JAMES. Did not I understand from the gentleman from Millard that the committee on compilation had arranged this matter in the form precisely as Mr. Allen's motion would place it?

The PRESIDENT. I should say not.

The motion to take from the table was agreed to.

The PRESIDENT. The question is now on the motion to suspend the rules and reconsider section 14 in this article on elections and suffrage.

Mr. THURMAN. Mr. President, now if there is any reason in the world for reconsidering this I for one would like to hear it. I do not see any so far as I am concerned. I hope there will be no

lengthy debate on it, but I would like to know the reason the gentlemen have for wanting to reconsider it. If a mistake was made, the mistake ought to to be corrected, but if it is some man who simply wants to undo what was done, because he did not carry his point, I hope the Convention will defeat it and let this work go on.

Mr. GOODWIN. Mr. President, I will say in explanation, there seems to be a misapprehension of what the amendments to that section really were, and whether it conflicts with the judiciary article or not.

Mr. BUTTON. Mr. President, it applies to State officers, too. I do not understand the section passed the way some say it did.

Mr. THORESON. Mr. President, while we have section 14 under discussion, I believe it was almost unanimous that the idea was that we wanted the State and county elections to go on only every other year—every even numbered year, but the way the section passed we find that judicial officers, including State and district judges, would of necessity have to be elected on some other time from that of other State and county officers; and in talking with a great number of the members all that I have met were of the opinion that judicial officers were cut out as the section passed; but that is not the fact; we find the word judicial in there, and the committee on compilation always were under the impression that "judicial" had been omitted and that the section passed. We see by this that it will necessitate a State election every year and a county election every year, which is contrary to the opinion and idea of the members expressed both in the committee and in the Convention. For that reason, I favor the reconsideration and the striking out of "judicial" from section 14.

Mr. CRANE. Mr. President, I desire to read the section as it has been revised, and I also desire to resent the imputation of the gentleman from Utah County that any individual on this committee desires to satisfy his own selfish ends, to construe, alter, or amend, or in any way, shape or form, change any word, letter or anything else, in any article that has been presented to this committee.

Mr. THURMAN. There has been no such imputation made.

Mr. CRANE. I will see you later. (Reads section 9.)

Mr. THORESON. Will the gentleman allow me a question? Is it a fact that this section was numbered 14 in the original proposition?

Mr. CRANE. In the original proposition that was numbered 14, but if you will observe, there have been quite a number of section sentirely stricken out; consequently on the revision it comes in as section 9. Now, I desire to read the stenographic report. (Reads from proceedings of 36th day.)

Mr. SQUIRES. Mr. President, I submit that the proceedings as read by the chairman of the committee on compilation are exactly as took place in this Convention, and however much we might change that now, I do not think it is wise to go into it.

Mr. CRANE. It is only for the purpose of getting it correct. That was all that we had in the matter, was to get it exactly as it passed the Convention. Now, no one on this committee has any desire in the least to change, alter, or amend one word in any way, shape or form. There is a matter of personal honor in this thing. I do not believe that any gentleman on this committee would dare think of such a thing or has thought of such a thing, and I resent the imputation from any gentleman on this floor to the contrary. It is only to get this matter distinctly before the house that we may understand it, and that this committee in revising may fully understand and get it exactly as it passed this body. There seems to be a disposition among quite a number

of gentlemen on the floor, that this is not the way the section passed.

Mr. THURMAN. Mr. President, I arise to a question of personal privilege. I do not see how any language that I have uttered here could be so misconstrued as it has been by the gentleman from Millard. I had no thought whatever of the committee on revision. The committee on revision never entered my mind. My point in what I said was this, that if a mistake had been made, I for one would like to know wherein it was made, and we would correct it here; but if some gentleman—and to be frank, I had in mind the mover of this motion to reconsider—if they were simply wanting to overturn what this Convention had done, because they were dissatisfied with what we had done, I thought we ought to vote it down. I never thought once about the committee on revision, and there is not a man on that committee that I could be made to believe would stoop to do a dishonorable thing in connection with the work they have in hand or in this Convention. That is all I have to say on the subject.

Mr. GOODWIN. Mr. President, I think the matter is exactly as agreed to the other day, and the gentleman is mistaken in thinking that the election for judges and the city elections and school elections will come in odd years. The only object was to separate two or three of the elections from the main general election. The election of judges, municipal elections, and school elections—that was fully discussed and we passed it, and as Mr. Crane read it, it agrees entirely with our notes. I think the thing is all right as it is.

Mr. ELDREDGE. Mr. President, I just simply wish to say that the section was read by Mr. Crane is verbatim as I have a record of it here.

Mr. GOODWIN. I believe that the section as passed as Mr. Crane read it a little while ago. We might as well be frank in this matter. I plead guilty to the charge that Mr. Thurman made, or the position that he took, that the men who were defeated when we passed this artcile are trying to change this now. That is the truth of the matter. We believe it is wrong, and we believe that the judicial officers should be elected when the State officers are elected. That is the whole thing in a nutshell.

Mr. LAMBERT. Mr. President, when this question came up before the compilation committee, there was a difference of opinion. Some of the members of that committee were under the impression that this judicial election was made at the same time as our general election, and it brought about the discussion. Many of the gentlemen surrounding me here are of the same opinion, that we only have one general election throughout the State, and it was for this reason that this question was brought up.

Mr. GOODWIN. Mr. President, I move that the section be accepted as read by Mr. Crane.

The PRESIDENT. The question is on the reconsideration—that is, to suspend the rules.

Mr. HOWARD. Mr. President, I am opposed to reconsidering this article. I think that as passed in the Convention it is just right. That is so far as it can be construed at the present time, and this question has not only been up here in this Convention but has been considered by others in the various parts of the country, and they think it is the right thing to do. I believe that that principle is right and that we ought to adhere to what the Convention has done.

Mr. THORESON. Are you in favor of having special elections—State and county elections for judicial officers apart from State officers?

Mr. HOWARD. I am in favor of keeping municipal and school elections out of politics just as much as possible.

Mr. THORESON. I agree with you on that, but are you willing that the

judges also—the district and supreme judges should be elected separate and apart from other State officers.

Mr. HOWARD. Why should they not be?

Mr. THORESON. Why should they be? That is what we want to know?

Mr. HOWARD. Could you give any good reason why they should not be?

Mr. LAMBERT. I will tell you why. It will cost the State twenty-five thousand dollars and disrupt peace every year.

Mr. CRANE. It will cost them thirty-five thousand.

Mr. THURMAN. I would like to ask Mr. Lambert, will it cost twenty-five thousand dollars, if municipal and school elections are separated, to have a judicial election at the same time.

Mr. LAMBERT. Municipal elections are paid for, I believe, by municipalities; school elections are by the school districts, but this judicial election will be paid by the State.

Mr. THURMAN. But, is there any necessity of the great expense you speak of, and if so, in what will that consist?

Mr. LAMBERT. Why, in paying the expenses of campaigning the Territory—disrupting business, will cost a hundred thousand dollars.

Mr. HOWARD. Does the State pay for all campaign expenses?

Mr. LAMBERT. Well, the people of the State have to pay for them, and people of this State have been crying out for years against so many elections, and every one of your constituents today, gentlemen, is asking for us to lessen the number of legal elections, and lessen this expense that is tearing them to pieces and disrupting their business affairs.

Mr. THURMAN. I desire to ask one further question. This money that is paid out in campaigning, is paid from one citizens of the State to another. It keeps inside of the State lines, don't it, as a rule?

Mr. LAMBERT. Not only that, there is paying the registration officers.

Mr. THURMAN. Does not that keep inside of the State?

Mr. LAMBERT. And printing bills, etc.

Mr. CRANE. Do you not think that there will have to be another registration?

Mr. LAMBERT. Yes, sir; I am of the opinion that there will have to be a special registration?

Mr. CRANE. Do you think these registration officers will have to be paid by the State?

Mr. LAMBERT. Yes, sir.

Mr. CRANE. Do you think there will have to be judges of election?

Mr. LAMBERT. Yes, sir.

Mr. CRANE. Do you think they will have to be paid by the State?

Mr. LAMBERT. Yes, sir.

Mr. CRANE. This last election cost this State twenty-five thousand dollars.

Mr. GOODWIN. Mr. President, if this was not a dignified assembly, I should say this was all rot. This will not place judicial elections on an odd year at all. It simply puts it on a different day, for instance we have the general election on Tuesday; the same rolls are used on Thursday for judicial elections. That is all there is to it. All the expense is a day's work by the judges of election, and the State that cannot stand that ought to go into bankruptcy.

Mr. EICHNOR. I would like to ask Judge Goodwin a question. Is not it a fact that we have fixed the terms of the supreme judges in order that the elections shall not come on the years when the State officers are elected?

Mr. GOODWIN. No, not by any means.

Mr. L. LARSEN. Mr. President and gentlemen of the Convention, we have been economical on this floor when we have said what the salaries would be of the State officers. Here is a matter that it appears to me that we might

rightfully use economy in. I cannot see any reason why our judicial officers should not or could not be elected on the same day and at the same election as our State and county officers. There is no reason that presents itself to me. It has been argued here that we should do this in view of political matters or influences entering into our elections. Now, I do not see that it will make any difference. I do not believe that political ideas will be kept out anyhow, and hence, I am certainly in favor of saving this amount of money to the State, which will amonnt in the aggregate to many thousand dollars without any question. If we have an election here, in regard to this—members have perhaps exaggerated this amount; it is certain that it will be a great amount of money, and it may as well be saved as to throw it away. I was in favor, when this question was up before, of leaving it to another election for our judicial officers, but after due consideration of this matter, I have changed my mind, and I am now in favor of electing them at the same time and letting our school officers, etc., be elected at some other time.

Mr. ELDREDGE. Mr. President, I am still of the opinion, as I was in the first place, concerning the election of the judicial officers. We provide here that all State officers except those shall be elected on a certain day. Then we leave that measure to the Legislature to say whether that election shall be held on that year or some other year, and if it is held on the odd year, in my judgment, it will be necessary to have a registration anew for judicial officers.

Mr. GOODWIN. That cannot be. It is fixed so that they will come in the same year.

Mr. ELDREDGE. We may suppose it comes in the same year. They hold an election on a certain day in November for all officers except judicial; then a week after or a week before, as the case may be, to hold another election just simply to elect the judicial officers—what will our constituents say? They will say, "Why, when you were providing for that, why didn't you provide that we get at this work all at the same time? You simply provided for the election of all officers except one class of State officers on a certain day, and then you hold their election over until a week after, and we have got to spend another day in keeping the polls open all day, and devoting our time just for that purpose." Why, it is simply like throwing just that much time away, because the entire work could be done on one day.

Mr. THURMAN. Are you in favor of having school elections on the same day as that of State officers?

Mr. ELDREDGE. Well, I would be in favor of having the judicial elections on the day of the general elections.

Mr. THURMAN. No; but I am asking you now about school elections. Are you in favor of having them on the same day?

Mr. ELDREDGE. Well, there is a question concerning municipal elections and school elections that is quite different.

Mr. THURMAN. Well, if you have a separate election for school and municipal officers, why not elect the judicial officers at the same time, for the same reasons and the same expense? This talk about the expense—there is nothing in it, if you have another election anyway.

Mr. ELDREDGE. So far as that is concerned, I should say to have the school elections on the same day. I think it is just exactly like a man having forty bushels of wheat to take to a mill and his team could carry it all just as well in one trip as it would in five, but in order to spoil two days he is going to take twenty bushels at a time. That is about the proposition. But on the judicial measure I shall certainly vote in favor of reconsidering that.

Mr. BOWDLE. Mr. President, if it

were possible to make the judicial elections entirely non-partisan, and take them out of politics, I would be in favor of a separate election for judicial officers; but in my opinion that is utterly impossible. You can no more make a man that nondescript—neither republican nor democrat—because that is what you would make of your judicial officers, by electing on a different day, than you could do any other impossible thing. If he is a republican he will be a republican, or else he is not any kind of an American citizen. If he is a democrat, he will be a democrat. You cannot change him by electing him on a different day. Now, the argument they use here is, "Why, this won't increase the expense, because we elect on Tuesday, in the general election, and on Thursday the judicial officers." How far does that take it out of politics? The same machinery that you have had in operation to bring about the results of your general election will be in operation to bring about the judicial elections. The same ward heelers that will be working for your general election will be working for your judicial election, and you cannot get away from it. I cannot see how you can possibly, by doing it in that way, make it a non-partisan matter. I would not want to make it a non-partisan matter, as far as that is concerned, because I would not want to take away from an American his political opinions, if I could do it. I would not want that kind of a man on the bench. I would rather put my good friend from Utah County—a good strong democrat, on the bench, and know that he was than, that some nondescript fellow that was neither one thing nor the other. Let me know where a man stands and I do not think politics would have so much to do with him after he would get on the bench, and I would not think that he would be so swallowed up in politics that he could not hear a case and determine it in all its bearings.

Mr. EVANS (Utah). Mr. President, I may state on general principles that I am opposed to this system of going back into the work. However, perhaps no man on the floor can, with more consistency, take the position that I do on this question than myself, having given notice at the time I voted that I was opposed to section 14, but I should never have brought it up of my own accord, and I am of the same opinion yet. I think that this is a condition of things that we can with consistency and propriety reduce the expense a great deal to this new State, and not only the expenses to the State can we save by having these elections all upon one day, but there is no man upon this floor but what from actual experience knows what the effect of these political campaigns is. It was suggested by my colleague that we need not to campaign. That is true, but will we take such advice as that? Experience since our division upon party lines has proved to the contrary, and that is but a theory. We must meet this thing as it confronts us, and I am confident in my mind that the results to this Territory will not be attained by having two general elections, that there will in having them all upon the same year. Now, in regard to the school question, it has been asserted here by every man that has spoken upon this question, that he thinks the school elections ought to be kept out of politics. I want to suggest to you, gentlemen of the Convention, that if you shall incorporate one single election in addition to the school election, you will thwart the plan that you are desiring to accomplish. It has been stated that in July perhaps would be the best time for school elections, and I believe that it is barely possible, and only barely possible too, that if the Legislature were to pass laws providing for an election in July for our school officers that we might perhaps accomplish the object, but if you shall connect one single election, even to a town elec-

tion, you will find that this question of politics will drift right into it. I submit to you that in the town where I live they have drawn lines so very close in politics that a man need not expect to receive a job at the hands of the party that is in power; they employ all the minor officers to the very least that they have, from that political faith. Then talk about keeping that out of politics! I say, let us make these elections uniform. Let us have them upon one year.

Let us gird on our armor of war in politics, fight the battle to the death, and when we get through, let us rest for two years, and we certainly need it. I realize that it requires two-thirds for the reconsideration of this question, and I believe that we will be able to get them. Some gentlemen have come before the Convention here to-day and said that after mature judgment and deliberation they have decided that they voted wrong the other day. There is not a question in my mind as to carrying this, if we could once get this before the Convention as it stood before; so that a majority could carry it.

Mr. THURMAN. Who is it that voted wrong the other day?

Mr. EVANS (Utah). My friend from Sanpete said that he had been converted.

Mr. THURMAN. I think he voted on that same side, and I think that every man who has spoken on your side voted that same way.

Mr. EVANS (Utah). I submit to you that Mr. Larsen from Sanpete stated that he voted upon the other side and that he has been converted now to this way of thinking. Another gentleman from our own county voted upon the other side, and he to-day is prepared to vote on our side, as I believe there are many more here to-day, and that we will obtain the necessary two-thirds to reconsider this matter, as we ought to do, and that we will be able to present this question to our constituents in a way to meet their approval; and I believe we ought to do it.

Mr. RALEIGH. Mr. President, I am in favor of having as few elections as possible, and as far apart as possible. Hence, I am in favor of electing judges on the same day as other officers. It has been many times remarked that poets are born, not made. Our friend from Washington County says that dudes are born, not made. And I am impressed with the idea that democrats and republicans are born, not made, and that they are both useful in a republican form of government, one just as much as the other, and I am in favor of having, as I said, as few elections and as far apart as possible.

Mr. KERR. It seems to me, Mr. President, as far as I can remember, that the same arguments are being continued to-day that were offered when this question was before the Convention, and I was desirous of being recognized in order that I might move the previous question, but I notice two gentlemen very anxious to speak on the question and I will withhold that for a few moments. It does seem to me we should bring this to a vote as soon as possible. We have already spent an hour on this question.

Mr. CRANE. Mr. President, I desire to read for the information of the gentlemen here from the stenographic report that was held on this section. (Reads from proceedings of thirtieth day.)

Mr. EVANS (Weber). I would like to inquire of the gentleman from Millard which side of this question he is on?

Mr. CRANE. I am on neither side. I want to get the sense of the house, and I want to get this article correct, as there seems to be some dispute in regard to how this article passed the Convention?

Mr. EVANS (Weber). I understand you are in favor of reconsideration, are you not?

Mr. CRANE. I want to get the article correct. My idea is to bring the arti-

cle before the house and get the sense of the house, and if, as we have amended it and revised it, it is correct, I am satisfied with anything. I am not supposed to know anything at all about what passed this Convention when it comes into the committee on revision.

Mr. EVANS (Weber). I wanted to know whether you are in favor of reconsideration. I am, whether you are or not.

Mr. CRANE. My discussion here on the floor of the Convention was that I wanted the judicial election to be held at the same time of the State election, and nothing but the school and municipal elections at any other time.

Mr. EVANS (Weber). You are in favor of reconsideration?

Mr. CRANE. I am in favor of reconsideration.

Mr. EVANS (Weber). Why do you read speeches that oppose it?

Mr. CRANE. For the simple reason that I want to get the correct idea before the house. That is all. I have no personal interest in this matter at all.

Mr. HEYBOURNE. Mr. President, I hope the motion to reconsider may prevail. I am opposed to having elections any oftener than they are occurring at the present time.

Mr. KERR. Mr. President, I arise to a point of order. According to rule 13, a motion to suspend the rules shall be decided without debate. This is a motion to suspend the rules, and all this discussion is out of order.

The PRESIDENT. The question itself is a debatable question.

Mr. HEYBOURNE. I am in favor of the motion being reconsidered. I consider it would be not only a matter of economy, but it would be unwise for us to precipitate so many elections and to have the turmoil that is connected with these elections. Now, so far as school matters are concerned, the election of school officers, I hold that that is open, unless it should be provided otherwise by the Legislature. Various trustees in the school districts have these matters in hand, prepare all the necessary arrangements and conduct the affairs of elections of school trustees. The condition of the people at these elections is such that it would be calculated to annoy and to perplex them in the selection of the proper officers to direct and manipulate their school affairs, and it was my opinion that when this matter was first passed, the election of the judicial officers and of the school officers were separated, and I am certainly in favor of that proposition now, to keep our school matters entirely separate from the general election.

Mr. HOWARD. You stated that school elections are local. Are not municipal elections local also?

Mr. HEYBOURNE. Yes.

Mr. THURMAN. Mr. President, I am opposed to reconsidering this on principle. I say if we vote here to reconsider this question it establishes a precedent for the reconsideration of any question that any gentleman has been dissatisfied with it in the first place. There are several questions. There are several propositions in this Constitution, gentlemen, that I am unalterably opposed to, and there are men on this floor who stand shoulder to shoulder with me in that opinion. They say they were wrong. Are we going to, because we were defeated on some question in the early days of this Convention, go around and work up a sentiment and get men won over and come in here when some of the men perhaps who took a position on the other side are absent, and get a reconsideration? Is that the precedent that we are going to establish? I say that there is a time for all things. This matter was debated fully, squarely, and face to face, and a man who stands up here now and says he did not understand the vote, all I can say is, he was not giving attention; he must have been reading a newspaper or drawing pictures on his table, or something of the kind. There has not

been a question during this entire Convention that was any more fairly and deliberately discussed than this question that was reported unanimously by the committee, which you now seek to overturn. And, Mr. President, let me say this: Men have talked here about holding so many elections, and when I asked them, Are you in favor of school elections? "Why," they say, "no." Are you in favor of municipal elections on the same day with the State officers, No. You are going to have these elections anyhow. That is the ground I put it on. Now, gentlemen, I say, let us be men. If we want all these elections on one day, that is the way to get economy, and if that is the sense of this house I will vote with you on that. I am going to stand by what this Convention does. I want to stand by what it has done in the past, although I am opposed to many things that are done; but when men say, "We will have school elections separately, we will have municipal elections separately, and we do not want judicial elections, because that makes so many elections," it does not look to me as if it is in good faith. It is an argument that is without foundation. Now, if economy must prevail in all cases—the saving of expense in all cases, let us say that we will have the election of all of these officers on the same day, and if that is your mind, gentlemen, I will vote with you.

Mr. ELDREDGE. Do the same judges of election that officiate for the judicial also act for the school and municipal elections?

Mr. THURMAN. They can. The law can be made to accomplish that very result. Men are talking about our local laws as they now exist. The Legislature can make laws by which municipal officers and school officers shall all be elected and voted for, and the same ballot boxes presided over by the same judges. That is the whole spirit of this provision.

Mr. ELDREDGE. Then, if it was the case that the same judges presided at all three of those elections, those elections must be on the same year of the general elections?

Mr. THURMAN. It does not matter about that. The article does not provide that it shall be a different year. It simply provides it shall be on a different day. We have been having school elections on a different day. We have been having municipal elections on different days, and the idea was to pick out these officers, gentlemen, that we felt as far as possible might be withdrawn from rank partisan feeling, and put them together.

My friend and colleague from Utah County talks about things being so redhot in his town that it comes down to the question of a man getting a job. I will tell you we will make them redhot, and they will grow hotter and hotter all the time unless men seek to make some reasonable provision by which we will take some of this hotness out of the business, and that is the whole object of this.

Mr. SQUIRES. Your idea is that the judicial and municipal and school elections should be held on a separate day?

Mr. THURMAN. The same day, so far as that is concerned.

Mr. SQUIRES. The same day, but on a separate day from the general elections?

Mr. THURMAN. Yes, sir.

Mr. SQUIRES. How then would you divide the expense of the election, the judicial officers being State officers?

Mr. THURMAN. Let the State pay its part, the school district its part, and the municipality its part.

Mr. SQUIRES. How would you divide it?

Mr. THURMAN. Why, that belongs to the Legislature to determine. We cannot enter into details here and say how this shall be done and that shall be done. The fundamental principles should be established by us, and let the Legislature work out the details.

Mr. SQUIRES. Wouldn't it be a clear

saying if all the State officers are elected at once? That would leave the State election by itself?

Mr. THURMAN. I don't think so. In the roundup the expense is going to be the same to the people.

Mr. EVANS (Utah). I would like to ask the gentleman if it is not a fact now that as hot as things are in the town in which I live, the municipal elections, school elections, and county elections are not separate to-day?

Mr. BUTTON. I would like to ask Mr. Thurman if in the judicial, school and municipal elections there won't be politics in it?

Mr. THURMAN. I think there will be to a certain extent, but I introduced this resolution early in the session of this Convention, and I put it on the grounds that it would tend towards a non-partisan election, if we can take out some of this red fire—red-hot feeling that my colleague speaks about. Gentlemen, there is that much good. I submit it to every gentleman on this floor that during our campaigns we are temporarily insane, we don't know what we are doing, and I think that we can rise above that to a great extent, if we will take our State officers and the county officers out of our elections. I believe that we can do that. I have evidence of it in our own county.

In school elections we have succeeded down there in many of our precincts in getting together and getting the best men. Can you do that for ordinary State officers or county officers? Now no one dreams that we can do anything of the kind, but there is a feeling that when we can get a judicial officer, without regard to party, there are many men who feel that the object should be to get the best man and unite on him, because he has got to be a man that will be at all times fair, just, and impartial in his decisions, in deciding the rights of men, and as far as municipal officers are concerned, I have never thought that we could reach that degree of non-partisan feeling in relation to them that we could as to others. But when it was suggested by Judge Goodwin that they be added to the list, I accepted it, because if we can do that, all the better.

Mr. BUTTON. I just want to say that school elections must be different from what they are at Salt Lake City. I want to ask you a question. If we have elections all at once, won't there be less of that hot fire?

Mr. THURMAN. I don't think so. I think three months after a general election, if politics are ever dead they will be dead then, and then is the time to come along and have your judicial and school elections.

Mr. GOODWIN. Mr. President, the only reason I speak is to correct a misapprehension. So learned a gentleman as my friend from Salt Lake seems to have an absolute misapprehension of the principles behind this idea. He does not wish to throw down a gentleman's political opinions and make him a nonentity. Now, I am astonished to hear such reasoning from such a source. The idea is this, that the office of judge, either district or supreme judge, is something so sacred and so exalted that it ought to have the fullest respect and confidence of men. In our deliberations in the judiciary committee, there was no thought of partisanship in apportioning the State, the idea being that the best man ought to be elected judge. Now, if an election for judges was to come to-day, I don't know how other men who are strongly partisan feel, but I know I would vote for the best man. If there was a republican that I thought failed either in legal ability, judicial ability, or in the character necessary for a judge, and his opponent possessed those qualities, I would vote for the democrat. It was that thought that pervaded the whole committee as we fixed the article on judiciary. Now, to put the election on the

same day of these gentlemen that are talking here this morning—some of them will be trading constables for judges, and degrade the bench. That is the idea. Most of this talk about expense is most pitiable. This State has forty thousand school children growing up, and they are watching things as keenly as young minds always do, and if they are brought up to believe——

Mr. CORAY. Don't you think you could exercise the same amount of judgment on the general election day as you could on any other day?

Mr. GOODWIN. I think I could. I think there are a great many like my friend from Bingham; if he could make a trade on a judge to elect some pet officer, he would be likely to do it.

Mr. SQUIRES. Mr. President, I arise to a question of personal privilege. I would like to know whom the judge referred to as his friend from Bingham.

Mr. RICHARDS. I think the gentleman ought to be excused from giving a bill of particulars.

Mr. GOODWIN. I want to speak to a little personal privilege. Have I ever so given myself away on the floor as to admit that Mr. Squires was my friend? I want to exalt the bench. And if men can go to an election and vote their best judgment on judge or on a number of judges, and the whole expense is what is paid to election judges (because that is all the expense there is), let it be done. We talked this all over. We agreed to it here in full Convention early in the session; and let me say further that in the old states a sentiment is turning more and more to frequent elections, to keep the minds of the people wrought up all the time to a clear perception of their political duties. If it were not for that, we might either have an election once in ten years or delegate four or five men to go and vote for us. This is a republic. All the safety it has is in the intelligence and patriotism of the people. A few dollars' expense on an election to keep the bench exalted and to make them understand that if they run for that office they cannot be elected simply because they are democrats or republicans, but because they are fit for the place, is well spent. I hope this motion will be voted down and that we will proceed with the regular call this morning.

Mr. BOWDLE. Judge, did you ever know this fine spun ideal to work in actual practice?

Mr. GOODWIN. I have, very often.

Mr. BOWDLE. Did it work satisfactorily?

Mr. GOODWIN. It did. In this city, for instance, we could tell, when the names of some attorneys are mentioned, in one moment which we would think would make a good judge, which we think would make a bright attorney, which attorney we would pick out, if we had some sharp practice we wanted to carry through.

Mr. BUTTON. I would like to know how much politics was kept out of your school trustees' election last fall in the fifth precinct?

Mr. GOODWIN. I am not in favor of the school question. I do not know how many rogues there were there. I know some people were reported to have worked against perfectly straight citizens who inhabit that ward.

Mr. EVANS (Weber). Mr. President, I wish to submit a few remarks on this question.

Mr. KERR. I arise to a point of order. I insist that this whole discussion from beginning to end is out of order.

Mr. EVANS (Weber). I raise the point of order that that question has been ruled upon.

The PRESIDENT. The chair's understanding was that this opened up the whole debate.

Mr. KERR. I appeal from the decision of the chair.

Mr. EVANS (Weber). Business has been transacted since the chair ruled.

Mr. KERR. I would like to discuss the appeal on the point of order.

Mr. EVANS (Weber). It should have been discussed at that time.

Mr. CANNON. I trust the gentleman will withdraw his appeal, for the reason that I think about everybody has spoken who desires to.

Mr. BUTTON. I would like to have the gentleman discuss that appeal, and I want to diccuss it. I think there is a mistake before the house.

Mr. KERR. Mr. President, the decision of the chair on this point having been made, I would like to state the point of order.

Mr. EVANS (Weber). I make the point of order, that when the chair ruled no appeal was taken. And it has been discussed for twenty or thirty minutes since that. An appeal must be promptly taken at the time, and not let business be transacted.

Mr. KERR. I did not understand that the chair had ruled upon the question. I was waiting to give the gentleman who made this motion an opportunity to reply without shutting him off, since a number of others had spoken, and I understand that the appeal had not been decided.

Mr. HART. Mr. President, if I remember rightly, there was no expressed decision of the chair at that time. There was a sort of a tacit decision. I would not like to shut off debate here and stop the gentleman from Weber, who has the floor, from talking, yet as a question of parliamentary law there can be no doubt about the position taken by the gentleman from Cache (Mr. Kerr), for this reason, that if it is not a motion to suspend the rules, then the motion to reconsider is out of order.

Mr. EVANS (Weber). I raise the point of order upon Mr. Hart, that he is not talking to any question now before the house.

Mr. HART. I am talking about the appeal by the gentleman from Cache.

The PRESIDENT. The chair will rule the appeal out of order. As I stated previously in regard to this matter, as the discussion has gone on, the gentleman should be permitted to speak.

Mr. EVANS (Weber). Mr. President, I am in favor of a reconsideration of this motion, and I do not believe that any sufficient reason has been given why it should not be reconsidered, and why different action should not be taken by this Convention. It has been argued here that it will take the question of school and municipal officers, and judical officers, out of politics. Now, we know, gentlemen, that that is not true in the light of the history of this Territory. Of course, we are yet new converts of the school of politics, new converts are always more zealous than old ones. There was an instance in Provo where they undertook, at a separate election, to nominate school officers, and the people of that city bolted the citizens, the nomination. We know it was exactly the same at Ogden, where we had but one school election; no other election was present, and the citizens in one of the wards bolted the ticket, and the voters elected their trustees. We all know that. While it is very nice in theory to separate these elections, and keep them from the whirlwind of politics, yet we know when we face the condition of things that they are not kept out of politics.

There was an effort made here when the people elected their delegates to this very Convention to make it non-partisan. The people were not in a temper of mind to do so, and it was impossible to accomplish it. Even when we convened here, another slight effort was made to make the Convention somewhat non-partisan. It was made partisan by the election of the president and all the subordinate officers, right down to the chairmen of committees. When a constitutional convention cannot be made

non-partisan, tell me, gentlemen, what can or what ought to be? But gentlemen say that if we elect our judicial officers, and school officers, and municipal officers on the same day, it will have a tendency to keep the election out of politics. Why, gentlemen, don't you know that municipal elections are the most red-hot elections that are ever held anywhere? Talking about trading a judicial officer for a constable! What about trading a judicial for an alderman, or a councilman, or a justice of the peace, and all those subordinate officers, right in the very locality where these people reside, where they have their friends? We are running side by side with a councilman and an alderman and a mayor, a State officer.

Mr. GOODWIN. There is no such proposition.

Mr. EVANS (Weber). I am referring now to the argument of brother Thurman, wherein he states that there will only be two elections. He says the State officers will be elected on one day and the school, judicial, and municipal on another.

Mr. THURMAN. I said nothing about trading, did I?

Mr. EVANS (Weber). No. The trading part—I had reference to the gentleman who interrupted me. But, gentlemen, if you have these three sets of officers elected on the same day, you will have politics of the most rank character, trading in the most insolent manner, and if you undertake to separate those elections and hold the municipal election on one day and the judicial elections on another, and the school on another, then you will have four elections instead of one as there should be, or at the outside not more than two. I say that it is almost unprecedented in the United States, and I challenge the contrary—to elect State officers on the same day that municipal officers are elected. And yet that is the very proposition which confronts this Convention, and we must do that unless we separate those elections and make two out of them instead of one; and if we made two, then we will have three. Why, in the Legislature of 1892, the Legislature wisely consolidated many of the elections in order to keep the Territory out of political turmoil and trouble, and yet it was not sufficiently consolidated. Elections were too many then, but the way this Constitutional Convention is now arranging these elections, gentlemen, we will have more than we ever had in Utah, and we will keep the Territory in constant turmoil and trouble, when we ought to be at peace in transacting the business we are carrying on.

Mr. ALLEN. Mr. President, quite a number have expressed themselves that because this was thoroughly considered once, it should not be reconsidered. Now, there have been two different days or two half days at any rate when the Convention got in a humor of voting down everything that came along. I remember once that the gentleman from Salt Lake said, "There is no use voting down everything that comes along in this manner." Therefore, he moved to have it laid over until another day. It was so on the day this was passed. We got in the habit of voting down everything that came along and we spent half a day on this section.

Mr. THURMAN. And is not it a fact that on the very day you speak of this Convention struck out five or six sections of the article reported by the committee?

Mr. ALLEN. Not the half day. We spent a half day on this section. You speak about blaming somebody because they had expressed themselves as not being aware this passed the Convention. Now, I will say, as the gentleman from Utah one day acknowledged before the people of the Territory in this Convention, that when he voted for bounties, he did not know what he was doing, that he was in the same

condition as he blamed men on this floor for. As for making it non-partisan, if the people wish to make it non-partisan, why not, just at the time of holding caucuses, get together and say, "Boys, let's have a non-partisan ticket and work up a non-partisan ticket as far as possible, as far as judges are concerned?" This is not impossible. I cannot see where anybody is going to gain anything by having this election separate, unless it is during the campaign, as these newspaper men generally make a pretty good haul. Now, the gentleman from Utah comes at me with this kind of a statement, saying that because I was defeated on a motion on that day, I now work it up among the members, trying to get the matter reconsidered. The fact of the matter is this, the gentleman from Utah—this is his hobby. In the committee, he is the man that brought this up and urged it through the committee, and he now wants to hang to that after two-thirds or three-fourths, I believe, of this Convention want this matter changed. He still comes along with some kind of a scarecrow and tries to force us to uphold his own measure.

Mr. THURMAN. You were a member of that committee, were not you?

Mr. ALLEN. No, sir; I was not.

Mr. THURMAN. You were there, were not you?

Mr. ALLEN. No, sir; I was not.

Mr. THURMAN. How do you know that was my hobby in that committee? As a fact that committee was absolutely unanimous. You are talking about something you do not know anything about.

Mr. ALLEN. Was not that your motion? Was it not at your motion that was placed in there?

The PRESIDENT. The chair cannot permit this kind of conversation.

Mr. ALLEN. I have a statement of a reliable man on that committee. If he wishes me to, I will bring the man to him. To be sure, there has been brought before this Convention, while the majority were in favor and had expressed themselves as being in favor of a certain measure—because gentlemen like the gentleman from Utah would use the words niggardly and stingy, and all these kind of stigmas, then we were afraid to vote and he gained his point. Now, he has come at us in this form for the purpose of gaining this measure that he himself is the father of.

Mr. KERR. Mr. President, I move the previous question.

The previous question was ordered.

The PRESIDENT. The question is on the motion to suspend the rules and reconsider this section 14, now numbered, I believe, section 9.

Mr. VARIAN. Mr. President, I desire to submit a point of order, and in order that I may submit it intelligently, I want to state what I now understand to be the fact. An entire article relative to a distinct subject, to-wit, suffrage and elections, has been passed under the rules, on the third reading, and is now in the hands of the committee on compilation and arrangement. Is that true?

The PRESIDENT. That is true.

Mr. VARIAN. It is now proposed by a motion made to reconsider, not the vote by which the entire article passed, but to reconsider that vote, by a section; that is to say, we are to eliminate in some intangible way, unknown to anybody and inconceivable in the mind, a part of that from the other—segregate it out so far as it applies to section 14, and reconsider that, and bring up section 14 again?

The PRESIDENT. That is the motion.

Mr. VARIAN. I undertake to say, gentlemen, that a moment's reflection will convince every gentleman in this house that that is absolutely, utterly, out of order, and impossible in the very nature of things. I make that point of order.

Mr. EVANS (Utah). I arise to a question of personal privilege. I want to ask

the gentleman from Salt Lake if this body has not got the power to undo anything they have done from the day this Convention began in regard to their rules? This is a motion to suspend the rules for that purpose.

Mr. VARIAN. I will answer that by saying yes, with this qualification: It can, upon the final consideration of this entire Constitution, change anything that is in it. They can, if they choose, reconsider the vote. They can suspend the rules now and reconsider the vote by which the entire article was considered, and recall it from the committee on compilation, but they cannot undertake to recall a section or a line or a phrase, or two sections, or any part of it; and if you do that you will be simply in a disturbed and confused condition from which you will never come out satisfactorily. If you want to do that, make your motion to reconsider the entire article, and recall it from the committee.

Mr. EVANS (Weber). Mr. President, this seems to me a very peculiar thing indeed. Mr. Varian admits that this body has the power to undo and change its work as a whole, but he denies the power to change a section or a word. That is to say, he admits the power to rip up the entire instrument and change it, but denies the power to change a section of it. It is not in the parliamentary law that any parliamentary body with the power to act cannot reconsider a section and change its rules, and change its work if it finds it has made a mistake.

Mr. RICHARDS. Mr. President, I think that the position of the gentleman from Salt Lake who raises this point of order was not correctly stated by the gentleman who last spoke. I do not understand that Mr. Varian says that this Convention could reconsider the whole article and then could not reconsider a portion of it, but he says it must be done in an orderly way, and I think he is right about it. I do not think there is any sort of question about it that the first thing to be done in order to bring the question before this Convention at all is to move to reconsider the vote upon the article. Then, if that should prevail, and the article then, as an article, is before this Convention, a motion to reconsider the action upon any section of that article, or to amend a section of it, might be in order; but it certainly cannot be in order until it is brought before the Convention in an orderly way.

Mr. EVANS (Weber). I would like to ask Mr. Richards what rule of order it follows? We are under Roberts's rules of order, which say that two-thirds of the Convention can change its rules.

Mr. RICHARDS. I say it follows every rule of order.

Mr. RICKS. I arise to a point of order. I don't think the gentlemen have a right to discuss this question.

Mr. EVANS (Weber). The orderly thing to do is for the president to decide this. It is not debatable now. We have all been out of order.

Mr. CANNON. I would like to ask Mr. Varian if the gentleman who made the motion to reconsider should modify it slightly in its form, if it would not accomplish the same result and yet obviate your objection—if he should move to reconsider the vote on the article?

Mr. VARIAN. I admit this, that this Convention can reconsider by a two-thirds vote and bring back any article. I am only contending against the absurdity of attempting to bring back a paragraph or a section of an article.

Mr. THORESON. Wasn't this same rule applied for the reconsideration of section 1 of this same article—a motion to reconsider made by the gentleman himself?

Mr. VARIAN. Never. It seems impossible for me to make myself clear to the gentleman. There was never such a proposition mooted before in this

body, and I doubt if it ever was thought of in any other body.

Mr. NEBEKER. I arise to a point of order. I hold with the gentleman from Salt Lake——

Mr. RICHARDS. I arise to a point of order, that the gentleman is out of order until the chair decides the point of order now before the Convention.

The PRESIDENT. It seems to the chair that this body of men is competent to suspend its rules at any time it may think proper and. to consider any proposition involved in this Constitution before they shall adjourn.

Mr. RICHARDS. I appeal from the decision of the chair, if that is a decision against Mr. Varian's point of order.

Mr. NEBEKER. Mr. President——

Mr. EVANS (Utah). I arise to a point of order. This question that has been appealed from is undebatable.

The PRESIDENT. The point of order is well taken.

Mr. VARIAN. What is that—an appeal is undebatable?

Mr. EVANS (Utah). Yes, sir; if the question appealed from is undebatable.

Mr. VARIAN. A motion to reconsider is not debatable? Is it the disposition of this chair to rule this matter as the chair desires it to be ruled? If it is, I will retire.

The PRESIDENT. No, sir.

Mr. VARIAN. It seems to me that way. I will ask the chair if a motion to reconsider is not debatable?

Mr. EVANS (Weber). Mr. Varian will you permit me to——

Mr. VARIAN. No, sir; I will not. I will ask that question now.

The PRESIDENT. Yes, sir; it is debatable.

Mr. VARIAN. This is an appeal, is it not?

Mr. EVANS (Weber). This is a motion to suspend the rules, and that is not debatable.

Mr. VARIAN. I do not care if it is a motion to suspend the rules. I understand that. It is a motion to suspend the rules and bring back from the committee on compilation one section of an article. That is what it is. Now, what do your rules say? They say that after the entire proposition shall be passed by a final vote, it goes to the committee on compilation and arrangement. What is the vote you are going to reconsider? Not the vote by which this section was adopted. I do not know whether there was any specific vote on that or not. In accordance with the usual custom here, that section was passed simply with the reading. No amendments were offered to it. It was included with the others in the final vote upon the proposition as an entirety. How can you move to reconsider a vote which never was taken in the adoption of this section in the sense here? The motion is to reconsider the vote by which section 14 was adopted. It never was adopted by a specific vote. The entire article, including other propositions connected with section 14, was adopted by a specific and definite vote. You cannot segregate it in that way. It is the clumsiest blacksmithing of parliamentary law that ever was projected anywhere. Section 14 was adopted because other sections were with it. As a whole it was adopted. Now, if you want to open up the question, move to reconsider the vote, out of order and against your rules, by which the entire article was adopted, and let the entire article come back here so that we can view it in all its phases, comprehend it in all its possibilities. If section 14 shall be amended, it may be necessary in accordance therewith to amend section 15 or section 10 or section 1. Is there any scheme behind this which makes gentlemen so tenacious of the point that will prevent us from bringing back the entire article? If there is any reason, gentlemen, why this section must be amended, it must be a good reason. If there is any reason why this article should be amended, it is a good reason, and I am

sure will not only get two-thirds of the vote of this house, but it will secure the unanimous vote of this house. I only ask you to put it on proper grounds. I do not know how section 14 is proposed to be amended, but I can see that it may be amended in such a way that in my judgment, and perhaps in the judgment of others, it might be necessary to amend section 16, and we would be met with the proposition that we only have section 14 back here.

Mr. HART. Mr. President, there can be no doubt, in the first place, but what this appeal from the decision of the chair is debatable. If the point was relating to indecorum, then it would not be debatable. When the previous question is pending, an appeal is not debatable, but, Mr. President, the previous question that was put here was out of order, because the motion at that time was to suspend the rules, and the previous question could not apply to an undebatable motion, which that was, to suspend the rules. Now, in regard to this other point, I would be only too glad to eliminate that word judicial and have the judicial elections come at the general elections, but there can be no doubt about the position of the gentleman from Salt Lake, that the only way to reconsider that question is to reconsider the vote on the whole article, and if by a two-thirds vote we open up that question, then every section in that whole article will be open for reconsideration. All the debate this morning was out of order from beginning to end. If we were going to reconsider this question, we should have, without debate, decided to reconsider the article as a whole. You cannot take out one of those sections from a whole article that was passed, on a vote to reconsider. And another reason for the point of order is that that whole matter is before the committee on compilation and arrangement. How can we reconsider something that is in their hands without calling it back and getting it before the Convention?

Mr. FARR. Mr. Chairman, I have sat here a whole half day listening to talk that to me should not have been said, and should have been settled here in two minutes, and I claim that I have some experience in convention rules and in convention order, and if this Convention, after they have passed on the third reading of an article, say that one section now they would like to consider, we do not want to consider anything more, we are satisfied with all the rest, but section 14 we would like to have brought up, and there was a motion made to do it, and when the question is put two-thirds say we won't have it, that is the end of it. I think we could settle that in two minutes, three hours ago, just as well as if we had spent all that time; and if two-thirds had said we want to recall section 14, and consider some things in that, and no other, we are satisfied with all the rest, and if two-thirds say, we will call it up, they have a right to do it. And now what is the use of spending all this time on that subject? I have been waiting here. I had a section already written out with one-third or one-half of the wording that is in that section 14, that will cover the whole business. I have not been able to get my feet on the floor because there are so many that wanted to let out the gas that was in them, and I told you here four weeks ago that I had arranged my business to remain here all summer, if necessary.

Mr. GOODWIN. Mr. Chairman, I want to make an explanation. This thing came back from the committee on compilation because there was a difference of opinion in the committee; the notes were confusing, and as I understood it from the first, they wanted simply an expression of this Convention as to what that amendment was, whether it included the word judicial or not. It was in the interest of the com-

mittee on compilation that this thing was brought up.

The question being taken on the appeal from the decision of the chair, the Convention divided, and by a vote of 34 ayes to 51 noes, the decision of the chair was not sustained.

Mr. SQUIRES. Mr. President, I now move that the rules be suspended and the entire article on elections and suffrage be brought back from the committee on compilation and arrangement, that the vote be reconsidered by which that article passed.

Mr. THURMAN. Including woman's suffrage and everything else.

The question being taken on the motion, the Convention divided, and by a vote of 44 ayes to 46 noes, the motion was rejected.

The Convention then proceeded to the third reading of the article entitled judicial department.

Sections 1 and 2 were read.

Mr. CHIDESTER. Mr. President, I offer an amendment to section 2, by striking out, commencing with the word "the," in line 10, down to and including the word "years," in line 14, and insert the following:

The State shall be divided into three supreme court districts as follows: The first district shall be composed of the counties of Cache, Rich, Box Elder, Weber, Morgan and Davis. The second district shall be composed of the counties of Summit, Salt Lake, and Tooele. The Third District shall be composed of the counties of Beaver, Carbon, Garfield, Grand, Iron, Juab, Kane, Millard, Piute, San Juan, Sanpete, Sevier, Uintah, Utah, Wasatch, Wayne and Washington. The qualified voters of each of said districts shall elect the said judges for the term of six years.

I would say, Mr. President, that it is not my desire to create a debate that will last here all day. I simply wish to submit this to the gentlemen of this Convention, who will see the propriety of it at once, allowing the State to be districted for the supreme judges as well as the district judges.

Mr. ROBISON (Wayne). Mr. President, I hope that amendment will not prevail; the classifying of the counties in that district would not be suitable at all, and it would not add any to the benefits of the people, but it would be very much the other way, and I shall vote against that proposition.

Mr. JOLLEY. I would like to ask the gentlemen from Garfield a question. There would be only the three judges that would fill those different districts?

Mr. CHIDESTER. There would be one judge from each district that would compose the supreme court of the State.

Mr. GOODWIN. Mr. President, I hope that will not be considered. The idea is to have three of the very best men for the place, no matter where they come from, and all the people to help pay for their services and all the people to vote on them.

Mr. ANDERSON. Mr. President, I hope this amendment will prevail. I think that it enables the people to be better represented. Each part of the Territory, if this amendment prevails, will be represented, and I do not think that the State will suffer any in consequence. Therefore, I shall vote for the amendment.

Mr. VARIAN. Mr. President, this is a startling proposition. It seems to have been incubated since we discussed this question in the committee of the whole. So far as I am concerned, I supposed we had reached a tacit if not an express understanding on that matter. Is it designed to open up this entire question of the judiciary, in order that we here who differ from our friends from the extreme south and north on these questions may also be enabled to present our particular views by way of amendments and substitutes, and make an attack upon this article as it comes from the committee? It seems to me, Mr. President, that we had reached a fair understanding on this matter, and it ought to go. I con-

less I do not understand the purpose of this motion. That it is not meritorious, I am quite convinced. Justices of the supreme court ought to be the representatives of the entire people, just as much so as your governor. They are called upon to administer and determine the laws for the entire people. They are the expounders and protectors of this Constitution, which extends its protecting influence over the entire people. The man in Logan, the man in Saint George, ought to have the equal right to voice his choice in the selection of candidates for all three of these high and distinguished positions. He is equally interested with his neighbor at the other end of the Territory. Every county is equally interested with every other county. It ought not to be and shall not be a question of locality. It is simply the men that shall be looked to—the qualifications and characteristics of the candidates who shall be selected by this entire people to constitute that august tribunal in whose hands shall lie the liberties, the property, and the lives of this people. I protest against this attempted innovation. It does not prevail under our system of government anywhere. The highest court in the State is and ought to be composed of men who are selected from the body of the people, from whatever section or locality they may come. Do not gentlemen see that it is all important that all sectionalism, that all local prejudice ought to be and must be eliminated from this tribunal? And you are now attempting to inject into the organization of the supreme court these very things which ought not to be there, to send men from local places, feeling that they are representatives of districts, bound and tied by the prejudices of their respective communities. Naturally you will find that these matters will be given expression in the consultations and in the decisions of the supreme court. What is the theory of the organization of the supreme court of the United States? That it shall be selected by the President through his power of appointing its several members from the great body of the bar of the United States. When it can be done, due consideration is always given to the wishes and the preferences of certain localities as represented by states and sections of the Union, but never in the sense that is attempted here by this amendment. If it had been so, sir, I would like to ask you, and through you this Convention, what would have been the result in the expounding of the Constitution during the last hundred years, which has resulted in building up and maintaining the liberties of this people? I do hope that the amendment will either be withdrawn or voted down. It ought not to prevail.

Mr. THURMAN. Mr. President, I am a member of that committee which reported the article as it now stands. This proposition was submitted or raised in the committee. The committee, I believe, was about equally divided. There was no minority report. I myself am in sympathy with the principle embodied in this proposed amendment. I do not see that there is anything in it that is un-American. There are certainly precedents for it. I do not see anything in it that is confusing or that is calculated in the least degree to cause a member of the supreme court to be sectional in his decisions and opinions. So far as I am individually and personally concerned, I am perfectly willing that it shall stand in the article as it is, but members have come to me from the various parts of the Territory, without regard to party or anything of that kind, and have insisted that this amendment be made. Waiving any personal feeling that I may have in the matter, if the various parts of the Territory of Utah feel that they want the right to vote for some one man taken from their section of the country, there being only three members of the court, I see

no reason why it should not be incorporated in the Constitution. To be frank, the only feeling that I have in my mind against this amendment is the mere fact that I am a member of the committee and stand here, so far as I possibly can, to help carry to a finish everything that that committee has recommended here, because we did arrive at it. We arrived at our conclusions after mature deliberation. As far as this particular provision was concerned, it is almost difficult for me now to understand how the full committee would have voted. I know the only vote I ever cast upon the question was in favor of this principle, but I did not propose to make any fight in the committee until I saw a sentiment from the various part of the Territory that they desired it. At the time I voted for it, it carried, but I do not care about going into details about what the committee did. I do not know. At any rate that was reconsidered and the other matter prevailed, but I feel that if the outside counties desire to have three districts, so that they can put forth from each district a man for this position, there is nothing un-American about it. The Constitution of the state of Illinois has a provision of that kind.

Mr. VARIAN. The constitution of Illinois provides for an intermediate court of that kind, like the constitution of New York, but the court of appeals is at large. I want to ask the gentleman a question. It is a question of local politics now, is it prejudice, so that each section of the country may confine themselves to a member of the supreme court to be elected by them? I want to know if that is the underlying principle while we are making a Constitution?

Mr. THURMAN. I am not aware that local politics is in it.

Mr. VARIAN. I mean by politics, not as distinguishing between two parties, but as between the sections. I understood the gentleman to say that they wanted to have a section of country to which should be allotted a member of the supreme court to act for the entire State?

Mr. THURMAN. Yes; that is the idea. Now, I believe, Mr. President, that I have stated my views upon the question and I shall vote for the amendment.

Mr. VARIAN. Did I understand the gentleman to say as a member of the committee that he would vote for the amendment?

Mr. THURMAN. I shall vote for the amendment, yes.

Mr. GOODWIN. Mr. President, that is to me a very serious matter. I thought the supreme court would be held above the influence of sectionalism, and that any suspicion of doubt that every man in the State might have the privilege of voting for every one of these supreme judges, would be removed; and that when those gentlemen took their seats on the bench they would understand that they were there because a majority of all the people of the State desired them to be there. It is very strange. In districting the State, or proposed State, for district judges, gentlemen came to me and said, "Do not link our county with the next county to us," showing evidently that there was an irrepressible conflict between those counties; but they come here this morning and propose another thing, which in effect says, "Do not link our end of the State with the other, and by all means do not link us with the center." I once saw a gentleman exulting—saw him getting drunk, because a second gentleman had received a high appointment from the President of the United States. Both the gentleman who received the appointment and the one who was getting drunk, were from Kentucky. Another Kentuckian said to this gentleman who was exulting, "Why, I heard you call that man all manner of names, and now you are rejoicing because he has received an ap-

pointment." "Why" he says, "of course I am, but that was in Kentucky." It seems to me this is a parallel case. Gentlemen in one part of the State will, among themselves, say all manner of disrespectful things about a certain other gentleman, but when he is put in competition with men from any other part of the State he becomes a perfect gentleman in a moment, and justifies any other gentleman in exulting over his promotion. It is all wrong on principle. Let it go on ten years, and you will see just as much partisanship in the electing of supreme judges and in the feeling toward them by the people as you ever see now in any business where the sections of the State are brought in collision. We had enough of that last week. Even on the simple matter of education, there was no end of bitterness expressed, and so poorly concealed, that it was apparent—simply on a sectional matter, whether one county should have something or not.

I think it would be an outrage to change this. I do not believe there is any precedent for it. We have divided the State for district judges, and I want to give notice here that if this passes, then I will consider it a notice that every district in this State must be a political district. When it comes to the right place, I shall move for a change of the districts to make them all republican, if that is to be the rule—if that is to be the contest here. If the judiciary is to be dragged down, and we are to either elect them on sectional or partisan grounds, then I, as a member of the committee, give notice that I will do my best to make every district in the State republican.

Mr. RICHARDS. I desire to ask the gentleman who has just taken his seat, if he has not already done his best to make these districts republican? I ask for information.

Mr. GOODWIN. I want to say to the gentleman, that in the committee room there was not one partisan thought, that the only thought was to get these districts harmonious, and to rate them in fair proportion to the population. On complaint of the gentlemen from the south, on account of mountain ranges and other things, the districts had to be changed. I appeal to all the members of the committee, if there was one partisan word spoken, or if there was one act which led any one in that committee to think that any other one was working for partisan advantage?

Mr. EVANS (Weber). Mr. President, I will say that what Judge Goodwin has said respecting the matter of partisanship in the committee is true, every word of it, and there was never a thought expressed or an idea conveyed, which would tend, in any manner, to give partisan advantage. It is a matter about which I feel very proud, and desire to express it now. I do not want to take any particular part in this matter that is up now, because in the committee we first voted to make the three districts, as proposed by Mr. Chidester, districts for the trial judges, and apportion the number of judges to each of these districts, and then we did take a vote to make these districts supreme court districts, just as it is now proposed, and that carried, but afterwards the districts for trial judges were changed, and then, on a tie vote, the supreme court districts were changed. All I desire to say now is, that I have examined the constitution of Illinois, and I think that my friend, Mr. Varian, was mistaken about a court of appeals being elected by districts. It is the supreme court that is elected by districts in the state of Illinois. They are all set out in full in the constitution, just as Mr. Chidester's motion is set out.

Mr. GOODWIN. Mr. President, before this vote is taken—there are a great many absent, and some are on committees near by. I wish they might be called in.

The PRESIDENT. The sergeant-at-arms will notify the members that they are wanted.

Mr. CHIDESTER. Mr. President, as far as this amendment is concerned, we will not press it. If they are not ready, we can go on with something else.

On motion, the Convention then took a recess until 2 o'clock p. m.

AFTERNOON SESSION.

Mr. CHIDESTER. Mr. President, I desire to withdraw the motion that I made to amend section 2, and in doing so I just have this to say, that in view of the fact that concessions have been made to the outlying counties in framing this bill, giving them practically all that they have asked, I believe that it is fair to them and would be right and proper for me to withdraw that motion. I see in addition to that, fire in the eye of my friend, Judge Goodwin, and I do not wish to add any fuel to the flames. Therefore, I wish to withdraw it.

Mr. KERR. Mr. President, I desire to offer the following amendment to section 2: Beginning with the words "the judges," in line 14, strike out the words down to and including the word "elected," in line 16, and insert in lieu thereof the following:

The judges of the supreme court elected at the first election under this Constitution, shall immediately after said election be selected.

It will be observed that the section adopted by the committee is somewhat similar, but this more clearly expresses the meaning. There is only one set of judges to be selected by lot, they being the judges elected at the first election under the Constitution. It seems to me that the wording therefore could be improved, hence I offer the amendment.

Mr. EICHNOR. I would like to ask Mr. Kerr a question. The way the section stands, it contemplates that the judges of the supreme court shall be elected in November next, does it not?

Mr. KERR. Well, the preceding sentences in this section provide, I think, for the election of the judges.

Mr. EICHNOR. Judge Goodwin, is it the intention of the section, the way it stands, that the supreme judges should be elected at the general election in November—that is, the first set of supreme judges, and afterwards according to this rotary system?

Mr. GOODWIN. Yes.

Mr. RICKS. Mr. President, I think that amendment ought to be considered. If, as still contemplated, we amend that section in the article on elections so as to include the judicial officers in the general election, then under the schedule—the schedule committee has already decided to elect all the State officers, this fall, in order to hold office until the general election under the Constitution in 1896. If that amendment be made to that other article, then I think that the section should remain as it is for the reason that the judges elected this fall would only hold their offices for one year and would be elected again, all three of them, one year from next November.

Mr. KERR. Mr. President, by way of explanation, you will observe that the statement here is not qualified—"The judges of the supreme court." That is, all the judges of the supreme court; but the way it is worded in this proposed amendment, only those judges elected at the first election after the adoption of the Constitution, will be selected by lot. That is really all there is to it.

The amendment of Mr. Kerr was rejected.

Sections 3 and 4 were read.

Mr. VARIAN. Mr. President, in view of the amendment made in the committee of the whole, it occurs to me that the word "it," in line 4, should be supplanted by the words "the court."

Mr. CREER. The word it, is already out.

Mr. VARIAN. Perhaps that is a matter for the committee on compilation. I will not detain the Convention with it.

Mr. GOODWIN. Mr. President, I understood the secretary in reading it to say, "any judge." There is another section here which gives the Legislature the power to establish inferior courts. Under this would not those judges have the same power in regard to issuing writs?

Mr. VARIAN. Mr. President, I move to insert after the word "court," in that amendment, the word "thereof," so that it would make it returnable before any district court or any judge thereof.

The amendment was agreed to.

Section 5 was read.

Mr. KERR. I would like to ask the chairman of this committee if he has considered the number of miles that some of the judges would have to travel to hold court in the different counties four times a year. In the 7th district, including the counties of Sanpete, Carbon, Emery, Grand, and San Juan, I find that he would have 368 miles to those courts, and returning would make a distance of 772 miles. If he went the rounds of these courts four times a year he would necessarily have to travel 3,088 miles. He would have to travel 330 miles by stage, and those who live in the outlying counties know what it is to travel by stage, summer or winter. Going from Richfield to Piute County, to Carbon County, he would have to travel 128 miles. From Price to Castledale would be 35 miles by stage. Very frequently they have to camp out over night in the sagebrush, being overtaken by a storm even in the summer sometimes. He would have to return and thence to Thompson's Spring, a hundred miles, thence to Moab 85 miles, and from Moab to Monticello, 60 miles. I am sure that our friend from San Juan County can describe the trip down there much better than I can, and I am sure that the majority of the members of this Convention can scarcely realize what a trip down in that country means in the winter time. I don't believe it is possible for a man to make the trip. Now, it seems to me that in some of these outlying districts——

Mr. BOWDLE. I arise to a point of order. There is nothing before the Convention.

The PRESIDENT. The point of order is well taken.

Mr. CRANE. Mr. President, I want to state the proposition, whether there is anything before the Convention or not, because I do not believe it is possible for a man to do it, and if this thing is mandatory, he cannot do it. I move to insert at the end of year, in line 7, the words, "until otherwise provided by law." I don't know whether that would meet the requirements of the case or not. Some of my legal friends here are probably better posted than I am. But it is an utter impossibility for a man to make three thousand miles in winter or summer in these counties. I am informed by the chairman of this committee that that was added the other evening. The secretary has failed to read this amendment that was passed the other evening.

The PRESIDENT. The secretary says there is no such amendment.

Mr. CRANE. I am informed by quite a number of gentlemen by whom I am surrounded that such an amendment passed. I move it now, however, if it did not pass.

Mr. ROBERTS. Mr. President, my recollection of this matter is very distinct, for the reason that it was regarded as a compromise of the motion to make it two terms a year in each county instead of four, and in order to leave it to the Legislature that amendment was submitted and adopted.

Mr. CRANE. Then, Mr. President, I make a motion now that after the word "years," in the end of line 5, there shall be

inserted, "until otherwise provided by law."

The amendment was agreed to.

Mr. KERR. Mr. President, I move that in line 8 of section 5, the word "thirty" be stricken out and the words "twenty-eight" inserted in lieu therof.

Mr. SQUIRES. I would like to ask the gentleman from Cache who his candidate is? [Laughter.]

Mr. KERR. I think, Mr. President, that we have placed the age of our attorney general at twenty-five years and our senators and representatives at twenty-five. The United States senators need not be older than thirty, the President of the United States but thirty-five. In Georgia, Illinois, Montana, North Dakota, and South Dakota, the district judges need be but twenty-five. In Wyoming, and some of the other states, the district judges are eligible at twenty-eight. It seems to me that for district judges they are old enough, and in some of the districts it may bar men who are thoroughly competent to fill the position as district judge to place the age at thirty.

Mr. GOODWIN. Make it twenty-seven.

Mr. KERR. I will accept that.

Mr. GOODWIN. Alexander conquered half the world at twenty-seven. Make it twenty-five.

Mr. VARIAN. Make it twenty-five.

Mr. FARR. Make it twenty-five and a half.

The question being taken on the motion to fix the age at twenty-five, the Convention divided, and by a vote of 46 ayes to 36 noes, the motion was agreed to.

Mr. EVANS (Weber). I desire to offer the following amendment to section 5, after the word year:

All civil and criminal business arising in any county must be tried in such county, unless a change of venue be taken in such cases as may be provided by law, or upon consent of the parties, in writing, in civil cases.

Mr. VARIAN. What is the necessity for that?

Mr. EVANS (Weber). I think the article by implication now would require that all the business should be transacted in the county where it arises. My only purpose was to make it certain that all the business should be tried in the county where it arises, and I want to add this with the qualification there of cases where a change of venue might be taken as provided by law. There may be some criminal case where all the jurors in the county are prejudiced and it would be necessary to remove it into another county, and then in civil cases, if parties want to stipulate it into another county, they can do so.

Mr. VARIAN. Won't that amendment cut out the general proposition for a change of venue in civil cases, whether the parties stipulate or not?

Mr. EVANS (Weber). I think not.

Mr. VARIAN. It seems so to me; that is purely a matter of legislation anyhow.

Mr. EVANS (Weber). Stipulation is a matter, anyway, of consent, and that might be stricken out—that part of it. If there is any objection to that I would ask that that part of it be stricken out.

The amendment as modified was agreed to.

Sections 6 and 7 were read.

Mr. James was called to the chair in the absence of the president.

Mr. VARIAN. Mr. President, I call attention to line 3, the words, "not prohibited by law." Is it the intention to permit the Legislature to change the jurisdiction?

Mr. EVANS (Weber). Mr. President, my own idea about that is this, that the Legislature might restrict the district court in small cases—not give it jurisdiction in small cases, but give the justices of the peace jurisdiction?

Mr. VARIAN. But would it not also give them full plenary power over the whole subject?

Mr. EVANS (Weber). It would give

a supervisory power to control justices of the peace.

Mr. VARIAN. I mean, if the words, "not prohibited by law," would not include the whole subject?

Mr. EVANS (Weber). I think it would. I think the Legislature would have that power.

Mr. THURMAN. Mr. President, in the first section, the gentleman from Salt Lake will notice that the Legislature is given the power to create other courts inferior to the supreme court, and necessarily to fix a jurisdiction. Suppose they should want to create a probate court, after trying this system a while, in each county, and give probate jurisdiction?

Mr. VARIAN. If that is the idea, all right. I did not understand it.

President Smith resumed the chair.

Section 8 was read.

Mr. CRANE. Mr. President, was not "precinct" inserted there instead of "county?"

Mr. RICKS. Mr. President, "county" was stricken out and "every" was stricken out.

The SECRETARY. Strike out in line 3, section 8, the word "from," and insert the word "in," and strike out the word "county," and insert the word "precinct."

Mr. GOODWIN. Mr. President, that is exactly the record, but it seems to me that it makes an inconsistency. Every city is divided into precincts and every incorporated town is divided into precincts, and so is every county, and it seems to me if that was to go in it ought to read this way: "Be elected in each precinct of each county, city, and incorporated town."

Mr. SQUIRES. Mr. President, in Salt Lake City it is the practice to have more justices of the peace than we have precincts. You remember we have had a recent contest on the question of the power of the county court to have additional justices of the peace. The Legislature will provide by general law how many justices of the peace there should be in each precinct in the city and incorporated town. The city of Salt Lake might have more than one precinct under the general law.

Mr. GOODWIN. What is to become of the precincts outside?

Mr. SQUIRES. Each precinct of the county?

Mr. CREER. I would like to ask the chairman of the committee if it is intended that there should be one justice of the peace elected for each incorporated town in the new State?

Mr. EVANS (Weber). It says the Legislature may determine that.

Mr. GOODWIN. Sometimes there are two justices in one precinct.

Mr. CREER. If they incorporate a town, divide it into precincts, that would necessitate having two justices of the peace.

Mr. GOODWIN. I merely wanted it to correspond with what the Convention wants.

Mr. CREER. I do not think we need a justice of the peace in an incorporated town. I think a justice of the peace of the precinct in which the incorporated town will be included is sufficient. Therefore, I move to strike out "and incorporated town."

Mr. THURMAN. Mr. President, I wanted to move an amendment to that, to strike out "city and incorporated town," and leave it "county." We are dealing here with counties, because the number of justices of the peace that each city will have will be provided for by their charters. We are dealing now with justices of the peace of the county. If the Legislature gives each county a certain number of justices of the peace and leaves the commissioners to dispose of that, and they make the precincts as needed, it seems to me that is what we want.

Mr. THORESON. Mr. President, I understand it was amended in the committee, namely, that "county" should be stricken out and "precinct" retained.

Now, if we want to cut this up with municipal precincts, I have heard some of the gentlemen here speak about precincts of the city. Those are municipal precincts. That would come under the city; but precincts of each county should have a justice of the peace. Cities of the third class in our Territory have no municipal precincts. A certain district or part of the county is designated a precinct. Within that precinct there may be a city of the third class. That city should be entitled to a justice of the peace independent of the precinct justice. The city justice would have jurisdiction under the ordinances of the city, while the precinct justice of the peace would have under the laws of the State. I believe we should have precinct justices and also city justices.

Mr. EICHNOR. I would like to ask Mr. Thurman a question; if the section is adopted according to your amendment, if the cities should provide by ordinance for justices of the peace—if city justices of the peace were provided for by ordinance, would the ordinance be constitutional?

Mr. THURMAN. Why, I think so. I think we are dealing here with another set of officers altogether, but, however, if there is any question about that, then an amendment ought to be made in another way, such as the gentleman may have in his mind, provided that this shall not interfere with such number of justices of the peace as may be provided by law in incorporated cities and towns. I would not object to that if there is any doubt about it, "the Legislature shall determine the number of justices of the peace to be elected from each county in the State and fix by law their powers, duties and compensation." Now, in my judgment the city charter will provide for that, and of course this law would not interfere with it.

Mr. THORESON. Mr. President, that would give the county courts the power to designate the justices of the peace. I think this is a power that should be left to the citizens themselves. Justice of the peace for a certain county—to designate where these should have their office or residence would be inconsistent, would be giving the county organization power over cities, which I think is a little inconsistent. The ordinance of the cities would provide for justices of the peace, and I think they should be independent of the county organizations.

Mr. THURMAN. I would like to make one suggestion, if the chair will indulge me, in answer to the gentleman from Cache, that the Legislature has the fixing of this number of justices of the peace anyhow; they always will have, whether in the county or whether in the city; there is no question about that, and when we say that the Legislature shall provide for the number of justices of the peace to be elected from the county they certainly will provide that so many be elected for the ordinary precincts, and the law itself will provide the number to be elected.

Mr. CANNON. I would like to ask Mr. Thurman if he would not strike out also the words "from each county;" would it not then give the Legislature the full power and be better than it now is?

Mr. THURMAN. Some power has got to apportion them among the counties. That must be the Legislature.

Mr. CANNON. Would not the Legislature have that without saying, "from each county?"

Mr. THURMAN. Yes, that would cover it. That would give them the power.

Mr. CANNON. That is what I offer as an amendment, if the gentleman will accept that.

Mr. THURMAN. Yes, sir; strike out all of line 3 and the words "the State," in line 4.

The amendment was agreed to.

Mr. BOYER. Mr. President, I now move to amend this section by inserting between the words "duties" and "and,"

in line 4, the word "jurisdiction," and strike out all the remaining portion of the section after the word "compensation," in line 5.

Mr. THURMAN. Mr. President, I object to that, because we want to limit the power of the Legislature to extend the jurisdiction of justices of the peace. We do not want them ever to have the power to give justices any more jurisdiction than they have now. They may restrict it but not enlarge it.

The amendment of Mr. Boyer was withdrawn.

Mr. Evans, of Weber, offered the following substitute for the section:

The Legislature may provide for the election of justices of the peace in each county, city, and incorporated town in the State, and fix by law their powers and compensation. The jurisdiction of justices of the peace shall be as now provided by law, but the Legislature may restrict the same.

Mr. THORESON. Do you think it would be proper for the Legislature to fix the compensation of justices of the peace in cities?

Mr. EVANS (Weber). Why, it has the power to do that, only it can fix fees if it wants to, just as it does now. We are here creating courts. That is the only purpose of mentioning justices of the peace at all. We are creating that class of courts in pursuance of section 1 of this article.

Mr. THORESON. I understood your substitute for this section fixes the compensation or authorizes the Legislature to fix the compensation.

Mr. EVANS (Weber). It will do that, but of course the Legislature will have power over the cities. The city is only a creature of the State and it might delegate the power to the cities to do that.

The substitute of Mr. Evans, of Weber, was rejected.

Mr. RICHARDS. Mr. President, before passing section 8, I move that the word "but" be stricken out at the end of line 6, and the word "unless" inserted in lieu thereof, and the word "may" stricken out in line 7, and the word "shall" inserted.

Mr. GOODWIN. Would you not change your word unless to "until?"

Mr. RICHARDS. I have no objection. It seems to me the way it stands now it is rather contradictory in terms.

Mr. THURMAN. Mr. President, I do not believe in splitting hairs. It seems to me that is what we are doing, but the word until implies that the Legislature will do it probably as soon as they get an opportunity. Now, that is not the meaning of it. It means that the jurisdiction shall remain as it now is. But if the Legislature ever chooses to do so, it may restrict it. Now, why is not "but" the proper word?

The amendment of Mr. Richards was rejected.

Section 9 was read.

Mr. RICHARDS. Mr. President, I move to insert after the word "court," in the third line, the following words: "Upon such conditions and under such regulations as may be prescribed by law." It seems to me that as the section now stands it might give an unqualified right of appeal without complying with the regulations in the way of filing bond, etc., as the Legislature might prescribe, and I think that it is proper that the Legislature should have power to prescribe certain conditions and regulations.

Mr. GOODWIN. I would ask Mr. Richards if his idea is that under this amendment a man could take an appeal without paying costs? If that is the case, I think the amendment good.

Mr. THURMAN. Mr. President, I have an amendment to cover the same ground and including something else with it. My motion is to strike out all of lines 2 and 3 down to the word alone, in line 3, and insert the following:

From all final judgments of the district court, there shall be a right of appeal to the supreme court, under such regulations as may be provided by law. In equity, the appeal may be on ques-

tions of law and fact. In cases at law, the appeal shall be on questions of law alone.

In the article as reported by the committee we provided that an appeal should be upon questions of law alone in all cases. The gentleman from Salt Lake, Mr. Varian, moved to strike out the same words that I now move to strike out.

Mr. VARIAN. They are stricken out.

Mr. THURMAN. He moved to strike out the words "on questions of law alone;" that prevailed. That left it that an appeal could lie upon both questions of law and fact in all cases from the district court. Now, I think he agrees with me that in equity cases that is right, but in law cases where the facts have been found by a jury, the supreme court ought not to have a right to review those facts except it be for purposes of determining the legal question involved.

Mr. EVANS (Weber). I want to ask Mr. Thurman a question, and also Mr. Varian. I am convinced that the way that reads, that in the supreme court you could take your witnesses and have a retrial before the supreme court. I do not believe that either of the gentlemen intend that. It says upon both questions of law and fact, just as an appeal is taken from a justice's court to the district court, on both questions of law and fact, and there is no question but what a man could go into the supreme court with his witnesses and have another trial, and I do not believe that was ever intended by the mover.

Mr. VARIAN. I call the gentleman's attention to the fact that the all-important provision there is "under such regulations as may be provided by law." Now, of course, the statute as we have it now, if it is continued over, will regulate that. We must assume that the Legislature will regulate it.

Mr. EVANS (Weber). I think the words, "an appeal on questions of both law and fact," are well understood and well defined by the courts. It means a retrial of the issue. Now, if they would say, "upon the record," or something of that kind, so that the supreme court may review the fact in equity cases, it would be all satisfactory, but we certainly do not want to get the idea here that a jury can be called in the supreme court and witnesses can be introduced there and have a trial of the entire issue, and I believe this is broad enough to cover that state of facts.

Mr. VARIAN. Let me call your attention to the fact that in another section the jurisdiction of the supreme court is limited to appellate jurisdiction. It does not mean original jurisdiction.

Mr. THURMAN. It does not mean a trial.

Mr. VARIAN. The general rule in regard to equity causes is that the evidence is taken by what we call depositions; that is, it is taken down in writing; witnesses are never called in equity cases, except in accordance with the code statute, and this means appellate jurisdiction. Whatever may be in the record of the court below would be taken to the court above.

Mr. EVANS (Weber). I would like to call the attention of the Convention again to this matter. I am satisfied it is a mistake. I do not believe that there is any gentleman but what would agree with me that an appeal from the justice's court to the district court would be a trial anew before a jury, and the recalling of the witnesses and a reexamination of all the facts. Now, the clause in that section relating to appeals from justices' courts to the district court reads as follows:

> And also appeals shall lie from the final judgments of justices of the peace in civil and criminal cases, to the district court, upon both questions of law and fact.

Mr. VARIAN. What interpretation does the gentleman give the word appeal in this amendment? "The appeal

shall be," on certain questions. That is, the appeal shall be from questions of law and fact. It does not mean the original jurisdiction.

Mr. EVANS (Weber). "And appeals also shall lie from the justice's court to the district court upon both questions of law and fact." It is an appeal from the justice's court to the district court, just as it is an appeal from the district court to the supreme court, and if it is construed that a trial will be had anew in the district court, from the justice of the peace, then it would certainly be so in an equity case, because the language is identical. I would like to have that amended in some way so that it would be upon the record made in the district court.

Mr. THURMAN. Mr. President, I will accept an amendment proposed by the gentleman, an appeal on the record if there can be any sort of doubt about it. There is not any in my mind.

Mr. EVANS (Weber). Mr. President, I will offer an amendment to that after the word fact:

In equity cases the appeal may be on both questions of law and fact as made upon the record in the court below.

Mr. MALONEY. Does Mr. Thurman mean to cut off an appeal from orders after final judgment?

Mr. THURMAN. I think it is provided for lower down in the section.

Mr. MALONEY. I did not know whether I understood your amendment. I am in favor of leaving it to the Legislature. This may not work well and they may want to change it.

Mr. EICHNOR. Mr. President, I do not know how many amendments are before the house, but I am opposed to all amendments. The way it was amended the other day I think it is right.

Mr. EVANS (Weber). Mr. President, I desire to withdraw the amendment which I suggested. I am just like Mr. Eichnor. There is great danger in this section.

Mr. SQUIRES. Mr. President, I am waiting patiently for the lawyers to agree so I shall know how to vote on this proposition. I wish they would put their heads together and fix this thing up.

Mr. EVANS (Weber). Mr. President, I can get this matter before this Convention very readily. I move as an amendment that the words, "on questions of law alone," be inserted after the word court, in line 3.

Mr. CREER. The words that were stricken out the other day?

Mr. EVANS (Weber). The words that were stricken out the other day, on Mr. Varian's motion, that they may be reinstated.

Mr. VARIAN. Mr. President, I suggest as point of order, that amendment is not pertinent now. It is not an amendment to the amendment, and the amendment to the section covers those three lines. Mr. Thurman offers an amendment to those three lines as a substitute. Now, Mr. Evans comes in with an amendment to the three lines of the section. It is not an amendment to Mr. Thurman's amendment. Mr. Evans must wait, unless he chooses to amend Mr. Thurman's amendment, until we get through with that.

The PRESIDENT. The point of order is well taken.

Mr. EVANS (Weber). Then, Mr. President, as a part of my remarks, I want to state my reasons for voting down the amendments offered. I want to state right here in the beginning that this section was drawn—and I think that I will not be guilty of any breach of courtesy if I name the gentleman—by Judge Sutherland and other wise lawyers who assisted the committee in this matter of the jurisdiction of courts. It is a well established principle that appeals to the supreme court ought to be on questions of law alone. These words which were stricken out will work a great hardship on those people who are least able to stand it.

You let a supreme court have power to review the facts that a district court has had the right to review, and the chances are that the man who is least able to stand the reversals will have to bear the burden. Take it, gentlemen, in cases of railroad corporations, where an individual is injured by a company, and suppose a supreme court has the right to review the facts in that case; suppose a consideration of the facts were not conclusive by the trial court, where it sits and sees the witnesses and their conduct, their manner, and their deportment upon the witness stand, and is capable then and there of judging as to whether the witness is telling the truth or not—take all that away, take the cold record into the supreme court, and permit a review upon the facts, and injury will result to that very class of people who are least able to afford it. It is a well recognized and understood principle of law, that a trial court is the best judge of the facts, and if he tries the case correctly, sees the witnesses, and their conduct and deportment, and determines what the truth is, the facts ought to remain there, and the supreme court ought to have nothing to do except to review any mistakes or errors which might have occurred by reason of some question of law. Some gentlemen might say that the supreme court would not even have the right to examine into the evidence for the purpose of ascertaining whether the facts alone justified the verdict; but that is not true. If all the facts taken together do not as a matter of law justify the verdict, the supreme court will reverse the case. But this principle of permitting a supreme court that is far removed from the people, and from the witnesses, to determine upon a question of fact which it is the peculiar province of the trial court to determine, is wrong in principle, and ought not to be permitted in a constitution. And I affirm here now that even if the substitute offered by Mr. Thurman be adopted, that there will be a retrial upon questions of fact in the supreme court. Every decision will so hold. Every court will so hold when it comes to construing it. As this is now drawn, it is in conformity with the constitutions that are usually written, it is in conformity with the statutes where the jurisdiction of the courts is defined, and this question here of a departure such as that which is now proposed, is dangerous in the extreme. We might as well abolish our territorial courts altogether, and just have a supreme court, who can review the facts—with judges that are far removed from the people, that are not so closely in touch with them as these trial judges who sit, and see and examine the evidence carefully, scrutinize the witnesses, know the impulses and environments, and all that—to take that away from those courts would be an outrage, a shame, and unprecedented. So that I say, that the words which were stricken out the other day ought to be reinserted and the section left just as it was reported by the committee.

Mr. VARIAN. Mr. President, it seems to me the gentleman is not using his usual discrimination. This is not a question of appeal to prejudice. It is not a question of railroad corporations, nor one of the trial of causes against them. I quite agree with him, and I think my friend Mr. Thurman quite agrees with him, that in law cases—that means all cases that under any circumstances can be tried by a jury—the determination of the question of fact ought to end with the trial court; but we have in our system a system of equity law which never has been and probably never will be subjected to the trial by jury. It is entirely distinct in every way. Until within a few years, in the states of the western coast and in New York, the evidence in that class of cases was never taken before the court in person, by the witnesses appearing in person. It was taken by deposition or in writ-

ing and it was passed upon by the trial court and the appellate court, questions of law arising in such cases being so necessarily connected and involved with the questions of fact, which, ever shifting and changing as they do, present new phases and questions of equity law. So that in the main you may say that an equity cause is always a question of law. Now, we quite agree with my friend, Mr. Evans, upon this question, and when these words were stricken out the other day, it was with the avowed purpose and the distinct understanding, as I remember it, that some substitute would be arranged for, to cover the ground, to be presented at this time. Mr. Thurman has presented that substitute for those words, making the distinction clearly between law cases and cases of equity. It is the distinction that is preserved in the Constitution of the United States, in the seventh amendment, which provides that in all cases of a trial by jury, the question shall not be reviewed in any other way except as at the common law. That is, by the trial courts. There the matter ends, just as my friend suggests, but that does not interfere with the equity system which prevails in the federal courts. It prevails, here for that matter. Now, all that is asked by this substitute is that it shall be made perfectly clear that the supreme court shall not be restricted of the jurisdiction that prevails everywhere, in every state in the Union and in the federal court, of reviewing questions of fact in equity causes, because they cannot review the questions of law without they review and decide the question of fact appearing upon the record. Nor, do I think that the fear and apprehension expressed by my friend that this language may or will be construed so as to give the supreme court original jurisdiction in those causes is well founded. It means just what it says. First, in a preceding section the court shall have appellate jurisdiction; second, in the exercise of that appellate jurisdiction, it may not in questions of law review questions of fact; it may in equity causes review questions of fact as they are now reviewed and have been ever since the system of equity came into existence four or five hundred years ago. That is all, as I understand it, but if I am mistaken in the construction of my friend's amendment, he may correct me——

Mr. EVANS (Weber). Permit me to ask a question. If an appeal be allowed in an equity case, even upon questions of fact, would not the supreme court have the right to determine where the truth lies, where there is a conflict in the evidence?

Mr. VARIAN. Of course.

Mr. EVANS (Weber). That is to say, if one set of witnesses swear to one state of facts and another set of witnesses swear to another state of facts, you would not let the trial court determine which told the truth?

Mr. VARIAN. Precisely.

Mr. EVANS (Weber). You would permit the supreme court to review that conflict?

Mr. VARIAN. Certainly.

Mr. EVANS (Weber). Is there any authority for that anywhere under our American jurisprudence?

Mr. VARIAN. Mr. President, I am astounded at the question coming from the source that it does. I am actually astounded. The authority is everywhere. It began with the chancellors from the first in England. It is exercised to-day by the supreme court of the United States, and it is right that it should be. The system is complex. It is very different from the system at law. It is necessary that certain rules which are the fundamental landmarks in the administration of equity jurisprudence should be maintained, and in order to maintain them it is necessary in every case that the facts should be considered. It would be a monstrous proposition if you would confine that system as

you do the legal system, to the determination of the facts in each case, to the trial by jury, to that of the trial judge. You would have a different system in the administration of equity law in every district in the State. Now, that is not analagous at all to the trial by jury. In a case at law, when the facts are to be tried by a jury, they are clean cut; they only relate to questions of fact and are not connected in that sense with questions of law, and the jury find the facts—that is, the man did so or he did not do so; that is, the note was given or it was not given; that is, the fatal blow was stricken or it was not stricken; there was malice or there was not malice; and upon that finding as it shall be expressed, the judgment of the law is pronounced by the court. On all those questions I quite agree with the gentleman that there ought to be no review. It invades the right of trial by jury. But this is entirely a different question. We are discussing now a question of a different system, or at least a different part of the same system of jurisprudence. Equity and law go hand in hand, it is true, side by side; they are determined by different principles, determined in different ways and by different judges, and they ought to be.

Mr. EVANS (Weber). Mr. President, it may be contrary to the rules—I know this Convention has indulged me many times, probably more than it should, but I would like to make a few remarks respecting this question. No one else seems to want to speak. If any one does, I will yield at once. As I understand Mr. Varian now, he would permit the supreme court in an equity case to review a conflict in the evidence. I regret sincerely that he and I should differ so much with respect to the decisions of the supreme court of the United States upon that question, because I never heard it questioned before that the supreme court would not deal with a direct conflict in the evidence, and the reason for it is this, gentlemen: As I stated before, but did not elaborate upon it, the trial court, in a case of equity, has as many conflicts in the evidence as it does in a case at law. He sees the witnesses, examines them carefully. Why, you know, sometimes a man may swear that black is white or white is black, but that does not make it so. The record may show the strongest kind of a case in favor of a client, when you read it coldly as written out, and yet a judge sitting upon the bench might read right in the face of that witness a lie in every word and sentence that he utters; and you would permit the supreme court, would you, to pass on that question, when it is without the necessary and essential means of determining the truth or falsity of the testimony? And another thing, if this principle be adopted, that an equity case can be reviewed upon a conflict in the evidence, then take for illustration one of those classes of cases which are familiar to you all. Take a water case among the farmers. One set of witnesses will swear that a certain quantity of water was appropriated at a certain time by a certain person. Another set of witnesses will swear that the appropriation was made prior to that time by the other party. There will be a direct conflict in the evidence. The trial judge in many cases goes out and examines the water ditches; he looks at the quantity of water flowing; he examines the premises. This is frequently the case in equity cases, not only in water cases, but also in mining cases. He goes down into the shaft, through drifts and stopes and levels, and examines everything to ascertain whether or no the witnesses have told the truth. Now, gentlemen, if this cold fact can be reviewed by the supreme court, the supreme court would not be likely to do these things. It would not examine the witnesses, it would not see their

deportment, probably would not examine the premises, or go into the mines and make an examination to ascertain what the fact is, but would take a conflict of evidence before it, and have the right to determine which set of witnesses told the truth and which swore falsely. I do affirm, that no such system of jurisprudence was ever inaugurated in any civilized government, English or American.

The rule is this, that the chancellor hears all the evidence; from that evidence he makes a finding of fact, which finding of fact may be reviewed by the supreme court, or all the evidence might be taken up with the finding of fact for the purpose of ascertaining whether the chancellor came to the correct conclusion or found the proper facts. And if the evidence shows that he did not find the proper facts, or if the facts do not justify the conclusion, then the supreme court, as a matter of law, reverses the chancellor and his case is retried, but not tried by the supreme court. It is returned to the chancellor again for a retrial where the witnesses can again be summoned and brought into court and examined as they were originally. But this system would simply overturn every foundation principle of American jurisprudence, to permit a supreme court, sitting away from the people and away from the witnesses, to determine what their motives and their promptings were at the time they gave their evidence. This section is right as it stands. It is in the interest of every honest litigant. It is in the interest of the people and in the interest of a good system of jurisprudence. Any other system would overturn that system, which has long since been established.

Mr. THURMAN. Mr. President, when the motion was made the other day to strike out these words, I was the only one who voted against it. I thought it very singular that it was so nearly unanimous, but my voice was so lonesome when I voted that it almost frightened me. Now, I objected, and I went over it with the gentleman from Salt Lake, Mr. Varian, and told him I was dissatisfied with that action, that I did not want the supreme court to have the right to try questions of fact, particularly where they had been passed upon by a jury, and that the verdict of the jury should be final as to facts. He agreed with me that that was the case, but wanted it made applicable to equity, so you had a substitute which provides as it has been read, that the right of appeal is absolute in all cases, under such regulations as may be provided by law. In equity cases, it may be upon both questions of the law and fact. In cases at law it shall be upon questions of law alone. Now, there is an appeal allowed to-day for insufficiency of the evidence, whereby the supreme court can even review the facts passed upon by a jury, and in some cases say that the jury found wrongly. There they passed upon the facts, and I take it that that is what this means, that we do not want to permit the supreme court to pass upon even the sufficiency of the evidence. Because for the trial judge to say to a jury that they shall be the sole judges of the facts and the sufficiency of the evidence and the weight of it, and after they have decided it under those instructions, to have some other man or set of men review that and say that the jury decided wrong, is not to leave the facts with the jury, and for that reason we want it understood here that in cases at law where a jury passes upon the facts, there should be no review of the facts by the supreme court; but in cases of equity that it might continue just as it is to-day under existing law. Now, I will be frank, it may be my ignorance—if that means anything more than it does to-day, that the court may review the facts for the purpose of determining the sufficiency of the evidence, then I agree with the gentleman and

am not in favor of it, but I take it that that is all it means.

Mr. EVANS (Weber). I thank you for your kindly expressions on this matter. Mr. Varian thinks the supreme court would have the right to determine the fact where the evidence is conflicting, and I want to call your attention further to the fact that the section as you propose gives the supreme court the right to review the facts. If they have the right to review the facts, have not they the right to review a conflict in the evidence?

Mr. THURMAN. Now, they have a right to review the facts under such regulations as may be provided by law. That is a part of my amendment, and I say that it means more than simply fixing a bond and all that, but that it gives to the Legislature the right to regulate the appeal and the extent of it, and I think that it means exactly what our system is to-day. And in relation to these railroad companies and railroad cases, permit me to say this, that where a case is tried by the court alone (and equity cases are always tried by the court alone) it might be very convenient for the poor man to have some other court have a right to review the facts to some extent.

The question being taken on the amendment of Mr. Thurman, the Convention divided, and by a vote of 36 ayes to 29 noes, the amendment was agreed to.

Mr. EVANS (Weber). Mr. President, I change my vote to the affirmative for the purpose of moving a reconsideration.

Mr. VARIAN. I object. The gentleman cannot change his vote after the decision is announced.

Mr. EVANS (Weber). I cannot vote for this judicial article with that amendment in it, and will not.

Mr. VARIAN. Mr. President, I will say this, if after the section is passed the gentleman requests it, I will give notice of reconsideration myself.

The PRESIDENT. Will that be satisfactory?

Mr. EVANS (Weber). That will be very satisfactory indeed.

Mr. EICHNOR. Mr. President, I move to strike out section 9.

The motion was rejected.

Mr. RICHARDS. Mr. President, I move to strike out the word "an," at the end of line 3, section 9, and the word "appeal," in the beginning of line 4, be made to read "appeals."

The amendment was agreed to.

Sections 10, 11, 12, 13, 14, 15, 16, 17 and 18 were read.

Mr. EICHNOR. I would ask the chairman of the committee a question with regard to section 18. Many constitutions provide that all criminal prosecutions should be as against the peace and dignity of the state.

Mr. GOODWIN. That was put in and stricken out; I do not remember how. I believe it was on the ground that it did not amount to anything. That is something I am not at all particular about.

Sections 19 and 20 were read.

Mr. EVANS (Weber). Mr. President, I want to call attention to section 19, to show the consistency of the vote taken a while ago. There shall be but one form of civil action, and law and equity may be administered in the same action. You have a case of law and equity mixed. How would that be? Would the case be divisible for purposes of appeal.

Mr. VARIAN. Yes, it is, and has been so.

Mr. EVANS (Utah). Mr. President, I move to amend section 20 by striking out the words, "and mileage."

Mr. CREER. Mr. President, I have a substitute as follows:

Until otherwise provided by law, salaries of the supreme judges shall be three thousand dollars a year, paid quarterly, and that of the district judges twenty-five hundred dollars a year, paid quarterly, and their mileage.

The substitute was rejected.

Mr. EVANS (Utah). Mr. President, I want to amend section 20 by striking out "and mileage," in line 4, and inserting after the figures 3,000, in line 3, "including mileage."

Mr. GOODWIN. I want to ask the gentleman a question. In case the mileage should amount to thirty-five hundred dollars, how about the five hundred dollars?

Mr. EVANS (Utah). If his mileage amounted to three thousand dollars, perhaps the Legislature would do something for him, but I do not think it will. I have figured this thing up. I am going to talk on it a little while, if I am permitted. As I remarked the other day, I am opposed to this mileage system, in any way, shape, or form. I think it is very near akin to a fee system, and I think this Convention has decided—will carry into effect the fact that we propose to abolish the fee system. Whenever you have a mileage attached to the office of any individual, you never know what you have got to pay. I think that three thousand dollars is plenty. If it should be found necessary in the Legislature that some incidental expenses ought to be paid after this has had a fair trial, then they would have the right and power to do it, but in every event, or in any event, I believe that three thousand dollars is all this State ought to pay to our judges. I came here fixed in my mind that twenty-five hundred dollars would be sufficient to pay them, and if this shall fail I want to give notice now that I shall move to amend by making it twenty-five hundred dollars, and I shall have strong support in this Convention.

Mr. CRANE. I would like to ask the gentleman if he considers it right and just that the judges of the district court in Salt Lake County should receive three thousand dollars, and they have no mileage of course, and the judges in the 7th, 5th, or 4th district, who have to travel eight or nine miles, or three thousand miles as one of them has to do, should receive only three thousand dollars, and that he should be compelled to pay his own mileage out of his salary?

Mr. EVANS (Utah). Yes, sir, I do. I think it is right. I submit to you, gentlemen of the Convention, that if we shall confine it to localities upon the principle that the gentleman has indicated, that Salt Lake City will turn into the treasury five times as much from fees as will these other districts. I submit to you that the cost of living will be much cheaper in these outlying counties than it is in Salt Lake City. I heard it remarked by a gentleman in speaking on this question, and I believe there is a great deal of truth in it, in delivering a lecture, he said that the judges and attorneys live entirely too high. He says, "They have a good time, spend lots of money and die young." And I am in favor of cutting their salaries down a little so that they will live not quite so high and by reason of that they will live a little longer and not have so many widows and orphans in our midst, and I am in favor of this being three thousand dollars, and no discrimination against Salt Lake City or anywhere else. We are arguing this question now upon a principle of fixing the salaries as Idaho has done, at three thousand dollars. Let that cover everything. It will make them more judicious in the expenditure of their means in traveling. I presume the longest travel will be from Juab down to Saint George, and upon the actual traveling expenses, computed at ten cents a mile, if they shall make twelve trips it will only be six hundred, and that will leave a salary of twenty-four hundred dollars, but as we have provided, they shall only be required to go four times, and consequently it would reduce that amount and leave that about twenty-seven or eight hundred dollars, and I say that is plenty. This Convention cannot go upon record for

any greater salaries than three thousand dollars including everything, and I shall cast my vote and I want to go upon the record for that.

Mr. CRANE. Mr. President, I have an amendment that I desire to offer that I think will meet the requirements of this case: Insert after the words "payable quarterly" the words, "and the necessary traveling expenses incurred in reaching the several counties in their respective judicial districts."

Mr. IVINS. Mr. President, I am more opposed to this latter amendment than I was to the amendment offered by the gentleman from Utah, from the fact that it provides that the necessary traveling expenses would be paid without defining anything about what those traveling expenses shall be. And we know how easy it is for men to create large bills for traveling expenses. My opinion is that the section just as we amended it in committee of the whole is the proper thing, and that we ought to pay these men their regular salaries and mileage. They cannot deceive the State, because the map will show plainly the number of miles they have traveled. They cannot report that they have traveled five hundred miles when they have only traveled two. But it is a very easy matter for a man to build up an expense account when there is no rule by which he is governed. This idea of living being cheaper outside than it is in Salt Lake is all wrong. It costs a man just as much to get a meal in Saint George as it does in Salt Lake. There is no article in the market, unless some peculiar product of that country, that cannot be bought for less here than in Washington County, from flour to beef steak, and I say that it is proper that these judges should be paid three thousand dollars, and they ought to have their mileage, and then let them spend just as much money for incidental expenses as they wish while they are traveling. It will be their own.

Mr. GOODWIN. Mr. President, the idea of mileage was that the actual money paid out in traveling should be returned to the judge. Under the arrangement proposed by Mr. Crane, a man will have to be on the road all the time. He would be away from home continuously. It would be all right if I knew that a Salt Lake judge or attorney would be elected to those long stretches, but the chances are that it would be some man from the lower country, where they are not so scrupulous as Salt Lake attorneys, and the bill would be simply unapproachable. I think the section ought to stand. It is splitting hairs to say that a man would travel hundreds of miles in stages or on a mustang or in a buggy, to get mileage. He gets his punishment. He will earn all that he gets.

The amendment of Mr. Crane was rejected.

Mr. EVANS (Utah). Mr. President, I ask for the ayes and noes on my amendment.

Mr. CRANE. Mr. President, I trust this amendment will not pass. I do not believe that it is right that a man, because he is a judge of a district court, three or four or five hundred miles from the city of Salt Lake, should have his salary reduced lower than that of the judge in Salt Lake. He may be just as good a judge. He may be just as learned in the law, and he has to travel hundreds, and in one district, I find three thousand miles during the year. He has to withstand a great deal of hardship, the burning alkali dust of summer and the blasting storms of winter, and I do not believe that it is right and just that he should be compelled to pay his salary of three thousand dollars or any portion of it for traveling expenses, or that his salary should be reduced in any particular lower than that of the judges of Salt Lake City who have a good office, and no office rent to pay, have library facilities that the judges in the outlying counties

have not; they cannot carry any freight when they go in a buckboard or in their own conveyances, which they will have in going from Summit to Uintah, and I do not believe it is right and just to those judges that they should be compelled to work for a less salary than the judges in Salt Lake, who have all the comforts of home around them.

Mr. CREER. Do the judges in the neighboring states—Idaho, for instance, and Wyoming, get mileage?

Mr. CRANE. I do not know anything about Idaho. I am only speaking of the judges who live outside of this city, who are perhaps just as learned in the law as they are in this city.

Mr. CREER. I wish to say that they have the same duties to perform as these judges will have, yet they receive no mileage.

Mr. CRANE. Mr. President, I will say that Idaho is an entirely different state from Utah, that the traveling is not half as much. The precincts and the districts are not half as large as they are here, and the facilities for traveling are much better than they are here.

Mr. IVINS. I want to say furthermore that Idaho does not have this system. She has the probate system of courts, and the judge does not have to travel as long distances.

Mr. BARNES. Mr. President, I will say that I agree exactly with Mr. Crane. I think in the matter of compensation and fixing of salaries, we should try to be just, and I cannot think it is just to ask a man who is traveling, as has been described by Mr. Crane, to pay his own expenses out of the salary, when whoever may be appointed to sit in Salt Lake City can do so without any expense. It must be evident, I think, to all classes that it must be very much more pleasant and agreeable to sit in a comfortable office here in Salt Lake City, than it would be to travel through those mountain gorges or over the dusty roads, as the case may be. I know it would be, and I think it is manifestly unjust to ask a judge in the outlying counties to thus travel and pay his own expenses out of the salaries of office.

Mr. FARR. Mr. President, I could not do myself justice, nor justice to the person that got up this motion to exempt expenses of mileage from this, without saying something. It comes so near to my proposition of two thousand dollars a year, I think it is nothing more than due that I should get up and support the gentleman that has made this motion, and I certainly shall support the motion that the mileage be exempted from this section. I am satisfied from the dense population here in Salt Lake City, that they will have about twice or three times the time to spend in court to what they will have in these outside counties, and the time will be taken up, and they can well afford to pay the extra mileage to what the judges do in this city, and I think it will make it about equal to what it would be to be confined here in this city and attend the great number of courts they will have. Consequently, I will support the motion.

Mr. HAMMOND. Mr. President, I am opposed to the amendment and in favor of the section as we left it at our other discussion. As I have observed, if altered at all, I would favor an increase. Now, sir, as you may know personally, I traveled that country for the last ten years and have worn out five buggies. The last one you helped bust out yourself. [Laughter.]

The PRESIDENT. I did not intend to do that.

Mr. HAMMOND. It is a hard country on buggies and teams and men. Our judges that are worthy of being judges of counties like San Juan should certainly have their mileage added to their salaries. I have no idea of their cheating us, as has been observed here. The routes—the county roads and cow trails, as some one has observed here

before, are well known, and there is no possibility of their cheating us at all, and I am in favor of leaving the section as it stands.

Mr. KIMBALL (Weber). Mr. President, I should oppose the motion of the gentleman. My experience for a number of years in travelling through this Territory has demonstrated the fact that it costs on an average of five dollars a day to travel. Now, if we take this from the judges' salary of eight, and include some incidental expenses, it would figure him down to a bare living, and I certainly oppose it, but I would support the proposition of a less amount including mileage.

Mr. VAN HORNE. I would like to ask the gentleman from Utah what the use is of putting in the words, "including mileage?"

Mr. EVANS (Utah). My object is that if we shall do that we will indicate to the Legislature that we do not want any mileage paid, and if we just leave the mileage off perhaps they will go and give it.

Mr. MURDOCK (Wasatch). Mr. President, I trust the motion to strike out mileage will not prevail. Undoubtedly those who are in the outside counties realize the fact that they need as competent judges to sit in cases where they are interested, as those do who live in cities and places where the judges will not have to travel, and to cause them to pay their mileage, or to pay it out of their salary, would indicate a cheaper judge for the outside districts. I certainly contend that we want just as good a judge for the outside counties as the people have that dwell in the more thickly settled counties; and further, it appears to me that if we compel them to pay their own mileage, they will not come to see us very often. I venture to say they will not make more than four trips in any outside county if they have to pay the expenses of those trips, and, as has been stated, there may be cases in which their services are much needed, but if they are under the obligation of paying the expenses to go to those counties, I am inclined to think they will not go oftener than is provided by law, and I trust that no delegate from an outside county will vote in favor of them paying their mileage, for I believe if he does he will be voting against his own interests and against the interests of his county. I do not know that I blame those that live in counties where the judge does not have to travel and where probably he will reside, for being opposed to mileage. They will keep the judge at home all the time and will have his services right at hand.

The roll was then called on the amendment offered by Mr. Evans, of Utah, with the following result:

AYES—24.

Boyer	Lowe, Peter
Brandley	Low, Cache
Chidester	McFarland
Coray	Peters
Creer	Raleigh
Cunningham	Ricks
Evans, Weber	Robertson
Evans, Utah	Robison, Wayne
Farr	Stover
Halliday	Thompson
Lemmon	Thoreson
Lowe, Wm.	Thorne.

NOES—65.

Allen	Kerr
Anderson	Kimball, Salt Lake
Barnes	Larsen, L.
Bowdle	Larsen, C. P.
Button	Lund
Buys	Maeser
Call	Maloney
Cannon	Maughan
Christiansen	Miller
Clark	Morris
Corfman	Moritz
Crane	Murdock, Wasatch
Driver	Murdock, Summit
Eichnor	Nebeker
Eldredge	Page
Emery	Peterson, Grand
Engberg	Peterson, Sanpete

Francis	Pierce
Gibbs	Richards
Goodwin	Roberts
Green	Ryan
Hammond	Sharp
Hart	Shurtliff
Haynes	Spencer
Heybourne	Squires
Hill	Strevell
Howard	Thatcher
Hyde,	Thurman
Ivins	Van Horne
James	Warrum
Jolley	Wells
Keith	Williams.
Kearns	

ABSENT—15.

Adams	Partridge
Cushing	Preston
Hughes	Robinson, Kane
Kiesel	Snow
Kimball, Weber	Symons
Lewis	Varian
Mackintosh	Whitney.
Murdock, Beaver	

PAIRED—2.

Johnson	Lambert.

The president declared the amendment lost.

Mr. ALLEN. Mr. President, I want to explain my vote. Inasmuch as Mr. Evans has given notice that he will move for twenty-five hundred, I will vote no.

Mr. CREER. Mr. President, just because the Convention did not make it twenty-five hundred dollars I vote aye on this.

Mr. JOLLEY. Mr. President, my opinion is that we have got these salaries five hundred dollars too high, but I do not believe that there should be any distinction made in the judges wherever they may be. Therefore, I vote no.

Mr. EVANS (Utah). Mr. President, I move that three thousand be stricken out and that twenty-five hundred be inserted.

The roll being called on the motion, the result was as follows:

AYES—38.

Allen	Larsen, L.
Barnes	Lemmon
Boyer	Lowe, Wm.
Brandley	Lowe, Peter
Call	Low, Cache
Chidester	Maloney
Coray	McFarland
Creer	Miller
Cunningham	Morris
Engberg	Peters
Evans, Weber	Peterson, Sanpete
Evans, Utah	Raleigh
Farr	Ricks
Gibbs	Robertson
Halliday	Robison, Wayne
Heybourne	Snow
Howard	Thompson
Jolley	Thoreson
Kimball, Salt Lake	Thorne.

NOES—51.

Anderson	Larsen, C. P.
Bowdle	Lund
Button	Maeser
Buys	Maughan
Cannon	Moritz
Christiansen	Murdock, Wasatch
Clark	Murdock, Summit
Corfman	Nebeker
Crane	Page
Driver	Peterson, Grand
Eichnor	Pierce
Eldredge	Richards
Emery	Roberts
Francis	Ryan
Goodwin	Sharp
Green	Shurtliff
Hammond	Spencer
Hart	Squires
Haynes	Stover
Hill	Thatcher
Hyde	Thurman
Ivins	Van Horne
James	Warrum
Keith	Wells
Kearns	Williams.
Kerr	

ABSENT—15.

Adams	Partridge
Cushing	Preston

Hughes	Robinson, Kane
Kiesel	Strevell
Kimball, Weber	Symons
Lewis	Varian
Mackintosh	Whitney.
Murdock, Beaver	

PAIRED—2.

Johnson	Lambert.

The president declared the motion lost.

Sections 21, 22, 23, 24 and 25 were read.

Mr. RICHARDS. Mr. President, I move that all of line 3 and all of line 4, except the last two words, be stricken out.

Mr. CRANE. That amendment has already been passed.

Mr. RICHARDS. I thought so, but if there is any doubt about it, I move it be done now.

Mr. EVANS (Weber). I move as an amendment, Mr. President, to the motion, to strike out the entire section 25. I do not do this for any affront to the honorable chairman of the committee. Of course he understands that, but it is wholly unnecessary for any purpose whatever. There is nothing in it that is so essential that it shall be made constitutional. It simply provides that the supreme court shall pass upon all the points fairly arising, and if a judge dissents he shall give his reasons in writing. These are things that are always done by every supreme court. It seems to me to be wholly unnecessary and I therefore move to strike it out.

Mr. RICHARDS. I think it should be made definitely the duty of the judges of the supreme court to make their opinions in writing and file them. Of course it is the general practice, but still it ought to be expressly stated.

Mr. MALONEY. Mr. President, this is a provision in several of the constitutions of the United States. It was put in at the special request of a number of members of the Salt Lake bar. I do not think a court ought to decide a case without considering fairly all the points in the case. I shall support it as reported by the committee.

Mr. RICHARDS. My recollection is that a motion similar to this prevailed. There did not seem to be any opposition at that time to this proposition. I desire to say this: Suppose a case is taken up and there are a half a dozen or a dozen different points raised in the case and one point is decisive of the case, why should the supreme court be required to go on and write an opinion upon the eleven other points that are raised in the case when one point decides it? It is unusual. It seems to me to be not only unnecessary, but undesirable that this thing should be done. The supreme court of the United States, when they consider a case and conclude to decide it upon any one point, if that point is decisive of the case, it decides it upon that point and says it is not necessary to consider other points, and so with other courts.

Mr. BOWDLE. Mr. President, I am not in favor of striking that out. The idea, I take it, for putting it in here is this: There is a case comes up to the supreme court; there is one point that would decide the case, but there is another point that is equally decisive, and a third that would be equally decisive. Now, the court, we will say, decides on this point, leaves the other two points yet to be litigated, and the idea, as I take it, that prompted that suggestion was that very thing, that when the points are properly before the court, to save litigation they should decide that question. Now, that is the gentleman from Weber's suggestion.

Mr. MALONEY. Yes, that is it. Then, also, the trial judge may have the suggestion from the supreme court.

Mr. EVANS (Weber). Mr. President, I agree with all these things and agree that it is purely for the Legislature to deal with. Why put in this little trivial matter in the Constitution. Our laws already provide for it practically, and they will be continued in force by the

schedule, and if any abuses of this kind arise the future Legislatures can easily deal with it, and there is no use encumbering the Constitution with it at all.

Mr. MALONEY. Where is the law already in existence that covers this point?

Mr. EVANS (Weber). Covers the objection of Mr. Richards that the supreme court shall render its decision in writing, that is all. They always do that.

Mr. EICHNOR. Mr. President, I hope the amendment of Mr. Richards will prevail. One of the first law cases I ever read, appealed to the supreme court of the state of Pennsylvania, was taken up by the silver-tongued orator, Daniel Dunn, and he had seventeen points to be decided upon, and the first point decided the case. Why should the supreme court of that state, or any other state, if an attorney would appeal a case and raise seventeen points when the first point or second point or third point decided the case, burden the record with dwelling on sixteen other points which could not change the decision?

Mr. EVANS (Weber). Isn't it true that lawyers get up twenty or thirty or forty or fifty assignments many times, and it would require the court to pass upon all of them?

Mr. EICHNOR. Correct.

Mr. EVANS (Weber). It would make a decision that nobody would want to read.

Mr. THURMAN. I believe I can answer the question as to why it is wise to do this; it will save litigation in the future. If a dozen questions fairly arise upon the face of the record and the attorney appealing the case relies upon each one of them and sends them up, and the supreme court decides every one of them, whether they are necessary or not, there is no man that will ever appeal on any one of those questions again, because the supreme court has made it the settled law of the land. It is in the interests, I think, of decreasing litigation. That was the object of the committee. It is not an unusual thing. There are a good many of the states requiring that thing in their constitutions to-day. I am not very particular about it so far as I am concerned, but to say that there is no reason for it—there is reason.

The amendment of Mr. Richards was rejected.

The motion of Mr. Evans, of Weber, was rejected.

Sections 26 and 27 were read.

Mr. EICHNOR. I offer a substitute for section 27, as follows:

> Any judicial officer who shall absent himself from the State or district for more than sixty consecutive days shall be deemed to have forfeited his office; provided, that in cases of extreme necessity, the governor may extend the leave of absence to such time as the necessity therefor shall exist.

I desire to explain the difference between the original section 27 and the substitute I propose. In the substitute, if the officer absents himself from the State or district for sixty days, he forfeits his office, but the governor, in cases of extreme necessity, may extend the leave of absence. For instance, the judge would be required to go to another climate for his health, and he could not return in sixty days or ninety days, as the original section provides, the governor could extend the leave of absence.

Mr. THATCHER. Should not we place some limit of time—say four months or six months?

Mr. EICHNOR. It is discretionary with the governor.

Mr. SQUIRES. Mr. President, I notice a difference of thirty days between these two propositions. Mr. Varian's first motion was to make it sixty days, and that was amended at the request of some of the lawyers present here to ninety days. Now, the substitute comes in and restores the old time.

sixty days. I move to strike out sixty from that substitute and insert ninety.

Mr. EICHNOR. I will accept that.

Mr. GOODWIN. Mr. President, I do not want to say anything except that the public deserves something. If a judge is incapacitated by illness more than ninety days that is his misfortune.

The substitute of Mr. Eichnor was agreed to.

Mr. THATCHER. Mr. President, before we vote on this as a whole—in section 12, I would like to ask whether the letter "a," in line 2, before the word compensation, is stricken out or not? I move to strike out the letter "a."

The amendment was agreed to.

Mr. THATCHER. Mr. President, I shall now move to strike out entirely section 24, and if that does not prevail, I shall move for the insertion of a word giving the Legislature power to limit as well as extend; on the third line, inserting the words "or limit." I think it is well enough fixed at four and six years.

Mr. VAN HORNE. Mr. President, I hope that that will not be done hastily. The committee considered very carefully the term of the judges and fixed upon the term, and they thought that the Legislature might consider it desirable to extend the term, but in no instance would it be for the good of the people to have the Legislature limit it.

The amendment was rejected.

The motion to strike out was rejected.

Mr. EVANS (Weber). Mr. President, I hold in my hand a motion to reconsider section 9, which is made by Mr. Varian. He asked me to present it in his absence.

The same was read as follows: "Mr. Varian moves to reconsider the vote by which the amendment by Mr. Thurman to section 9 was carried."

Mr. SQUIRES. Mr. President, I understood Mr. Varian to say that after this article had been adopted he would file that motion to reconsider.

Mr. THURMAN. Yes.

Mr. EVANS (Weber). No, that is not it at all. We will have another seance just like we had to-day on the election article, because all he moves to reconsider is section 9.

Mr. CORAY. I desire to ask, did not the vote we took this morning decide that a section could not be reconsidered after the final vote?

Mr. SQUIRES. Not if the motion to reconsider is made at the proper time. This morning we were trying to suspend the rules to reconsider. It is a different proposition.

Mr. THURMAN. Mr. President, I have seconded this motion to reconsider, but I would like to look the question up a little this evening.

Mr. RICHARDS. Would it not be as well to withdraw this motion for the time being, in the absence of Mr. Varian, and let the matter be continued until it can be further investigated? Will Mr. Evans withdraw the motion for the time being?

Mr. EVANS (Weber). Certainly.

Mr. RICHARDS. Then I desire to submit an amendment to section 26, after the word "of," in the section line, to insert the word "all," so that if we are going to have these judges decide all these different points in the record, then I desire the syllabus shall show them all.

Mr. EICHNOR. Would not that make a very large syllabus to each case?

Mr. THURMAN. Does it not mean that now?

Mr. RICHARDS. I think that means that now, by a fair construction, but the supreme court will interpret this Constitution, and I want to put it in such a position that if the point is decided in the opinion it will appear in the syllabus, and that is certainly to the interest of every person who has to refer those decisions.

The amendment was agreed to.

Mr. RICHARDS. Mr. President, I move we adjourn.

Mr. GOODWIN. Mr. President, I move to adjourn until to-morrow morning.

Mr. CHIDESTER. I arise to a point of order. The time is fixed.

Mr. MALONEY. Mr. President, I move to reconsider the action of this morning that we take a recess until 7:30 this evening.

Mr. RICKS. Mr. President, I desire to submit a report.

The committee on schedule, future amendments and miscellaneous, reported an article on schedule, which was ordered printed and referred to the committee of the whole.

The motion of Mr. Maloney was agreed to.

Mr. KEARNS. Mr. President, I move that when we adjourn, we adjourn until 9 o'clock to-morrow morning.

Mr. EVANS (Utah). Mr. President, I move as an amendment that we take a recess until 7:30 o'clock this evening.

The amendment was rejected.

The motion was agreed to.

The committee on salaries of public officers reported as follows:

Committee Room,
April 25th, 1895.

MR. PRESIDENT:

Your committee on salaries of public officers herewith report an article entitled salaries, and recommend its insertion in the Constitution.

Files No. 8 and 133, which were referred to the committee, are herewith returned. R. MACKINTOSH,
Chairman.

Mr. CHIDESTER. Yeas and nays on the judiciary article.

The PRESIDENT. Mr. Varian is absent. If there is a proposition to amend section 9, it seems to me——

Mr. CHIDESTER. I object to waiting on any man that sends in an amendment in that way. Now, in my opinion it is his business to be in attendance on this Convention, and I notice that several times men have remained away from the Convention until important measures have been nearly settled and then have come in and endeavored to turn upside down everything that has been done during the day, and I think it is not fair; it is not treating the Convention fairly, and we have time enough now to finish this up and I think we should do it.

Mr. EVANS (Weber). Mr. President, I just want to say on this question of reconsideration—the motion is now made to reconsider section 9, and has been seconded. All I shall contend for is that if the motion to reconsider be carried, I shall want the section as reported by the committee. It was carefully and intelligently drawn. It is a matter of safety that we should leave it as it was. I do believe, as I stated to you before, that the article as now amended is in a very dangerous condition.

Mr. THURMAN. Mr. President, I am not going to contend over this matter any longer. I shall withdraw my substitute unless the house objects.

Mr. SQUIRES. It has already passed.

Mr. RICHARDS. Mr. President, I submit when the gentleman who offers the substitute states here that he will withdraw it, we certainly ought to vote for a reconsideration.

Mr. ANDERSON. Mr. President, I hope that we will reconsider this question. I think if there is any doubt that this is ambiguous, or is liable to two constructions, it should be changed.

Mr. THURMAN. Mr. President, I want to be understood on this floor. As far as I am concerned, I do not have any doubt about the substance. I think I know what it means; but in the, first, I was in favor of this as it now reads in section 9 in the printed article. I alone voted against the striking of it out in this house.

Mr. EVANS (Weber). I voted with you.

Mr. THURMAN. I feel, so far as I am concerned, that there is no doubt about

it, but I am in favor of the section as it stands there. When Mr. Varian succeeded in getting that language struck out of this article, as a compromise I offered a substitute. Now, if Mr. Varian, himself, wants to reconsider this whole matter, I withdraw my substitute and let the section stand—it won't stand, but the words may be reinserted without any opposition as far as I am concerned.

Mr. MALONEY. Mr. President, this Convention passed upon that deliberately. I do not think Mr. Thurman has the right to withdraw his substitute when we passed on it.

Mr. THURMAN. Well, I say as far as I am concerned.

Mr. MALONEY. I think it should be left the way it is.

The question being taken on the motion to reconsider, the Convention divided, and by a vote of 34 ayes to 36 noes, the motion was rejected.

Mr. CANNON. Before the roll call is had, I desire to ask the chairman of the committee on judiciary a question—whether the construction placed upon section 1 the other night is correct, where the language is used "and such other courts, inferior to the supreme court, as may be established by law," and if there any question but that the Legislature could establish the probate courts, if they saw fit so to do?

Mr. GOODWIN. There is not, unless the probate court is higher than the supreme court.

Mr. CANNON. Could they in any way reduce the number of district courts, or would that require constitutional amendment?

Mr. GOODWIN. They cannot reduce the number of district courts.

Roll call on adoption of the proposed article on judiciary, as amended, resulted as follows:

AYES—33.

Anderson	Larsen, L.
Bowdle	Lemmon
Boyer	Lowe, Wm.
Brandley	Lowe, Peter
Button	Lund
Buys	Maeser
Call	Maloney
Cannon	Maughan
Chidester	McFarland
Christiansen	Miller
Clark	Morris
Coray	Moritz
Corfman	Murdock, Wasatch
Crane	Murdock, Summit
Creer	Nebeker
Cunningham	Page
Eichnor	Peters
Eldredge	Peterson, Grand
Emery	Peterson, Sanpete
Engberg	Pierce
Evans, Utah	Richards
Farr	Ricks
Francis	Roberts
Gibbs	Robertson
Goodwin	Robison, Wayne
Green	Ryan
Hammond	Sharp
Hart	Shurtliff
Halliday	Snow
Heybourne	Spencer
Hill	Squires
Howard	Stover
Hyde	Thatcher
Ivins	Thompson
James	Thoreson
Jolley	Thorne
Keith	Thurman
Kearns	Van Horne
Kerr	Warrum
Kimball, Salt Lake	Wells
Kimball, Weber	Williams.
Lambert	

NOES—4.

Allen	Low, Cache
Evans, Weber	Raleigh.

ABSENT—19.

Adams	Mackintosh
Barnes	Murdock, Beaver
Cushing	Partridge
Driver	Preston
Haynes	Robison, Kane
Hughes	Strevell

Johnson	Symons
Kiesel	Varian
Larsen, C. P.	Whitney.
Lewis	

During the roll call the following explanations and statements were made:

Mr. EICHNOR. I vote aye, but I express my disapproval of section 9 most emphatically.

Mr. EVANS (Weber). The committee have taken great pride in the formation of the judiciary article. I have sincerely hoped that it would so stand that I could vote for it. Section 9 is so fraught with mischief that I cannot vote for the article at all and I must cast my vote no.

Mr. EVANS (Utah). I want to say that I disapprove of sections 9 and 20, but I shall cast my vote aye.

Mr. HAMMOND. I am satisfied with all the sections except section 5. I shall vote aye on the article. I wanted all these officers to be married men.

Mr. RICHARDS. I vote aye on this article, but I express my disapprobation of the article, in so far as it does not provide for probate courts, and I am not satisfied with section 9.

Mr. SNOW. I vote aye, but like Mr. Richards, I disapprove of not incorporating probate courts.

Mr. CREER. I am not satisfied with section 20, but I vote aye on the article.

The PRESIDENT. The article has been adopted and will go to the committee on compilation.

Mr. THURMAN. Mr. President, I give notice now that I will move to reconsider this article for the sake only of reaching section 9, if I find that I am mistaken in the law. I do not want to be responsible for any mistake. I tried a while ago to get the matter over.

Mr. PIERCE. Mr. President, I move you that we do now adopt the recommendation of the committee, of the whole upon the article of mines and mining.

Mr. EVANS (Utah). Mr. President, I do not understand there is anything to adopt. The article was stricken out in toto.

Mr. ANDERSON. Mr. President, I hope this motion will not prevail. I hope it will be voted down. I have two or three sections here which I wish to offer if this is voted down. Irrigation, agriculture, and mining are the chief industries of our State, and we have scarcely anything about them in our Constitution. I have some sections which I think it is necessary to incorporate. I hope this motion will be voted down.

Mr. EVANS (Weber). Mr. President, I believe it is desirable that there should be something said in the Constitution about mining. The committee of the whole struck everything out. Now, if the report of the committee of the whole be not adopted, why, then that of course will bring up the article on mining for a third reading. I simply wanted to say that much so that the Convention would understand that if the report of the committee be voted down, then the article on mining is before the Convention for the third reading.

The motion of Mr. Pierce was rejected.

Mr. RICKS. Mr. President, I understand now that the report of the committee is before this Convention just as it was in the beginning, with three sections.

The PRESIDENT. That is correct.

Mr. EVANS (Weber). Mr. President, I move that the article on mines and mining be made a special order for tomorrow morning.

Sections 1, 2, and 3 of the article were read.

Mr. KEARNS. Mr. President, I want to offer a substitute for section 3, taken from the Idaho bill of rights, as follows:

Section 3. The necessary use of lands for the construction of reservoirs, or storage basins, for the purposes of irrigation, or for rights of way, for the construction of canals, ditches, flumes,

or pipes, to convey water to the place of use; for any useful, beneficial, or necessary purpose, or for drainage; or for the drainage of mines or the working thereof, by means of roads, railroads, tramways, cuts, tunnels, shafts, hoisting works, dumps, or other necessary means to their complete development, or any other use necessary to the complete development of the material resources of the State, or the preservation of the health of its inhabitants, is hereby declared to be a public use, and subject to the regulation and control of the State.

The substitute was adopted.

Mr. RICKS. Mr. President, I move that the section just adopted be stricken out.

Mr. HART. Mr. President, I arise to a point of order. It is not proper.

The PRESIDENT. Roll call on the article.

Mr. BOWDLE. What are you calling the roll upon?

The PRESIDENT. On the whole article.

Mr. RICKS. Mr. President, this question has been discussed by this Convention probably more than any other, except the woman's suffrage question, and on four or five different occasions we have voted——

Mr. KIMBALL (Weber). I arise to a point of order. The roll call had been started, and any discussion now is out of place.

The PRESIDENT. The point of order is well taken.

Mr. RICHARDS. Mr. President, I ask unanimous consent to call attention to one thing in section 2. It seems to me that this cannot be as I understand it. It can hardly be intended by this Convention that the Legislature shall provide by law for enforcing safe development and ventilation. I understand that the Legislature has power to enforce the development of all coal claims. I submit if a man has a patent to coal lands, is it right that the State should enforce the development of them? I submit we are passing something hastily that we do not appreciate the force of. That is what this means.

Mr. SHARP. This says, coal mines operated in this State; that means that if they are mines that are being operated——

Mr. THURMAN. I would like to ask that this vote be postponed until tomorrow morning.

Mr. JAMES. Mr. President, I sanction the gentleman's request.

Mr. RICHARDS. It is going too fast, that is the trouble.

Mr. WILLIAMS. It is going too far. It is building hoisting works, building dumps upon public land, etc., that we have not had time to consider, and it has no business here.

Mr. KIMBALL (Weber). I arise to a point of order.

The PRESIDENT. The secretary will proceed with the calling of the roll.

The roll was then called on the adoption of the article, but was interrupted by the following:

Mr. CANNON. Mr. President, I decline to vote, for the reason that I have no time in which to consider this substitute which was offered. The president did not state the question and ask for remarks, and no time was given in which remarks could be made or any amendment offered.

The PRESIDENT. The gentleman must vote either aye or no.

Mr. CANNON. I will vote no.

Mr. CHRISTIANSEN. I decline on the same grounds.

The PRESIDENT. The gentleman must vote either aye or no.

Mr. EVANS (Weber). Mr. President, I ask unanimous consent that the matter lay over.

Mr. BOWDLE. No, I object.

Mr. IVINS. Now, Mr. President, I want to arise to a point of order. This last section, that it is designed to add to this bill, and which I hurriedly endorsed, was read, and the roll call was demanded before a member had a chance to get on his feet, and the clerk called

one or two names. Now, I claim that that is contrary to all rules of order, to pass an important matter of that kind before a man can get on his feet to offer an amendment to it or make a remark, and consequently, I believe that the calling of the roll is out of order until an opportunity has been had to amend this section if members wish to do it.

Mr. JAMES. Let it go on and vote it down.

Mr. IVINS. I do not want to vote it down.

Mr. HART. Mr. President, I believe it is the sense of this Convention that that section should be passed, but I am in favor of giving members time to consider it. This thing of having crowded down their throats—while I would like to see the particular section passed, I do not believe in seeing it passed in this way. I would like to see that thing go over until to-morrow morning.

The PRESIDENT. The secretary will proceed with the calling of the roll.

Mr. RICHARDS. I desire to supplement to the suggestion made a request that the third section be printed. I submit that the gentlemen of this Convention do not know what they are voting on. I do not know. I have heard that section read once, but no man can from hearing it read once appreciate the importance of it, and understand intelligently what he is voting on, and I do protest against being compelled to vote on something that I don't understand and have not had an opportunity to inform myself upon.

Mr. HART. Mr. President, I move we adjourn.

Mr. SQUIRES. I am going to make an appeal to the gentlemen of the Convention. If there are any men here who are the friends of the mining interests of this Territory and who are the friends of the agricultural interests of this Territory, I say to them, you do not want to put anything into this Constitution that will be hurtful. Now there can no harm come to either one of those interests by deferring this until to-morrow morning. Give everybody time to look at it and then they will come here to-morrow morning to vote for it intelligently. I ask unanimous consent in view of these things.

The Convention then adjourned.

FIFTY-FOURTH DAY.

FRIDAY, April 26, 1895.

The Convention was called to order at 9 a. m., President Smith in the chair.

Roll call showed a quorum present.

Prayer was offered by Delegate Raleigh of Salt Lake.

Journal of the fifty-third day's session was read and approved.

Communication from N. W. Clayton, manager of the Salt Lake and Los Angeles Ry. Co., inviting the members of the Convention to an excursion to Saltair Beach, was read.

Mr. Ricks moved the invitation be accepted with thanks, and 2 p. m. Sunday next be the hour fixed for the excursion.

Mr. Heybourne moved as an amendment that the hour of 4 p. m. to-morrow (Saturday) be the time fixed for the excursion.

Mr. Evans, of Utah, moved as an amendment to the amendment that action on the invitation be deferred until the end of the session.

Carried.

The committee on public buildings and state institutions reported as follows:

Convention Hall,
Salt Lake City, April 26, 1895.

MR. PRESIDENT:

Your committee on public buildings and state institutions report that they have had under consideration the various propositions referred to them, and submit to you for incorporation in the Constitution the accompanying article.

We return herewith files No. 24, 53, 84, 89, 102 and 127.

ELIAS MORRIS,
Chairman.

Ordered printed and referred to committee of the whole.

The Convention then proceeded to the third reading of the article entitled mines and mining.

Mr. EVANS (Utah). Mr. President, I would really like to be enlightened upon how that question got before this Convention. My recollection is that in the committee of the whole that matter was killed. There was no report. It was not agreed that any report of that article was to be made in any way, shape, or form, as I remember it, and I should really like to know how that came before this Convention.

The PRESIDENT. It could not be killed in the committee. It was brought back to the house to be killed. The committee recommended that it be killed. In the effort to kill it, somebody brought in a substitute and that is now before the house.

Mr. EVANS (Utah). It would certainly have to be reported back here. As I remember it, it was not done. No action of that kind was taken and it is still in the committee of the whole if anywhere.

Mr. RICKS. Mr. President, as I understand it, the committee of the whole recommended that the article be stricken out—that is, not adopted, and I made a motion that the report of the committee of the whole be adopted, but it was voted down and that as a substitute brought the whole article up.

Mr. HART. Mr. President, there was no question but what the article came properly before the Convention. The committee of the whole, if you remember, struck out the three sections, but did not strike out the title.

Mr. EVANS (Utah). Isn't it a fact that the whole article was stricken out and wasn't that the motion that was made? Would not that include the title?

Mr. HART. I don't think it would.

Mr. EICHNOR. I arise to a point of order. I think this is wholly out of order. If Mr. Evans desires light, let him come over and find out.

Mr. HART. Mr. President, I think there is certainly a misunderstanding. As the secretary read last night, he read two of the sections that were stricken out, then came the motion to substitute or insert section three, a section from the Idaho constitution, and as the clerk read it last evening, just before the vote was to be called on the final passage of the article, he had sections 1 and 2 in there. Now, Mr. Chairman, it is very clear that this matter is properly before the Convention on third reading, but it is equally clear that sections 1 and 2 are not in here. There was a motion made by Mr. Ricks or some one else to adopt the report of the committee, but without that, those two sections would not be before this house, unless some one moved to insert them.

Mr. BUTTON. Mr. President, the first two sections were read and so was the third one, and when the third section was read, Mr. Kerr offered a substitute for section 3.

The PRESIDENT. I think the matter is legitimately before the house.

Mr. HART. I call for a ruling of the chair as to whether sections 1 and 2 are now before the house.

The PRESIDENT. There was a motion made by Mr. Pierce to adopt the report of the committee of the whole in regard to that article on mines and mining. It was lost. And in the mind of the chair the whole article was before the Convention.

Mr. HART. I call your attention to the fact that heretofore we have always taken up an article just as it was amended by the committee, and if the section was stricken out that section was not read here, and it was not considered that was before the Convention on third reading—unless some one moved to insert on third reading.

Mr. BUTTON. When those reports were taken up by the Convention, did

not they always adopt the report of the committee?

Mr. HART. That is what I say.

Mr. BUTTON. Did they adopt the report of the committee in this instance?

Mr. HART. No; the paragraph was stricken out in committee of the whole. That paragraph is out unless it is moved to insert it on third reading.

The PRESIDENT. The ruling of the chair is that the article is properly before the house.

Mr. EVANS (Utah). Mr. President, I arise to a point of order. I submit to you, sir, that section 3 in substance has been before this Convention in the bill of rights.

Mr. SNOW. I arise to a point of order. The chair has decided this question. If he wants to appeal from it he may do it.

Mr. EVANS (Utah). Mr. President, I accepted that decision, and I make a point of order on the article itself. I am surprised at the gentleman from Washington.

Mr. HART. I would like to suggest to the gentleman that that objection should have been made at the time Mr. Kearns presented it. It is now too late. We have voted upon that. The only way to get this before the house now is on a motion for a reconsideration of that article that we placed in there, offered by Mr. Kearns.

Mr. EVANS (Utah). Is it a fact that we have passed upon section 3?

Mr. HART. Yes, sir; we voted section 3 in.

Mr. EVANS (Utah). Well, I must confess that I missed that from head to foot. I was here last night.

Mr. HART. Mr. President, the minutes of the last day show that I am right about this matter.

Mr. EVANS (Utah). Mr. President, if we can dispose of it in this way, I think it is the shortest way out. Here is a rule. Because you have blundered over that, I want to ask the gentleman from Cache if he is prepared to say—there is no provision saying when that shall be done. It simply says it shall not be entertained.

Mr. EICHNOR. I arise to a point of order. I hold that this colloquy is out of order.

The PRESIDENT. The point of order is well taken. The whole of it is out of order.

Mr. RICKS. Mr. President, I want to know if the article on mines and mining is open for amendment?

The PRESIDENT. Yes, sir; the whole article is before the house. You can do as you please with it.

Mr. RICKS. Mr. President, I move an amendment in line 5 of section 3, to strike out the words, "useful, beneficial or."

Mr. KEARNS. Mr. President, I accept the amendment.

Mr. EVANS (Utah). Mr. President, I move to strike the whole thing out—section 3.

Mr. ANDERSON. Mr. President, I would like to ask for information, if sections 1 and 2 have been adopted? Did the president rule upon that?

The PRESIDENT. The whole of it, of course, is open to amendment.

Mr. ANDERSON. Mr. President, I sincerely trust that this motion of Mr. Evans will not prevail. I think it is necessary that this should be in the Constitution for the development of the resources of our State. This section protects all classes of citizens alike; protects the irrigator, the agriculturist, the farmer, and those engaged in mining. It will be necessary for the people that they have roads to go into the canyon after timber, after wood, after lumber, or after building rock, and these roads will pass over the lands of others. As the State increases in population all of these lands will be taken, and it will be necessary for the public use that they should have these roads——

Mr. HART. Mr. President, I arise to a point of order. The motion of the gentleman from Utah County, to strike

out this section, is out of order, for the reason that we voted this in last evening. The only way that he can bring that matter up is on a motion to reconsider the vote of last evening.

Mr. EVANS (Utah). It has been amended this morning.

Mr. THURMAN. I will ask if it has not been amended this morning and changed entirely?

The PRESIDENT. It has been amended and changed this morning.

Mr. HART. They had no right to amend it. We agreed upon that just as it was last evening.

Mr. THURMAN. Yes, that has been done; it is too late, as you said awhile ago' to raise the question.

Mr. HART. Mr. President, even if a few words have been stricken out, you cannot strike out the rest of it. If you have stricken out a few words of it you can raise the objection to striking out the rest of it.

Mr. ANDERSON. Mr. President, it is also necessary for the development of the desert lands of our State that canals be taken out from our streams and rivers, and in order to take these canals out, it would be necessary to cross the lands of others. This is a public use and I think it should be so declared and also for the manufacturing interests of our State. I think that in the future our cities and towns and our homes will be lit up by electricity and heated by electricity, and this power will be gotten from the mountain streams, and in order to develop these canals will have to be taken out. This, I contend is a public use. And also for the purpose of drainage. The health of the whole town might be at stake. Large canals may have to be constructed in order to drain a town or the farming lands of the community. This is a public use, and I think that we should insert it in the Constitution. And in regard to mining, we find that mining claims are located often in inaccessible points in the mountains, and it is necessary that they go upon the lands of others for tunnel sites and dumps and tramways, etc., in order to develop the mineral resources of the State. I think that this is very important, and it affects every citizen. Therefore, I hope that this will not be stricken out.

Mr. BUTTON. Mr. President, I move the previous question.

Mr. CHRISTIANSEN. I wish to offer an amendment.

Mr. SNOW. I arise to a point of order. The previous question has been called for.

The PRESIDENT. Before we put the previous question, it strikes the chair that this section second—there was a question raised in regard to it last evening, that there is something there that may work improperly. I wish the Convention would look at it before we proceed.

Mr. JAMES. Mr. President, I hope the Convention will not order the previous question until this matter has had a chance to be debated.

Mr. THURMAN. Mr. President, now, I will admit that you cannot debate this, but I would like to make one explanation. I arise to a personal privilege. This matter, Mr. President, yesterday afternoon came up in a very peculiar way. After having been killed in committee of the whole, after the house was well nigh empty of its benches, a great many members had gone out, it came up here and was rushed through, and we asked that the matter might go over until this morning in order that an explanation might be made. Now, this morning the previous question is moved to shut off debate. I want to say to you, gentlemen, it takes fifty-four to pass this article, and you are not going to do it unless you have a fair, full discussion.

Mr. BUTTON. I arise to a point of order. The previous question was moved.

Mr. RYAN. Mr. President, I would

like to ask the father of this third article——

Mr. LAMBERT. I arise to a point of order.

The motion for the previous question was rejected.

Mr. JAMES. Now, Mr. President, I wish to make a few remarks upon this section, and I wish to say before proceeding to make any remarks that this is one of the most extraordinary proceedings that has ever occurred in this Convention, since we have convened.

Mr. CREER. Mr. President, I arise to a point of order. Is he speaking on any motion?

Mr. JAMES. Yes, sir; I am speaking on the motion before the house before any amendment is offered. I claim the protection of the chair.

The PRESIDENT. What is it you are speaking on?

Mr. JAMES. I am speaking on the amendment before the house, offered by Mr. Ricks, or I do not know who.

Mr. RICKS. I arise to a point of order. The amendment was accepted and it is not before the house.

Mr. JAMES. Then, I am speaking on the entire business.

Mr. EVANS (Utah). Mr. President, I submit to you that I made a motion to strike out.

Mr. HART. Did the chair rule that that motion to strike out is in order?

The PRESIDENT. Yes; I did. Mr. James will proceed with his argument.

Mr. JAMES. As I was about to say, this is the most remarkable proceeding that has come before this Convention since it has convened. And I am astonished, Mr. President—I cannot understand this proceeding. I cannot comprehend why on yesterday evening a proposition of this nature was sprung upon us, or attempted to be forced through, and this morning attempted to be put into our Constitution, without ever being heard from by a member upon this floor. Now, you know, Mr. Chairman, that in the beginning of the discussion of this question I was strongly in favor of extending to the mines and other industries of this Territory rights that I thought should be granted them for the purpose of their development, but I knew I was treading upon dangerous ground, when I even conceded in this Convention that this Convention had the right to declare the right of way over a man's ground for private purposes, but I believed that it was the best thing that we could do for the benefit of this mining industry, and this matter was voted down. It was disposed of by this Convention, and now here comes a sweeping proposition before this Convention, that if it goes into the Consitution, in place of benefitting the industry will become one of the greatest obstacles and hindrances to it that it is possible for men to put upon the statute books of this State. Now, I assert that no man that understands his business as a miner, that has followed the business as I have followed it, will say the contrary of what I have repeated before this Convention. And, Mr. President, if you want to bring nine-tenths of the vested property holders in mines in this Territory to vote against this Constitution, you pass your act as you have attempted to put into it our Constitution and you will get it done. Now, mark my word. I know what I am talking about. I have prospected this intermountain country from the British Possessions to Mexico on the south. I have been at the business for the last thirty years. I have observed it in all its ramifications, and I know what the miner wants, and I know what he does not want, and I will tell you, Mr. President, no miner wants, after his years of toil in the hot suns and in the snows, and in the storms, and in the exposure that he goes through, to secure the piece of mining property—he does not want any set of men to come upon his ground and declare that erecting hoisting works for private purposes, to work some

other man's mine, is a public use. Now, think of the proposition—coming onto a man's ground and erecting hoisting works for private uses and declaring it for public purposes.

Mr. KEARNS. May I ask the gentleman a question right there?

Mr. JAMES. Yes, sir.

Mr. KEARNS. I understand that this says, "hereby declared to be a public use and subject to the regulation and control of the State." Is the future Legislature going to send a man onto your claim to put a shaft down?

Mr. JAMES. The future Legislature should have no business through this Constitution to be permitted to perform such an act.

Mr. KEARNS. You are afraid the future Legislature might not be as intelligent as this house.

Mr. JAMES. I am not afraid of the people anywhere. I have confidence in them, but I am afraid of this Constitution, if it proposed to do such things as it is proposed to do in this act.

Mr. CRANE. May I draw the gentleman's attention to one section of the preamble and bill of rights? If you notice in section. 23, it says that private property shall not be taken or damaged for private use, unless by consent of the owner.

Mr. ROBERTS. I think that was stricken out.

Mr. JAMES. Mr. President, now, about ten or twelve years ago, within twenty miles of this town, there was a mining claim that has paid out in this town since that period, for over one hundred thousand days' work, that would have been subjected to closing absolutely under this provision, and that labor that has been paid for, never one dollar of it would have been expended. Now, that is a matter that comes directly under my observation. Here is a mine located, it is worked at one end of the claim. The workers of that mine do not know where the ore is going, but near the other end of the claim, or partially towards the other end of the claim, up on the mountain side, come some fellows, and locate a worthless claim, and commence to dump down. At that time the surface ground that was owned by the right of patent from the government, that was then of no value, except surface purposes, that had been granted by the government, and five dollars an acre paid for it. Now, supposing those men that spent twelve thousand dollars there, trying to get into the mine, had called a jury under some legislation, and condemned that surface ground and paid for it, what would a jury have said it was worth? Why, they couldn't have said it was worth more than a few dollars—maybe five or ten dollars, or twenty dollars an acre. It would not have amounted to anything. They could not conscientiously say anything more, but by and by when the owners of that property developed their property, until they found it was necessary for them to erect hoisting works right where that dump came, what would they have done? This surface ground, which in the wisdom of the government of the United States had been given to the miner, for the purpose of enabling him to develop his claim, was owned by somebody else, and had been taken away from him, and he found it impossible to go ahead there and open his mine. Now, that is the condition, and that is just what this proposition proposes. It is proposed to put the thing into a shape so that through some accident the surface ground of a miner may be taken away from him at a time when there is no particular value to it, and by and by, when the ore extends under that ground, and it is necessary for him to go upon that ground and upon his mine and work it, it is owned by some other institution that has nothing of value, that cannot come in there and utilize it, and he is shut out, and he has got to pay those men back again after securing that land from the government

of the United States. Now, that is the provision that it is intended to compel us to accept in our Constitution. And I say to you, it is a most vicious thing, in my mind, that has come to my attention since this Convention has convened, and I hope that this Convention will see to it that no such thing is put into our Constitution. I hope that they will do what is right, give a right of way of roads or anything of that kind, for the working of mines, and do not allow dumps or hoisting works. Why, Mr. President, how long will it be until there will be a right of way through your shaft for public purposes—a right of way through your tunnel for public purposes? Why, you are opening the door here to the most dangerous proposition that was ever heard of in the world, and I cannot believe that this Convention will be so indiscreet as to adopt a proposition of that kind.

Mr. BOWDLE. Mr. President, I want to say just a few words. I do not want to go over what was discussed days ago on the question of eminent domain, and all that kind of thing, but this is a very queer article in some regards. It starts out with the necessary use of lands for construction of reservoirs and storage basins. Now, necessary to whom? It does not say to the public. Under that section, any man could claim that there was a necessity for him going across, over, or through any other person's land, and if he could make it appear to a jury that that was true, it would go right through. It raises the question here, do you own your land or does some other man own it? Under that section there is no guaranty to property in this Territory. We have now a guaranty of private property to the private individual, and it can only be taken for public use—something that will benefit the people, but in that section there is no such thing. Any one man can claim that he has the right to go across his neighbor's land. Gentlemen, I take it that this Convention is not a wealthy body of men, and I want to say to you that if you count the wealthy people who will suffer—it will be the poor people under this section who will suffer, and don't you forget it. The wealthy man is always able to take care of himself, and the wealthy corporation is always able to take care of itself, and to get just what it wants, and it usually does. If they do not do it in one way they do it in another way. And it is the poor fellow that needs the protection, and it is for the poor man that I would urge my objections against this section. I do not care whether he is a miner or agriculturalist. Suppose you have a claim down here, be it a mining claim or be it a land claim, I do not care which it is. Some man wants to go across there. He claims that it is necessary for him to go across there. You say that it is not any necessary use, you don't want your place cut through that way by him. Your only relief against that individual man is a lawsuit; no difference how poor you are, the only relief you have got is a lawsuit. That is all, you have got to do it. And if he is a wealthy man or a wealthy corporation, he don't care for a lawsuit—not a particle, when he can carry his point and compel you to give that that you don't want to give. You don't have to give it, that is true. There is a provision here that you are to be paid for it, but I submit to you, gentlemen, that is not sufficient.

The question is, do you want to be compelled to sell out, at some other man's price, your own property? That is the question. If you are willing to give this privilege to compel every man in this Territory to sell his property at some other man's price, then put this in there and you have got them. That is what it means. You have not anything to do with saying what the price is, and probably you have had enough to do with juries to know they are not

to be entirely trusted in those regards. You may want that as a whole. It may have a peculiar value to you. You would not sell it under ordinary circumstances for an ordinary price. They say to you, "This man can go across that way." A neighbor on the other side says, "We want a way across there." It is necessary for him. He has a little patch of land over on the other side, he wants to get water to. This law gives him the privilege of going the other way. There is absolutely no limit to it, the way you have it here—positively no limit. Now, I tell you what is the trouble with the gentleman. Some of us have known individual cases where some stingy fellow has sat down and has said that where it was absolutely necessary, some other man should not go across his property for public benefit, and he has caused a great deal of trouble, and we have concluded that this would remedy that. It may remedy that, but it brings the other evil that I have just been speaking about, and I tell you that whenever you invade the right of private use, you take away a very sacred right, a right that is guaranteed to every man in this broad land. Now, gentlemen, I am opposed to it, upon those principles, and shall vote against it, and vote against the article on its final passage, if that is put in, because I cannot conceive of any real reason why that article should go in there and thus put property of every individual in this Territory up as against the property of his neighbor.

Mr. EICHNOR. I would like to ask Mr. Bowdle a question. The last line or two of section 3 provides that these uses are hereby declared to be public and subject to the regulation and control of the State.

Mr. BOWDLE. I do not think it means anything.

Mr. EICHNOR. Mr. Bowdle, who is the real owner of the property of the State?

Mr. BOWDLE. I say that the Legislature is not—answering your question in the negative.

Mr. EICHNOR. I will put my question fairly and squarely, and I want a fair and square answer. Who is the real owner of the property in a state—the individuals or the state?

Mr. BOWDLE. The individuals own it, and the state cannot lay its hands upon that private property solely and except for public use.

Mr. CANNON. Did you ever come across a principle in law that an individual simply has the title to the land and the real owner of the land is the State?

Mr. BOWDLE. I do not think that that has anything to do with this question. That is an old theory, I admit, but I do not believe that it has one thing to do with this. Where are you putting the title, Mr. Eichnor?

Mr. EICHNOR. I am asking the question of you and you fail to answer.

Mr. BUTTON. I would like to ask Mr. Bowdle a question.

Mr. BOWDLE. I would like to answer Mr. Eichnor. I say that the people own the property and not the state, and there is no principle of law in this world that lays down that the state owns it.

Mr. THURMAN. May I ask you a question?

Mr. BOWDLE. Yes, sir.

Mr. THURMAN. If the state owns the property, as suggested by my friend Eichnor, is there any need of this article in here at all?

Mr. BOWDLE. Absolutely none, and it would be a perfect absurdity.

Mr. BUTTON. I want to ask Mr. Bowdle—he says that the last three lines of this section do not amount to anything.

Mr. BOWDLE. No; I said legislative control.

Mr. BUTTON. I understood you to say that it did not amount to anything.

Mr. BOWDLE. I say I do not think

it does amount to anything in this. It would take me an hour to answer you what it means and what it amounts to. It amounts to robbing one man for the benefit of another man. That is what it amounts to.

Mr. KIMBALL (Weber). Mr. President, on this third section of the mining article I have a little something to say, and as my friend from Beaver told us (Mr. Anderson), I am in favor of that article. I am in favor of it for this reason, that God Almighty when He created this world, created Utah with the rest of the world, as my friend suggested—San Juan among the rest. It will not be doubted or questioned that irrigation is a principal factor in developing the Territory or State of Utah. There cannot be any question about that, and while it is true that most of the water rights in Utah are vested, at the same time agriculture is one of the principal factors in the development of this State, and must be for all time to come, and it is necessary in order to develop the agriculture that we have our ditches that we have, irrigating canals, and we want those, and so far as this Constitutional Convention has gone now, there is no provision for it, and the third section, as read by the secretary, provides for that. In my opinion it is necessary that this Convention adopt that article, so that leaving mining out of the question altogether—for the benefit of agriculture it is necessary that we adopt that article so that we can have the right of eminent domain so far as water ditches are concerned. It is equally necessary to develop our mines that we have the right of eminent domain so far as water ditches and drainage and dumpage is concerned.

Mr. JAMES. May I ask the gentleman a question? Having proceeded to develop our mines and our agricultural resources in this Territory—have not we been doing it for the last twenty or thirty years?

Mr. KIMBALL (Weber). Yes, that is true, but we are changing our condition now from a Territory to a State.

Mr. JAMES. Did not we do it under a statute of the Territory and under a statute of the United States?

Mr. KIMBALL (Weber). We did, and it is very indefinite, and all that depended upon the decision of judges entirely. There was no statutory regulation of it. It depended upon the decision of judges, and it depends now if you don't adopt this article. While the law remains the same, it depends upon the individual judgment of the men that we elect to the bench, and I say put it into the Constitution, so that the judges cannot evade it in any way, so that when the question comes up, there in the constitutional article that we have got the right to exercise the right of eminent domain for the purpose of agriculture, for the purpose of mining, and for sanitary purposes. That is what we want.

Mr. THURMAN. Do you consider mining a public purpose?

Mr. KIMBALL (Weber). In this Territory, yes, sir; I do consider it a public purpose.

Mr. THURMAN. Do you consider agriculture a public purpose?

Mr. KIMBALL (Weber). I do in this Territory.

Mr. THURMAN. You consider all of these so?

Mr. KIMBALL (Weber). I consider every industry mentioned in that third section as read by the secretary a public purpose. We are in an anomalous condition.

Mr. THURMAN. Then, let me call your attention to section 23, which provides for taking property for public purposes.

Mr. KIMBALL (Weber). That is all very true. Now, the third section as proposed in this mining article, sir, declares what public purposes are. Private property cannot be taken for a public use without just compensation. The section that we have now under consideration does not affect that sec-

tion at all, but it simply says what shall be public uses, and in this mountain country certainly mining and agriculture are a public use. They must be.

Mr. THURMAN. I agree with you that they are and that the courts will so hold. Now, I will ask you another question. Is there anything in this section that is before the Convention that is a private use?

Mr. KIMBALL (Weber). No, sir; I do not think so.

Mr. THURMAN. Then, why declare it to be a public use if it is already a public use?

Mr. KIMBALL (Weber). I will tell you why. There is a division of opinion among the judges east of the Rocky Mountains and west of the Rocky Mountains as to what is a public use, and I say now, to settle that whole question, we want to put in our Constitution what is a public use.

Mr. THURMAN. Suppose there should be something here that is strictly a private use—can we make it a public use by simply declaring it so?

Mr. KIMBALL (Weber). Not by that section, no, sir; I do not think the section that we have under consideration contemplates the making of a purely private use a public use, but we are shut off here by the mountains. We are an agricultural community, and we are a mining community, and if you take the decisions of the states east of the Rocky Mountains, where there is no irrigation ditch, there is no mining ditch, there is nothing that we can do that would not be a private use, as construed by the decisions of the courts east of the Rocky Mountains. We are following the decisions of those courts. Now, what we want to do is—we are here situated so that we are obliged to have an education. We are obliged to have mining, and we want to declare those things public uses. That is my point exactly.

Mr. THATCHER. I am not an attorney, gentlemen of the Convention, but the doctrine announced by my friend from Salt Lake is quite a new doctrine to me. Until he had made the statement that the people had no property, but that it was all in the State, and that all the people had was the title thereto—it had occurred to me heretofore that title, for instance, the United States patent, was irrefragable evidence of ownership. I desire to call the attention of the Convention to this fact that this whole mining business was condemned by this Convention, nothing having been left, as I understand it, except its title, but by peculiar methods we find this thing presented to this honorable body for rediscussion. It may be that we are able to give a definition of what is for a public purpose, and when we do we restrict the Legislature to that definition. You will remember, gentlemen, that the irrigation bill was mainly killed because those who presented the bill advocated the control of the water right by the State.

Now, gentlemen, I have some property in this Territory, which under such a condition or under the last two lines of section 3, which is now before the house with a motion to strike out—I am perfectly willing to give that property to any gentleman on this floor—my houses and lands, and barns, and horses. The only condition that I would require is this, pay the taxes on that property, keep it in good repair, keep my carriages and buggies and harness just as good as they are now, feed my horses and keep them fed, just leave the control with me, and that is all I ask. When you want to use the horses I will be there to tell you that I have the control of them. If I don't manage better in the future than I have in the past, why then I will think myself no financier. That is just what these two lines do—the very thing that we fought against and killed by almost unanimous vote on this floor. But we find it introduced here again. Many

private matters declared to be a public, and those matters placed under the control of the State. I object to it and shall vote for that reason against that section. I shall vote for striking it out, feeling, however, that if attorneys well versed in the law can draw a section, after mature deliberation, that will give the proper definition of what is for a public purpose in order to keep it out of the courts, the expense of litigation that must follow, well and good, but the first two sections I am opposed to—this appointment of a new officer to go to coal mines, who is taken charge of by the manager of that mine, taken into every part of it, where there is no danger, he goes back and reports that all is right, and in three days afterwards there is a fearful explosion and a dozen or fifty or a hundred lives lost. I am opposed to this section and to the bill as it stands, and shall vote for striking out section 3 on that proposition.

Mr. BUTTON. I would like to ask the gentleman a question. He spoke about creating a new office. Have they already got a coal inspector or a mine inspector?

Mr. THATCHER. Yes, sir; a thing we ought to do away with.

Mr. BUTTON. It would not be a new office then?

Mr. THATCHER. It would be a new office of the State, I take it.

Mr. KIMBALL (Weber). I would like to ask Mr. Thatcher a question. Is not irrigation one of the prime necessities of the Territory?

Mr. THATCHER. I think so, and equally so in mining. I am just as favorable to the provisions of mines as I am to agriculture.

Mr. KIMBALL (Weber). What objection have you, then, to declaring those public uses?

Mr. THATCHER. I would have no objection if that section defined what I would conceive to be a public use, but when you build on other people's property hoisting works and dumps and things of that kind, without reference to——

Mr. KIMBALL (Weber). Under that section you cannot do it, without a jury or some other legal tribunal.

Mr. THATCHER. If that is so, let the court pass upon the whole question.

Mr. ROBERTS. I would like to ask who it was that presented this section.

The PRESIDENT. The chairman of the committeee on mines and mining.

Mr. ROBERTS. Mr. Kearns. I thought I had heard some attempts to find out who the father of this child was, but I could not locate the matter. From my knowledge of the character of the gentleman I should never have thought that he would have hesitated to have proclaimed his progeny, but, sir, I would really like to know when this Convention is to consider a question settled. Now, sir, there are several things in this Constitution that I would like to agitate, but the Convention has been against me and against some of the propositions that I favor, and I have accepted the action of this Convention.

Now, sir, I remember that this subject was up for discussion when the very first article presented in this Constitution was brought upon the floor of this Convention, and after several days of debate and earnest effort to come to an understanding in regard to what would be proper, just, right, and prudent, we settled the question, and we settled it, sir, upon contrary principles to what are laid down here in this third section. When the taking of private property for private uses and the taking of private property for public uses was under discussion, the decision of this Convention in effect was that those matters should be left to the Legislature and to the courts of this country. Then, sir, this question was brought up again on this article of mines and mining and we went over it, sir, again in the committee of the whole, and again we

rendered a verdict against such a thing as this third section is, and after the entire article was stricken out by the action of the committee of the whole, then we are again confronted with the self-same proposition. Now, sir, it seems to me, that men ought to learn to take defeat of their proposition when majorities are against them, and I think it is a foolish waste of time to bring up again and again and again the same old proposition. Sir, I look upon this section as crude—extremely crude, and as containing things that are mischievous in their nature. The gentleman from Salt Lake, Mr. Bowdle, discussed this question, saying what could be done with private property if some individual should say that it was necessary. Why, sir, it may not only be claimed—he need not claim that it is necessary. It shall be sufficient for the accomplishment of his purpose under this language if he can only say that it is for some useful purpose.

Mr. KIMBALL (Weber). Does not the court have to pass upon the question of necessity or use before it can go to a jury?

Mr. ROBERTS. Then, sir, if it does, why not permit the court in the first place to define the useful and the public purpose at the same time?

Mr. KIMBALL (Weber). For the very reason that the majority of the decisions are that this is not a public use. We are here peculiarly situated. We want to declare what is a public use. If you go east of the Rocky Mountains, the things we declare here are a publice use are not a public use there.

Mr. ROBERTS. I was not aware that the words "useful and beneficial" were stricken out, but, sir, I take it that we shall all be equally safe, the miner, and the agriculturist, and the manufacturer, if this question is left to the Legislature and to the courts, and if there is any meaning in the last phrases of this section, that is where it hinges. At any rate is it to be declared to be a public use and subject to the regulation and control of the State?

Why not leave it in the control of the Legislature in the first place? And then here is another sweeping proposition that I cannot understand the reason for, and that is to make use of these necessary lands for the various purposes named, not only for the purposes declared here, which I am of opinion mean a private rather than a public use, in some instances, but to the complete development of the State. I would like to ask the gentleman who drew the article what he means by that? He will have an opportunity of speaking and I shall watch his speech very closely to hear his definition of that purpose. And, sir, I protest against this continual bringing up upon the floor of this house a snake that has been killed time and time again, and I think that we ought to stand by the decisions that we have now twice rendered upon this subject.

Mr. CREER. Why was it that you continually brought up the female suffrage question after it had been voted against?

Mr. ROBERTS. Mr. President, in in answer to that—there was an opportunity here yesterday to bring back the article on rights of suffrage—the whole of it. I wish to call the gentleman's attention to the fact that I voted against bringing it back here and throwing it open for discussion, and I wish to say further on that proposition that that question was not brought back, only as it appeared in the committee of the whole, and then in the Convention, but this question has been decided in the committee of the whole. When the article or bill of rights was discussed in committee of the whole it was killed then. It was brought upon the floor of the Convention and killed then. It was brought again in committee of the whole, on the article of mines and mining, and was killed then.

and then it was sprung upon us as a surprise yesterday afternoon. When the article on irrigation also——

Mr. KIMBALL (Weber). May I ask you a question? Wasn't it understood when it was killed in the bill of rights that it could be brought up subsequently in this Convention in an appropriate article?

Mr. ROBERTS. I have no such understanding.

Mr. KIMBALL (Weber). I so understood it.

Mr. SNOW. Mr. President, I think the discrimination that this body will be able to exercise will convince them that the insinuation of Mr. Roberts in relation to foolish waste of time is not well taken. I want to remind the gentleman that this section, as reported by Kearns, has taken the usual parliamentary routine, and that it has come legally and in order before this body, and it has not been a foolish waste of time, except upon those who would like to see it adopted. They have not taken any undue advantage, neither have they brought it before this Convention at any other time than when it could come regularly and legally before it, and according to parliamentary rules and order. I would like to ask the gentleman of what use mines or agriculture will be without these rights of way? Whether they will be of any use whatever, whether it be public, or whether it be private use? Now, you take an arid region, and if we do not have the right to condemn lands for storage basins for reservoirs, or for canals, and ditches and flumes, the land will be of no use to us whatever. It will neither be a private use nor a public use. This is substantially the law to-day. There is a territorial statute that confers substantially the rights of this section upon all the agricultural lands and settlers, and I submit that in all arid regions these rights are absolutely necessary to the maintenance and perpetuation of agricultural life, and I can see no way when it is left to the control of the State of any poor man being imposed upon, but I can see where poor men who wish to congregate themselves together and unite their labor and capital would be unable to condemn the land of some corporation or some rich man without they had this defined as a public use. They could not build a reservoir; they could not construct canals to their lands, because of a standing in the way of those who held this land, and they might be, as it were, a dog in the manger contending for prices that these men could not meet and could not obtain. I am not in favor of this going through without just compensation being first made, but I think it is an eminent domain—that land could be condemned. It is entirely different in relation to water. We can get plenty of land, but we cannot get water. I think the circumstances are entirely different, of those who refer to striking out the water article for this purpose. I think their point is not well taken for these reasons. We have lived under this statute which has been recognized all over the Territory for many years, and I see no reason why we should not perpetuate it.

Mr. IVINS. Mr. Chairman, I want to call attention of this body to the fact that this question has never been before this Convention until this morning, notwithstanding the remarks of other gentlemen to the contrary. In the bill of rights there was nothing said in regard to the declaring of certain property or certain things to be public uses. And that was one of the objections, that private property shall not be taken or damaged for public use, without just compensation. That was section 23, as it was originally reported. Then, that private property shall not be taken for private use, unless by consent of the owner, except for private ways of necessity and for reservoirs, etc. The very objection that was raised to this was that that was private property taken

for private use, and that those uses were not declared to be public. That was one of the objections raised to it.

Mr. ROBERTS. I will ask the gentleman from Washington if he does not remember that the gentleman from Salt Lake brought in or submitted a substitute which made a declaration of public purpose only, and that was discussed and discussed?

Mr. EICHNOR. That was Mr. Van Horne.

Mr. IVINS. Yes, but it was not exactly in the same terms that this is, from my recollection. Now, let us go on a little further. It has been said that this question was settled when the report of the committee on mines and mining was introduced here; that is not the case. The section reported from the committee on mines and mining provided that the necessary use of lands for rights of way, for tunnels, flumes, etc., was declared a public use, and the objection was raised here that agriculture was not included in this, and consequently members refused to vote for it, because they said it was a discrimination between mining interests and the agricultural interests, so that in order to meet this objection the chairman of the committee on mines and mining introduced the section which is now before us, which provides that not only for mining, but for agricultural purposes, these shall be declared public uses. And I contend that in its present form it has never been before this committee for consideration, therefore, this ground is not well taken. Now, the gentleman says the article is crude. That may be the fact, but if it is crude, let us perfect it, and not leave it in the indefinite condition that it is. I apprehend, gentlemen, that a greater injury—a greater hardship will be wrought upon the poor farmers of this Territory, unless this section is adopted, than can be possibly wrought if it shall be. There are objections to it, certainly, grave objections, to leaving this question without some declaration. There are railroad corporations now in this Territory that control vast areas of land, with unlimited means behind them, to contest the right that might be claimed by any body of farmers to construct a canal across their lands, and such matters confront us now in the northern part of this Territory, where canals are contemplated and railroad companies absolutely refuse to grant the right of way to the poor men who are seeking to construct them. Now, I shall vote for the passage of section 3, just as it is, unless some member can amend it and make it better. I am willing to assume a part of the responsibility for it, in connection with the chairman of the committee on mines and mining, of which I am also a member, and I do not think there will be any hesitancy at all upon his part in assuming the fatherhood of this child.

Mr. VAN HORNE. Mr. Ivins, do you remember the fact of an amendment to section 23 of the bill of rights that public use should include reservoirs, flumes, tunnel and mill site, and dumps upon, and rights of way over and across the lands of others for railroads, roads, tramways, water ways, and drains, which was amended by the gentleman from Salt Lake (Mr. Richards) to include pipes, conduits, etc., for mining, milling, domestic, agricultural, and municipal purposes?

Mr. IVINS. Yes, I remember that something of that kind was——

Mr. VAN HORNE. More carefully worded I think than this, and that was voted down by the Convention?

Mr. IVINS. I remember that something of that kind was introduced, but I submit, notwithstanding the fact that that amendment might have been voted down, it might have been very materially different to the one that is now before the house, from the fact that the insertion of a few lines would have changed the status of the whole ques-

tion. Now, I am free to admit that when this question was first under discussion I was very much inclined to the opinion that such a section should not be inserted in the Constitution; but the more I thought of it, the more I reflected in regard to conditions that exist in the sections of country from which I come, where I know that canals and reservoirs are now under course of construction, and I know that in order to utilize that water upon vast areas of desert land, it will be necessary to pass over the lands of others. I have concluded that some such provision as this is necessary, and I believe that we will make a greater mistake if we omit it than if we insert it.

Mr. HOWARD. Mr. President, I am in favor of this section being passed, and I recollect, as Mr. Van Horne mentioned, about the amendments introduced by him. I know that I voted against them at the time, but they were not in the shape that this present section is. This section was introduced here last evening, as a substitute for the one introduced by the committee; it provides "and subject to the regulations and control of the State." That does not mean that the State shall take the control of everything in the State and furnish the means to carry it out with. It does not mean that the State shall furnish the means to develop mines or to develop the farming industry, or anything of that kind, but it means that the Legislature shall control it in this way, that they might provide means whereby these rights of way may be obtained. The Legislature may provide under this section that the price, be what it may asked by the individual, shall be paid for this right of way, or it may provide that the property may be condemned by condemnation proceedings and a valuation placed upon it. It may provide that that valuation and that price shall be paid before the property shall be taken. And the Legislature may also provide in regard to what is a necessary use. This says a necessary use of lands. It is left to the Legislature to provide what that necessary use is. Now, we have in the Enabling Act—Congress has given to the State of Utah, several million acres of land, and it is to be presumed that two or three millions of that will be agricultural land. There is no man on this floor that will get up here and say that we have water at the present time for watering one million acres of land that is not appropriated, without it is some—probably Green River on the east, which I don't know of a place now where there is that much land that water could be taken to, but for the sake of the agricultural college, for the university, for the sake of our public schools, for the sake of these various institutions, for which Congress has given this land, I say that this section is necessary, because what use is that land to the State without it can be developed? What use is it to the poor man to take up and farm on the desert without he has the right to construct a ditch or a canal and get the water to it, or to build a reservoir, where he can store the water before he takes his canal? I claim, Mr. President, that the adoption of this section will increase the value of the public lands of this State in a great measure, and be a means to furnish and to guarantee to the poor man or to others that may want to take up this land, the right to take canals or ditches to it to develop it. I believe that the section ought to pass, and leave it to the Legislature in what way it shall be disposed of.

Mr. VAN HORNE. Mr. President, I thought that this Convention would make a very great error if they passed this section worded as it is at the present time. I am in favor of a general declaration, carefully worded, of public use, including necessary extended works for the purpose of irrigation, development, and mining, but I want to call the attention of the Convention to some of

what I consider the weak points in this article under consideration now. The first part of the section is, "the necessary use of lands for the construction of reservoirs or storage basins." I think it entirely proper to designate that as a public use, because a reservoir or storage basin we know from the nature of things is not the particular use of an individual, but the use of a more or less extended operation of the community—of the public at large. So far the article is all right; following on down, "or for rights of way for the construction of canals, ditches, flumes, or pipes to convey water to the places of use for any necessary purpose," is all right. They should have those rights of way, because it does not interfere with the title to the land, nor to the general use. It is simply a way of conveying something useful to the public across the private property of another and only gives them an easement—a right of way for that purpose across that land, and is not taking the private property of the individual. Notice, however, gentlemen, now how the section reads, "or for drainage." Not saying that it is necessary drainage. It does not say that it must be necessary, nor that this shall be a public use, but if it is convenient for some one, or desirable or it is their whim that they drain a certain portion of land, then they can do this. There comes in a semi-colon "or for the drainage of mines." Simply a matter of convenience or necessity, whether a man might want to put up a pump to drain his mine or not. You say by this article whether it is for the drainage of mines, whether it is simply convenient or not, he can condemn the land of others in order to get across it with drainage pumps. Further on, "or the working of the mines." I know that it is necessary—I know that it must be necessary before he can do that, but the working of mines generally is a public use, so that if it is more convenient to work them in one way than in another, he can say that the way that is most convenient to him, or that he considers most desirable, is a public use and that consequently he is entitled to condemn the land for that use. It goes on, "by means of roads, railroads etc.," declaring them as necessary means of development, and then to show that it does declare them as necessary in the way that the man who owns the property and works it may judge best and most desirable for him, and says, "or other necessary means." These are necessary and any others that the court may construe may be necessary also. Now, gentlemen, see how far it goes. They are necessary uses, what for? Not for the reasonable development of these mines, which would be held to be a use by which the mines could be worked and the fruits thereof enjoyed, by the man or company owning them, but are other necessary means to their complete development. What does it mean? Did you ever hear anything so broad? It means that if by adding any of these rights—taking any of these rights away from the individual, you can make a more complete development of this in that way, than you could in the other—a more desirable one to the man who owns the mine, and you can condemn the land of another man for the purpose of so doing.

Mr. KEARNS. This section says, "the necessary." Now, you can go on and argue fundamental principles of it all day. The State has the control of it, has it not?

Mr. VAN HORNE. What portion are you calling attention to?

Mr. KEARNS. The first three words in the last two lines.

Mr. VAN HORNE. I was calling attention, not to the opposition to the general declaration of a public use. I was calling attention to the fact that this article in my opinion is artificially drawn—that it goes further than any man on this floor intends such an

article to go, and the way it is constructed—separating that first paragraph from the ones that come afterward, it leaves it open to construction that would be just simply ruinous of the rights of private property in this Territory. I am not opposed to the proposition, as I said before. I introduced the section on public use after consideration with eminent legal gentlemen in this town, for insertion into the bill of rights. It was drawn carefully and hours were spent upon it by men who are known to the community and bar here, and to the courts, as men of eminent ability. I believe that there should be a declaration of public use that will give our courts—will impose upon our courts the necessary duty of saying when certain things come up for a condemnation on the ground that it is a public use, that mining and irrigation are public uses, and where the necessity can be shown to carry them out, that the courts should give to the men desiring the right to exercise eminent domain over the property of others——

Mr. IVINS. I would like to ask the gentleman a question. The gentleman says that he is in sympathy with the general idea of this provision, but that some parts of it are dangerous. I want to ask him if he cannot suggest an amendment?

Mr. VAN HORNE. I could suggest an amendment if it is in order.

Mr. RICKS. Mr. President, I move that this article go over until to-morrow to allow the gentlemen to agree upon some proposition to be presented to the Convention.

Mr. ROBERTS. Let us settle it now.

The PRESIDENT. The question before the house is on the striking out.

Mr. MORRIS. Mr. President, I consider that to strike out this section 3 or to kill it—it means to kill enterprises and industries of every kind in the new State. That is just my opinion in a few words, but it may not be perhaps exactly right from the wording. Some might take advantage of it to the injury of his fellows, but I think that an amendment of a few words, it can be made a benefactor to a new State, and we cannot afford, gentlemen, to throw any obstruction whatever against the interests of mining and agriculture, for we all depend on it, and I favor to place this section 3 in the Constitution that it may stay there as long as the power is given to the Legislature to regulate and govern and to control these matters.

Mr. THURMAN. Mr. President and gentlemen of the Convention, I am in favor of the motion to strike out. If I could offer any amendment that would accomplish what gentlemen in good faith seem to want to accomplish, I would gladly do it, but I am unable to do it, and it seems that the gentlemen of this Convention are unable to do it. Now, I want to read two or three lines of this proposed substitute and ask every gentleman upon this floor if he desires any such control to be given to the State. If we will read the first line or a part of it and omit all of the specifications down to the general provision at the close, it brings into plain glaring light what this Convention is now asked to do. "The necessary use of lands * * * * to any use necessary to the complete development of the material resources of the State." The meaning of that, gentlemen, is simply this, it does not mean mines and mining alone. It is not agriculture, but under this section you cannot imagine any industry in which one single man can engage, if it is for the complete development of the resources of the State, but what eminent domain here is proposed to be exercised in his behalf. A complete development of the resources of the State, gentlemen, means right to strike one lick towards the completion of it, and in order for a private citizen who has a little herd or flock of ewes up in the mountain, a dozen or so, and he wants to develop a

little spring of water—of course that is necessary to a complete development of the resources of the State, that he should have the right to do that—and in order to do that, it is necessary that he should have the right to subject the land of every individual in the State, so far as necessary to that complete use. And so it is with any industry that you can conceive of or imagine, gentlemen. I tell you there has never been a proposition brought before this Convention that is as vicious as the proposition we are now considering, and if I stood alone, gentlemen, I would vote to strike it out. And when we ask gentlemen on this floor, "Do you think mining is a public use? Why, yes. Do you think agriculture is a public use? Why, yes." So do I think so, and I say, being a public use, we have provided for it so that there can be no escape. If I ask, "Gentlemen, do you want to subject private property to a private use? Oh, no." Then, if you want to subject it only to the public use, why not rely on section 23 of the bill of rights as, nearly every state of the Union has done? I tell you, gentlemen, you want to subject private property to private use, and it is not in the power of this Convention to say that the property of one man shall be taken from his pocket and put into the pocket of another. You cannot do it, gentlemen. The courts will say that your Constitution is unconstitutional. It is unquestionable.

Mr. KEARNS. Have not all the states got this provision?

Mr. THURMAN. Idaho has it, and Idaho has had other provisions, gentlemen. Idaho is not a model for me to follow its legislation.

Mr. KEARNS. Any more of them got it?

Mr. THURMAN. Its legislation is unconstitutional and has been, and every member on this floor knows it. I do not look to that quarter for light upon the question of what is proper legislation, and if Idaho did it and if it followed some other state that illy considered the question, what has that got to do with us here? I will tell you, gentlemen, if this Convention were to say to-day that one man might put his hands into the pocket of another and take his money out and put into his own—if we should declare that, next year when New Mexico comes to adopt a Constitution, and wants the provision, it would cite the Utah Constitution as an example. That is where we lead to. Gentlemen, let us stand on what we have done three or four times in this Convention. Let us strike this out like men, and say that it must be hands off when you come to touch the sacred rights of private property, unless it be for a public use. Now, coming to that question, one moment and I will conclude. I say that mining is a public use. I say that agriculture is a public use, and the courts of Utah will hold it to be a public use, so far as it is a public use; but when you depart from the public use and bring it down simply to a private use, you have no more right to do that than you have to go and take a horse of your neighbor, simply because it is doing nothing and you can use it to develop completely the resources of the State. That is what the State could do under this provision. Gentlemen, I might just as well be frank with you. I tell you, you cannot adopt any provision by which you can declare that a private use is a public use. You cannot do it. The courts in the end will decide that question.

Mr. HART. Will the gentleman permit a question? Supposing a farmer, the owner of a tract of land, say 160 acres, to get water on the land has got to take a ditch across the land of his neighbor, he has either got to take the ditch across the land of the neighbor or build an expensive levee, almost equal to the value of his land. His neighbor refuses to permit him to take a ditch across that land, although

just compensation is offered for it. Does the gentleman understand that under our present law the owner of that 160 acres of land could compel his neighbor to permit a ditch across that land, or would he have to either abandon his land or construct the expensive levee?

Mr. THURMAN. I do not know; the courts would decide that question, and if the court decided that it was purely a private use, I say let him abandon his land. If you cannot get property without taking you neighbor's property from him, you are not entitled to it. That is the ground I stand on.

Mr. HART. Suppose another case. By taking five acres of your neighbor's land you build a storage basin and reservoir, which will irrigate a few acres of land. Your neighbor refuses to permit you to have that five acres of land, although you are willing to pay double and treble the value of the five acres. Would it be to the interests of the State to abandon the use of all the land that might be utilized by constructing that reservoir, or would it be to the interests of the State to require that individual to give up his land?

Mr. THURMAN. I think the courts would hold it to be a public use, but the courts ought to decide it. That is the ground I stand on. It is not for this Convention here to decide that question.

Mr. KEARNS. Is it not a fact—you are a lawyer, Mr. Thurman—that the courts of California, Pennsylvania, West Virginia, hold that it is not a public use?

Mr. THURMAN. Well, I am not familiar with all the decisions. I know that it has been held each way, but I take the position again, that after all we have got to be bound by the courts. Your declaration here is not worth the paper it is written on. You cannot take the private property of an individual and give it to another private individual, and you cannot say that whereas it is only a private use now, by the simple ipse dixit of this Convention we are going to make it a public use, in order to get around the question. You cannot do it.

Mr. VAN HORNE. Is not it a fact, that by declaring a public use, we put upon our courts the burden where there was a conflict in authority of deciding that under our law, that public use held by some to be public, and by others to be private—to hold under our law that it was public?

Mr. THURMAN. I will tell you what I think about that, Mr. Van Horne. I think that the courts of the Territory would be governed by the great consensus of public opinion as to what was the public use. We cannot get around that. Courts ought not to be governed by public opinion, but on a question of this kind, they would take judicial notice of what the people generally believed to be of material interest for the public use. That is what I think about that, but I do not think it would have any weight any further than being merely directory.

Mr. JAMES. Is not there a distinction between the proposition put to you by Mr. Hart, where something is for a public use for the whole people, and the provisions of this section. Is not this first law in the interests of the private individual?

Mr. THURMAN. I think so; I cannot see it in any other way. If it was not so, then we would be willing to rest on section 23.

Mr. ANDERSON. I would like to ask Mr. Thurman a question. If all these matters are left to the courts, what is the use of our having a Constitution at all?

Mr. THURMAN. The matters we have got involved in this question are left to the court; I do not say that every matter is left to the court; this is, decidedly.

Mr. GIBBS. Is it not a fact that there are thousands of acres of land so situated in Utah at the present time that

we have to take our ditches across private property in order to enable us to water our lands?

Mr. THURMAN. I think that is true; and I want to say, gentlemen, in answer to that, that I have been more or less connected with the farming interests all my life, and been acquainted with farmers and have associated with them. And I have heard less complaint about this very thing than most any other thing that we have had under consideration—less complaint among farmers. They always work these things out mutually between themselves, down in our section of country, and they will do it unless we put in something here that will come back to plague us.

Mr. FARR. Mr. Chairman, I have listened with a good deal of interest, part of the time, and part of the time I have been mortified and chagrined and have all sorts of feelings to realize that this assemblage—body of men had plenty of time and all the time there is approaching to spend. Why, I have sat contented. I have tried to be contented at least, although I was aware that there were a great many that had business at home, that wanted to get through to attend to it, but it does not seem to me this Convention, the way they argue and talk, expect that our future Legislatures were going to get any men that had sense or ability, but that all the ability is centered right here. Well, now, I want to say to you, I have not the least doubt but what some of the men here will be in the future Legislature, so we must not despair that we have got all the ability here. We have got plenty of law on all these subjects that we have been talking about to-day. All these things have been contradicted satisfactorily by the courts, and why cannot we leave this matter to the Legislature? Why should we spend so much time? We might spend here day after day, and when we get through, be further apart than we are now. Why cannot we leave this matter to the Legislature to manage? As I said before, there is plenty of law now already enacted to manage all these cases, and after we have made all the laws we can, if we could get to work and establish this section, and the courts would have it all to settle there; it has got to come there, because there won't be any person that will feel it his right to settle upon it. It has got to go to the courts, and we have got an abundance of law that if there is not—let the next Legislature make the laws. Why should we spend our time here and legislate for things that the future Legislature can provide for just as much as we can?

Mr. CHIDESTER. Mr. Chairman, I move the previous question.

The previous question was ordered.

The roll being called on the motion to strike out section 3, the result was as follows:

AYES—46.

Allen	Lemmon
Barnes	Lewis
Bowdle	Lowe, Wm.
Boyer	Maeser
Brandley	Maloney
Cannon	Maughan
Chidester	McFarland
Coray	Page
Cunningham	Partridge
Engberg	Peterson, Sanpete
Evans, Utah	Raleigh
Farr	Roberts
Francis	Robertson
Hammond	Robison, Wayne
Halliday	Ryan
Hill	Symons
Hyde	Thatcher
James	Thompson
Johnson	Thorne
Jolley	Thurman
Kerr	Van Horne
Kimball, Salt Lake	Wells
Larsen, L.	Whitney.

NOES—39.

Adams	Kimball, Weber
Anderson	Lambert

Button	Larsen, C. P.
Clark	Lowe, Peter
Corfman	Lund
Crane	Moritz
Creer	Murdock, Beaver
Cushing	Murdock, Wasatch
Driver	Murdock, Summit
Eichnor	Nebeker
Emery	Peters
Gibbs	Peterson, Grand
Green	Shurtliff
Hart	Snow
Haynes	Squires
Heybourne	Stover
Howard	Thoreson
Ivins	Warrum
Keith	Williams.
Kearns	

ABSENT—19.

Buys	Morris
Call	Pierce
Christiansen	Preston
Eldredge	Richards
Evans, Weber	Ricks
Goodwin	Robinson, Kane
Hughes	Spencer
Kiesel	Strevell
Low, Cache	Varian.
Miller	

PAIRED—2.

Mackintosh	Sharp.

The president declared the motion carried and section 3 struck out.

Mr. HART. Mr. Chairman, I move that sections 1 and 2 be stricken out, and the title.

The motion was agreed to.

The PRESIDENT. The next business is the schedule and future amendments.

Mr. ANDERSON. Mr. President, I would like to offer the following sections: "The Legislature shall provide——"

Mr. SQUIRES. I arise to a point of order. We have now stricken out not only every section, but the title to the article.

The PRESIDENT. There is nothing left. It is gone.

Mr. HART. Mr. President, I move that the report of the committee of the whole on the subject reported by the committee on schedule, future amendments, and miscellaneous, be adopted.

Mr. IVINS. Mr. President, as an amendment to that motion, I move you that the report of the minority of the committee on schedule, future amendments, and miscellaneous, upon the question of prohibition, be adopted.

Mr. SQUIRES. Mr. President, I submit that that is hardly in order. It is the reverse of the other proposition. If we do not adopt this other report, we will have to adopt the minority report.

Mr. IVINS. Mr. President, I wish to say, I do not care to go into any debate upon this question, but I would like to show that the motion was made in that way, and I call for the roll call.

The motion of Mr. Ivins was rejected.

Mr. HART. Mr. President, examining the report of the committee of the whole, I find that the minutes do not make it clear as to what action was taken in the committee of the whole upon this matter. Therefore, I modify my motion that the majority report of the committee on schedule, future amendments, and miscellaneous, be adopted. That will make it clear then what we are voting on.

The roll being called on the motion of Mr. Hart, the result was as follows:

AYES—65.

Adams	Larsen, C. P.
Allen	Lemmon
Anderson	Lewis
Barnes	Lowe, Wm.
Button	Lowe, Peter
Cannon	Lund
Chidester	Maeser
Christiansen	Maloney
Clark	Maughan
Corfman	McFarland
Creer	Moritz
Cushing	Murdock, Wasatch
Driver	Murdock, Summit
Eichnor	Nebeker

Emery	Page
Evans, Utah	Peters
Farr	Peterson, Grand
Francis	Roberts
Gibbs	Robertson
Green	Ryan
Hammond	Sharp
Hart	Shurtliff
Haynes	Squires
Hill	Thatcher
Howard	Thoreson
Hyde	Thorne
James	Thurman
Johnson	Van Horne
Keith	Warrum
Kearns	Wells
Kerr	Whitney
Kimball, Salt Lake	Williams.
Kimball, Weber	

NOES—19.

Bowdle	Larsen, L.
Boyer	Murdock, Beaver
Brandley	Partridge
Coray	Peterson, Sanpete
Cunningham	Raleigh
Engberg	Robison, Wayne
Halliday	Snow
Heybourne	Symons
Ivins	Thompson.
Jolley	

ABSENT—22.

Buys	Miller
Call	Morris
Crane	Pierce
Eldredge	Preston
Evans, Weber	Richards
Goodwin	Ricks
Hughes	Robinson, Kane
Kiesel	Spencer
Lambert	Stover
Low, Cache	Strevell
Mackintosh	Varian.

The president declared the majority report adopted.

The Convention then resolved itself into committee of the whole, with Mr. Ivins in the chair, and proceeded to the consideration of the article entitled "Corporations other than municipal."

Section 11 was read.

Mr. SNOW. Mr. Chairman, I am opposed to the substitute for this section. One reason is I do not think the authors of it will attain the object for which it was offered. I see considerable harm in it. It provides, if I understand it correctly, that every corporation that is organized shall pursue one line of business only, and if they undertake any other kind of business they would of necessity be obliged to incorporate again for that special business. Now, I am aware that in a great proportion of this Territory, particularly in the southern portion, there are a great many co-operative stores, whom this would effectually destroy. In Iron County and in Beaver County, and in nearly every city, there are co-operative stores, they have a store, saw mill, lumber mill, shoe factory, tannery, roller mill, and woollen mill, or something of this kind consolidated and combined, and if this section were to obtain and be put in the Constitution, it would effectually kill their co-operative measures and would be a source of inconvenience and great financial loss to these people that are engaged in this kind of industries. We expect and hope at some future day in our own county to establish such industries in such a manner. Now, if to obviate this we are under the necessity of incorporating separately, it will be at great expense, and I submit, Mr. Chairman, that if the advocates of this substitute are right when they say that the same board of directors could act, they virtually nullify what they wish to obtain. If the same board of directors can act in these various corporations, the same capital will be invested. The same persons will control it, and have it under their control, and all that will be gained by it will be separate corporations with increased expenses. I submit that we cannot legislate against capital in this way. That to prevent legitimate investment, they will get around it in some way. And I submit and contend

that if we endeavor to do it, in this way, we will ruin more than we will build up, and we will do more harm than we will good. I am opposed to this section for these reasons, and I think there are no good reasons why it should be incorporated.

Mr. HOWARD. Mr. Chairman, I am opposed to the substitute offered by the gentleman from Davis, and one of my main reasons is this, our laws now provide, and I presume will continue to do so, that private property shall not be held for the debts and liabilities of corporations. If that is so, and this substitute was to be passed, four or five or six men, as the case might be, get together and conclude to go into certain classes of business of three or four different kinds, and they would incorporate under those several heads, the same men would incorporate three or four or five different incorporations, and all they would have to do to make money would be to borrow a lot of money for one particular corporation that they were interested in and they might invest money in the others to advance their interests. This particular corporation that they borrow the money for the use of would break up and go out of business, and whenever those parties they borrowed the money from would look to the assets, it is not there, and the private property that belongs to them in their corporations could not be taken. I don't believe it would be right to place our corporations in any such a condition as that, and I am opposed to it.

Mr. JAMES. Mr. Chairman, I want to say a few words regarding the amendment of Mr. Roberts. I will say to Mr. Roberts that I appreciate his motives, that I know that he is endeavoring to protect the people, he is working in that direction; but I do not believe he appreciates or realises the impossibility of his amendment to cover that which he is endeavoring to do. On the other hand, I believe that it will produce just the contrary to what his efforts are intended for. Now, his amendment says that one corporation shall be engaged in one business solely. Now, what is the result? I want to call the gentleman's attention to what has occurred in our intermountain country under his provision, and of course it would occur under this just the same. Take for instance the milling and mining proposition of the Comstock. There the mines are under an incorporation. The milling is under a separate incorporation. The mining incorporation is controlled by the same men that control the milling corporation. Now, what is the result? They sell the stock in the mines to the public down to just a bare majority, so that they can remain in control of these mines. That stock goes out among the people. The stock in the milling corporation is not sold at all. That is all locked up. Now, what do they do? They go to work and they make a contract with themselves between the two companies, and charge the men for milling the ore all there is in it. They take the whole of it, and now the result is the company that is controlling the mine through their having two incorporations robs the stockholders in the mining corporation. Now, that is what my friend wants to obviate, I know, and it is what every man on this floor wants to obviate, but the movement he makes gives us no advantage at all over that condition of things. Take the Co-op. as an illustration. We will say for instance they wanted to do the same thing as these gentlemen do over on the Comstock. Now, they have the manufacture of boots and shoes and the manufacture of overalls and shirts, and they have a general merchandise. Now, supposing they have three incorporations, the managers of these three incorporations say, this is a pretty good scheme, we will hold the stock of the general merchandise, we will let the stock of the boot and shoe and the

stocks of the others go out among the people, keeping barely control so that we will manage these things. They turn around and they sell material to make the same boots, overalls, etc., and charge such a price for these articles that there is nothing left in profits to any one of the three corporations, excepting the merchandise one. Now, don't you see that there is an imposition upon the public and you cannot cover it by the amendment offered by the gentleman from Davis? And I say, Mr. Chairman, that if I thought this amendment would in any way protect the public, that it would amount to anything more than an inconvenience, why, I would vote for it, but I am firmly convinced that it would only add inconvenience in the way of extra incorporations and extra meetings, and an extra expense and nothing at all accomplished.

Mr. SQUIRES. Mr. Chairman, I spoke upon this amendment when it was before the committee of the whole, night before last, and at that time I intended to call attention to something in the second section of this article, because I wanted an opinion from some of these legal gentlemen here as to its force in connection with this proposed amendment. I want to know before I vote upon this what force those words, "provisions of this Constitution," may have upon this proposed amendment.

Mr. THURMAN. I understand that it means provisions of the Constitution relating to incorporations.

Mr. SQUIRES. Well, that would be this particular amendment among others?

Mr. THURMAN. Yes; anything we adopt.

Mr. SQUIRES. Would it then require that all the corporations now in existence would have to accept this provision and shall confine itself to one single line of business, no matter how it is now incorporated, and how it is conducting its business? Now, it seems to me, that is an important question to consider in connection with this proposed amendment, and until that is cleared up I should certainly vote against the proposition as submitted by the gentleman from Davis.

Mr. BOWDLE. I think I asked that question the other evening. I had my own opinion about it, and it was answered by some one. I do not recollect whether it was Mr. Varian or the chairman of the committee.

Mr. SQUIRES. Mr. Varian had gone home. He could not very well have answered it.

Mr. BOWDLE. The answer was that it would not affect the corporations that are already in existence. I do not think that we could make a Constitution here—fix a constitutional provision here that would compel any corporation now existing, during the lifetime of its charter that had been granted, to change that charter. I think that that is a thing that is fixed—anything with reference to the control of the corporation on general laws but not affecting that charter. I do not believe that we can change that contract. It is virtually a contract with the Territory and that corporation so long as that charter life shall last—that it shall be entitled to carry on its business according to the charter. That is my understanding of it.

Mr. SQUIRES. Then I submit that we should have two different methods of doing corporate work in this State. One company would be allowed to transact three or four different kinds of business. Another company would be restricted to a single line of business. One corporation could deal in the sheep industry and in connection therewith could buy and sell wool. One company could engage in mining and milling and another company would be restricted simply to mining, and if they wanted to put up a mill on their property to mill their own ores, they must be at the trouble and expense of another incor-

poration. I believe it would be making an unfair distinction between the business interests of the coming State, and for that reason, if for no other, I should vote against it, and I do not believe in the principle of the proposition anyway.

Mr. KIMBALL (Salt Lake). Mr. Squires, do you not believe that the original section would have the same effect?

Mr. SQUIRES. I do not, because under the original provision any business which is named in the charter can be conducted, but no other business. A company incorporates for two or three different kinds of business. They can transact all of that business under their charter, but it must be specified in their charter.

Mr. MALONEY. Mr. Chairman, I do not think it needs the opinion of a lawyer to inform this Convention that no vested rights are interfered with or attempted to be interfered with, by the substitute proposed by the gentleman from Davis. All corporations now in existence can go on and transact their business authorized under their charter precisely as though this amendment had never been incorporated, in the event it is incorporated. Now, I want to say to you, gentlemen, that the object of this is to prevent, in the future, corporations doing these things. I want to say to the Convention that the Z. C. M. I. will not be interfered with; they can go on and do their general mercantile business, and do their manufacturing business, because the substitute offered by the gentleman from Davis does not apply to them. Corporations formed for mining and milling can go on and do their mining and milling as though this article had not been adopted. I will tell you what it does interfere with. Take, for instance, the Pullman charter; they incorporated there for the purpose of building Pullman cars; instead of confining themselves to their legitimate business, they founded and built a city; they establish waterworks, gasworks, and went into the real estate business generally.

Mr. SQUIRES. Would not they be prohibited from doing that under this section as presented by the committee?

Mr. MALONEY. Not when they are already incorporated, but it is intended for the benefit of the people in the future. So I say it does not interfere with any vested rights. Now, is it fair to incorporate a railroad company in this Territory and allow them to run coal mines, health resorts, cattle ranches, sugar factories, and everything? Why, if you do that, no private person can compete with them. I want to say to the gentlemen of this Conventhat this does not interfere with the Utah Company in any particular, but it is to prevent, as I say, the blanket corporations for the purpose of monopolizing all the interests and business of the Territory, all enterprises, under one head. I say it is wrong, and the amendment ought to be adopted, and I will vote for it.

Mr. JOLLEY. Mr. Chairman, I am not aware where the gentleman from Weber got his change of heart, being he is one of the sub-committee. I will state that I am not in favor of the substitute. I was up in the committee room and in the sub-committee on this article, and we talked the matter over —this single theme arrangement, and we felt as though it would curtail capital, that there were many institutions that have been established in this Territory for many years in the past that it would cripple, and that they were so small, yet they have branches that would not pay them to incorporate into two or more corporations. This matter was talked up, and I will state here, Mr. Chairman, that nothing was put in this article but what the sub-committee fully agreed upon. I was not there at the presentation to the committee in full, but I supposed that they had all agreed upon it and

we discarded the one and accepted the other—section 11, as it now reads, as it was broadened; and it would encourage and would allow the present institutions to go on with their branches of business and not cripple them. I consider, Mr. Chairman and gentlemen of the committee, that we should legislate here for the benefit of the whole, for the benefit of the men of wealth, as well as those that have not got wealth. As was stated to-day here, by some gentlemen upon the floor, that the delegates of this Convention were not all wealthy men—they are not all wealthy men, but we should consider that that is most beneficial to both parties. Therefore, I trust that the substitute will not prevail. for it will work many hardships, and curtail the interests of the capitalists that we want to invest and to be encouraged in our Territory and in our future State.

Mr. RICHARDS. Mr. Chairman, I hope the motion to adopt this substitute will not prevail. I have not heard any good reason assigned why it should be adopted, and I think that a great many good reasons can be assigned why it should not be adopted. The section as it stands is sufficient protection against any harm that might result from silence in the Constitution on this subject. Why should not a corporation be organized to transact more than one kind of business? I have heard no good reason assigned for it. I do not believe that any good reason can be assigned why that should not be so. The proposition that is offered is an unusual one, and one that might result in a great deal of injury. Now, it has been said that the adoption of any article or provision in this Constitution cannot interfere with vested rights; that is true. But what are vested rights? That is the question. The gentleman from Weber, a member of the committee on corporations that reports this article, intimates that it would be a vested right to interfere in any way with the conducting of business as now organized. I am not so clear about that. It is true that if they had been incorporated under a law that did not permit amendment or provide that any modification could be made in the laws creating them or regulating them, it might be so, it might be an interference with that which might otherwise be regarded as a contract; but the supreme court of the United States has held that Congress may interfere with charters that have been granted and may change them in this Territory, and if Congress may do that, why may not the State do it, as a State? And it seems to me that there would be a great danger in this provision in section 2 that has been referred to, that it might operate prejudicially on corporations that are now in existence. But, independent of that, whether that be so or not, it seems to me that there can be no good reason why this amendment should prevail. If the articles of incorporation set out the purposes for which the corporation shall be created, and it shall only be permitted to do such business as is specified in the articles, then the public are protected. They understand and comprehend at once what is expected of the corporation and they know what they are dealing with.

Mr. JAMES. Mr. Richards, you have observed in section 2 that it says in order to benefit by future legislation, they shall accept of the provisions of this Constitution. Would not that practically compel every corporation, or else they would be left in a position so they could not have the benefits of future legislation?

Mr. RICHARDS. Well, I will not express a positive opinion on that subject, because it is a question that I think even lawyers might differ upon, and I do not believe in off hand opinions; but I do believe this, gentlemen, that we are legislating here in the fun-

damental law, that we ought not to enact anything that is ambiguous and uncertain and that we do not know what it means; that is what I say, and the great objection that I have in this article is that it is so legislative to its character and not fundamental that the greater part of it has no place or ought to have no place in the Constitution of this State. The chairman of the committee will excuse me for speaking in this emphatic way. I say it with no disrespect to the committee, but it does seems to me that the committee has fallen into the error of placing into this article a great deal of matter that ought never to enter into the Constitution of the State, because it is not necessary. Now, I make no particular objection to the provision as it stands in the original article here in section 11. I do not believe that that is necessary, but still I do not object to it, because I do not see that it will cause any particular harm to let it remain there. It simply encumbers the Constitution with something that might be dispensed with, but there are provisions in this——

Mr. SQUIRES. Would not that section, as it is, be a certain sort of protection to the stockholders of a company who might not be interested in the management of it? They would know by that that no other business could be transacted except that authorised by the character—no speculation or gambling business.

Mr. RICHARDS. That would be, but for the fact that it is a rule of law that is absolutely inflexible that if they were silent the law would construe it to mean the same thing; that is to say, a corporation cannot in the very nature of things do legally anything more than is specified in the articles of incorporation. So that if we were entirely silent upon that question, the protection is absolute and complete upon that point. So this is simply a declaration of what the law is now.

Mr. SQUIRES. I understand, Mr. Maloney claims the Pullman Company has been doing this and doing it legally. They were chartered to build Pullman cars and they were building cities.

Mr. RICHARDS. I do not know what the charter of the Pullman Company is, but I undertake to say that if the Pullman Company was chartered for the whole purpose of manufacturing railroad cars and they undertook to build cities and do the other things suggested by the gentleman, as I understood the company did do, it was acting ultra vires and could have been stopped from doing those things. The state could have interfered, the stockholders could have interfered, and the matter could have been stopped; but we cannot in a constitution legislate in such a way as to prevent people from doing things that are unlawful and illegal. That is not authorised by law. That we cannot do. We can lay down some fundamental principles, and as I say, I find no fault with this section, because it is simply a declaration of law that exists independent of this.

The committee thereupon took a recess until 2 o'clock p. m.

AFTERNOON SESSION.

The committee re-assembled at 2 o'clock.

Mr. ROBERTS. Mr. Chairman, it is not my purpose to detain this committee in the consideration of this question, as I believe that the mind of the committee is made up as to the action it will take in regard to the substitute, and I am not about to launch a speech of any considerable length at least. But I do wish to say, sir, that in drawing this substitute I do desire if possible to present something to this Convention that would alleviate the prospective difficulties and evils that might grow up in our new State by reason of incorporated power. It is quite possible, sir, that the principle in this substitute is impracticable and may not reach the evil at which it is leveled, and

I am almost in despair at the prospect of drafting anything that would be equal to the occasion of resisting the evils that grow out of corporate powers. And it is quite possible, sir, that we shall have to rest our case ultimately upon the spirit of the people, which I trust shall be of that nature that will lead them never to sit quietly down while corporate power rivets collars upon their necks, and brands them for its own. Many years ago, when perhaps I was more impressionable than I am now, I read with burning interest the great debates that occurred in the British house of parliament on the trial of Lord Hastings, wherein inquiry was made into the proceedings of the East India Company, and I became satisfied then that if there was one thing which more threatened the liberties of a nation than another, it was the organization of just such companies as this, just such corporations, which could grow in dimensions until they could be compared only to some huge octopus with power to throw a tentacle over every possible resource of the country, crush out all competition, and enslave the people. I saw, during my reading of those interesting cases and arguments, the truth of the old adage that corporations have no bodies that you can kick, and they have no souls that you can tempt, and they are the most difficult things to contend with that ever confronted our civilization. My attention, however, sir, has been called to the last section of this article on corporations, and I believe that that will mitigate much of the evils that exist to-day in regard to corporate powers, in that it will prevent, if properly executed by the officers, and if proper laws shall be drafted in pursuance of its provisions by the Legislature, combines and trusts to control production and the prices thereof. I must confess that I did not discover all the virtues that are in that section, and this will make it easy for me to do what I intended to do before I got through, namely, withdraw the substitute that I offered for section 11, if my second will consent to that. Certainly, sir, it was not my intention to draft any measure or urge any measure upon the Convention that would look to the destruction or look to impairing small corporations that are engaged in the small manufacturing establishments. The only object that I had in view in drafting this section was to prevent great corporations with millions and perhaps scores of millions behind their backs invading our Territory, laying a paralyzing hand upon the resources which, as I think, ought to be left for the people.

My friend from Ogden this morning called attention to the evils that accrue out of the corporation known as the Pullman manufacturing establishment, the evils that it brought upon the people of Illinois, the abuse of its powers, threatening for a time civil war in our land. Outwardly all was fair and beautiful, and yet, sir, when the blanket was lifted, and the inside workings of its operation could be observed, it was found to be like the gilded sepulcher, fair to the view but inwardly full of dead men's bones and rottenness. The tourist had been charmed with the prospects surrounding the workmen at Pullman, but upon a close investigation of its affairs, instead of being a benefit to the workingmen it was discovered that it was but an engine of oppression and held the fortunes of it employes in its own hands. It was to prevent anything of this kind arising in our State that I was anxious that something of this kind as indicated in the substitute should be provided, not to interfere with small manufacturing establishments. And I must think that the construction placed upon what is one general line of business has been drawn altogether too narrow, as I take it in these debates; and yet, sir, I must confess that I have been convinced that

this measure would be impracticable in reaching the objects for which it was intended, and therefore if the second to my motion does not object, I will withdraw the substitute.

Mr. THATCHER. Mr. Chairman, I would call the attention of the committee to section 1, that corporations may be formed under the general laws, but shall not be created by special acts. Now, section 11 might leave the construction that corporations should be formed in this section under special acts, and for that reason I would propose, after the word charter, in the third line, "as specified in its articles of incorporation."

Mr. RICHARDS. Mr. Chairman, I think I comprehend the object of the gentleman's amendment, and if it were necessary I should concur with him; but the word charter, as used there, I think has a clear signification only of the means or article by which it was incorporated, whether that be by agreement of incorporation, or articles of incorporation. Whatever the article may be called, is the charter. That would be the legal interpretation of the term, I think. I do not think it would be held to mean a special act.

Mr. THATCHER. I am a little inclined to think that section 7 would have a doubtful construction, but inasmuch as special acts are prohibited in section 1, I think that this section should be so amended as to make it clear that no special act of the Legislature was necessary.

Mr. MALONEY. Would not the word "specified," right after the word authorized, meet your amendment?

Mr. THATCHER. Not clearly, no, sir; I do not think it would. Of course, I am not particular on this, but I think it would save a good deal of trouble.

Mr. SQUIRES. Why not strike out the word charter and introduce "articles of incorporation?"

Mr. THATCHER. I have no objection to that at all.

Mr. SQUIRES. I move, then, that it be so amended.

Mr. CANNON. Mr. Chairman, the object desired to be attained by Mr. Thatcher's motion, and also by Mr. Squires's, I think we all agree with exactly, but from my understanding of the interpretation placed upon the word charter by the legal gentlemen who have spoken—I think the word charter is broader than articles of incorporation. It might possibly embrace more. For that reason, I see no reason for the change.

Mr. EVANS (Weber). Mr. Chairman, it would seem to me better to leave "charter" in there, and add "articles of incorporation." If an amendment would be in order I would make that as an amendment. Then, if the Legislature does grant a charter, such as they sometimes do——

Mr. JAMES. I think, Mr. Chairman, that will cure the dissatisfaction.

The amendment offered by Mr. Evans, of Weber, was agreed to.

Mr. RYAN. Mr. Chairman, I think I realize the object of the committee in introducing that section, but I do not see that it accomplishes anything. I move that the entire section be stricken out.

Mr. ROBERTS. I wish to ask the chairman of this committee if there is any other part of this article that provides that the purposes for which the corporation is organized shall be specified?

Mr. JAMES. No, sir; not that I know of.

Mr. ROBERTS. Then, Mr. Chairman, I am most heartily opposed to striking this section out, because, as was developed in the debate here this morning, in the argument of the gentleman from Weber (Mr. Maloney), it appeared that the great corporation at Pullman was incorporated to do one thing, but went outside of things specified in its charter and engaged in other enterprises. I believe, sir, that whatever else we shall

do in regard to corporations, we at least ought to insist that they shall specify the business that they are going to engage in, and that they ought to be confined within those specifications, and believing that this would be some little protection to the public at least in the way of announcing what business this corporation is going to engage in, and in order that we might know something about its limits, it should expressly say what its business should be, and it ought to be be confined to just what it has expressed in its charter, and not give them carte blanche to engage in everything under heaven, without giving the public notice that they are going to do it. You leave it now so that a corporation can engage in any number of lines or pursuits; at least let us have it understood that they can only engage in those pursuits that they specify in their charters. For that reason I shall object to striking out this section.

Mr. RYAN. Mr. Chairman, I think the time is coming when corporate power should be restrained, and I am in favor of that. I am in line with that and I was in favor of Mr. Roberts's amendment as being the best of the two. However, I do not think that section 11 will accomplish any good or accomplish the end for which it was aimed. I think if we ever restrain corporate powers, it has got to be in other directions, and possibly the best way would be to scrutinize their first charter or have a power or a different source from which they should emanate. Any one can secure a charter by paying a few dollars and specifying the purpose for which they are organized, and I do not see as section 11 accomplishes anything, and, therefore, I was willing to see it stricken out.

Mr. JAMES. Mr. Chairman, this section took up a great deal of time in the committee. It took up more time, not only in the committee, but in seeking information from sources that the committeemen felt were safe to advise with, and I will say to you, gentlemen, that four of the most eminent attorneys in this city approved of that section, as it is in that article, and three of them are corporation attorneys. They said that we should have something that should limit the corporations from extending all over the world and doing anything they pleased. We should say that they should not go into business that they did not expressly set forth in their charter.

The motion was rejected.

Sections 12 and 13 were read.

Mr. JAMES. Mr. Chairman, I wish to strike out the words "tonnage and cars," and add in lieu thereof the words "and freight." The reason I ask to strike out the word cars is because I have learned that in the interchange between railroads and cars an injury might be done one road if it had to carry those cars when it had its own cars in which to carry the freight.

The amendment was agreed to.

Mr. THATCHER. Mr. Chairman, I would like to call the attention of the committee to line 5, where it provides for carrying passengers without delay. I move to insert the word "unnecessary," between the words "without" and "delay."

Mr. RICHARDS. I desire to offer an amendment to Mr. Thatcher's amendment; transpose "discrimination," and place it after the word "without," so that it will read this way, "without discrimination or unnecessary delay."

Mr. THATCHER. I will accept that.

The amendment was agreed to.

Section 14 was read.

Mr. RICHARDS. Mr. Chairman, I move to insert after the word transportation, in the fifth line, the words, "under similar circumstances and conditions."

Mr. JAMES. Won't you accept the same amendment then, in line 13, so that it will be consistent within itself?

Mr. VAN HORNE. Mr. Chairman, I

move a substitute for section 14, which I have drafted in accordance with the inter-state commerce law, as follows:

No railroad or other transportation company or common carrier shall discriminate in the transportation of persons or property between persons or places, or in the facilities for transportation, or any charges for like service in transporting like kinds of property under similar circumstances and conditions.

I move its adoption, as a substitute for section 14. I wish to call attention of the Convention to the fact that the substitute provides for a case that is not provided for in the original section, which is what might possibly be called a discrimination on account of the quantity of freight as distinguished from the character of freight. The substitute provides directly in line with decisions on the inter-state commerce law against discrimination, in the four ways in which discrimination is possible, namely, between persons first; second, between places; third, in facilities of transportation; and fourth, in charges for service in transporting property or persons under similar conditions and circumstances. It has been decided that those four classes cover all classes of discrimination that are possible. That being the case, anything further than a general provision that no discrimination of that kind can be made, it strikes me would be out of place in a constitution. Any detail that would be necessary to go into should be properly gone into by the Legislature. As an illustration of this, the original section provides only for discrimination in classes of persons; suppose a person had a sack of sugar to ship and another person had a train load of sugar to be shipped to the same point. It would be fair to say under all business principles that the person shipping a train load on account of the the greater rate that he should pay in the aggregate, or less trouble of delivering, should be entitled to a better rate of the shipment.

Mr. RICHARDS. That is exactly the point designed to be covered by the amendment I offered.

Mr. VAN HORNE. I understood that it was designed to be covered by that, but I think that the substitute covers it perhaps a little more clearly than the amendment would. In like instances a man that had a hundred bushels of wheat to ship where it would only make part of a carload could very properly be charged on account of the greater cost of handling the additional rate for shipping that wheat to the same point that a man would be charged who shipped a full carload, or a full trainload. In like manner the owner of a mine who attempted to ship two tons of ore to have it separated and kept separate from other ores shipped in the same car, would impose upon the railroad company a greater duty of carrying his property from intermixture with others than would be imposed upon the railroad company in case he shipped the full carload of ore, and this amendment covers that distinction between quantity and class.

Mr. JAMES. Mr. Chairman, I want to say a word or two to this Convention as to why this section was written and placed in this article, and since Mr. Richards has amended it as he has, I believe it covers the ground. Now, I will say the reason why that section was written in the form that it is in is this: Information came to this committee that it cost one hundred dollars more a car to ship a carload of freight if it contained twenty tons, from Omaha to Eureka than it did from Omaha to Park City, which was a distance of over one hundred and fifty miles farther to haul it. Now, gentlemen, I call your attention to that condition of things and ask you if it is true, and I think it is true, because I got it from reliable

sources, if we should not do something to regulate conditions of that kind? Then, I call your attention to the fact again, as another reason why that section was written in the form it is in, is because the railroad company sees fit to make Eureka City a common point in shipping out, but not a common point in shipping in. Now, gentlemen, it is a very queer thing when it is a downhill haul from Eureka City to the valley below, that it is a common point out, and a less rate is charged for freight out of that town than to haul it into it, when it is an uphill haul to haul it in. Now, I want to say to you, since Mr. Richards has amended this in the form it is in, it covers the whole ground. The reason where it was weak before is just what Mr. Van Horne has raised on the floor, that you might charge as much for small quantities as you could for large quantities. The amendment of Mr. Richards obviates that point. Now, Mr. Van Horne's section is one that I have not had time to give thought to. The section for the purpose that it was written has had due consideration and given a great deal of time and thought, and I believe as amended now, it is what we need.

Mr. VAN HORNE. I just want to call attention to one fact, the prohibition there as to discrimination in places covers the very point that was brought in by the gentleman speaking for the report as amended or proposed to be amended.

Mr. JAMES. Does your section cover the ground to hauling in and going out—that discrimination, as it is going on now?

Mr. VAN HORNE. I will ask the gentleman if he does not think that under similar circumstances and conditions does not fully cover that?

Mr. JAMES. I ask you if your section covers that?

Mr. VAN HORNE. I think so.

Mr. RICKS. Mr. Chairman, I hope the amendment will prevail, for the reason that I think it will cover exactly the ground covered in the original, and I do not believe the original covers the ground Mr. James thinks it does, that is covered in the inter-state commerce law, and I very much question if we can ever legislate in this State to cover the objections he desires to cover—the ore or anything else coming from other stations that must come under congressional law, as it does at the present time, and I think the amendment of Mr. Van Horne covers every point that is necessary to cover.

The question being taken on the adoption of the substitute proposed by Mr. Van Horne, the committee divided and by a vote of 50 ayes (noes not counted), the substitute was adopted.

Mr. CANNON. Mr. Chairman, I will move to amend by inserting "quantity" after "kind," and make it read, "kind and quantity."

Mr. RYAN. Mr. Chairman, I hope the amendment will not prevail. I do not think we should limit that as to quantity. The circumstances and conditions will limit that enough. Railroad companies are in the habit of discriminating too much in the interest of large shippers—powerful corporations, and that only intensifies that evil. I hope it won't prevail.

The amendment was rejected.

Mr. ROBERTS. Mr. Chairman, I move that section 14 be stricken out. I find that section 13 provides that all railroad and other transportation companies are declared to be common carriers and subject to legislative control. Now, sir, the substitute that the committee has adopted, introduced by Mr. Van Horne, seems to be so uncertain as to what points it does cover and what it does not cover, that I doubt the propriety of adopting a section about which the Convention seems to have so much doubt, or to be in so much uncertainty in regard to, and it seems to me, sir, that all these matters enumerated in the original section and also in the

substitute offered by Mr. Van Horne, may be properly left to the Legislature, and those are my reasons for moving to strike out the entire section.

Mr. BOWDLE. Mr. Chairman, I do not know; I might eventually come to the same conclusion, but not having the substitute a long time to think about it particularly, it looked to me like it was all right. I came to the conclusion that I would let it go to the third reading and then we will have the whole matter before us and we will know better—at least I feel I will know better what I want to do in that regard, and I don't feel like taking action on it now.

Mr. RICHARDS. Mr. Chairman, I am in favor of striking out. I am fully in sympathy with the idea that railroad companies should be required to do all that is prescribed in this section. I want that understood to start with, and perhaps more, and there is where the danger lies in this section, as I view it; that is to say, by section 13, all railroad companies and other transportation companies are declared to be common carriers subject to legislative control, and all railroad companies shall receive and transport each other's passengers and freight without discrimination. Now, that is provided for in section 13. Now, I believe that the Legislature ought to have full power over this subject, and when we commence to enumerate in section 14, certain things that shall be done, there is danger that when the courts come to construe it, they will say that the Legislature is limited in that matter to those things that are enumerated in the Constitution, and if we leave this section out, with section 13 standing as it is, it gives the Legislature full power over this subject. We can legislate upon it from time to time as the exigencies of the case may require, and I believe it would be very much better for the Constitution and very much better for the people, and would carry out the wishes and intention of this Convention to leave that section out.

Mr. VAN HORNE. Mr. Chairman, the intention of offering the substitute was directly in line with the purpose of not specializing in this Constitution the methods of discrimination, but leaving it general, under the construction of the inter-state commerce act and the courts of the United States, of the four classes of discrimination that were possible. If there is to be no section corresponding to section 14, I am thoroughly of the opinion that sections 1 and 13—I believe it is, cover the whole question and leave the Legislature the full power to regulate, control, limit, and restrict the action of corporations. Section 14, as introduced by the committee, strikes me as being dangerous in the line that it specializes too much. The substitute specializes less, in that it covers only the four species of discrimination that have been passed upon under the inter-state commerce act, and it has been decided that those four classes cover all kinds of discrimination. If there is to be no section corresponding to section 14, I shall support the motion to strike out.

Mr. JAMES. Mr. Chairman, I feel a good deal like Mr. Roberts felt about this thing at the present time, that you had just about as well strike this out, but at the same time, Mr. Chairman, as if there was a very serious mistake being made here. I do not know why gentlemen are talking so much about legislation and about the seriousness of our trying to regulate something. Now, if any other gentleman can show me in this section anything that would create a hardship, that would injure a corporation, in any way in the world, I would say, for heaven's sake let us amend it and let us strike it out, let us get rid of it; but, Mr. Chairman, there is more that can be said regarding this thing. You observe that they were very careful to get out that along where it says, hauling from and to. Now, gentlemen

of this Convention, why should it be? Why should it be that a ton of freight or a carload of freight should cost the people a hundred dollars more in Eureka than it does in Park City? Now, why has the Legislature long ago not corrected those things? Did the people vote for us to come here and say that the Legislature can do these things and all we have got to do is to sit here and look nice and feel happy and draw our pay and go home? Now, here is another proposition. Here is our little Utah Central railway that was built from this town here by John W. Young, to Park City. When that little railroad got to Park City, what condition did he find? He found, sir, four dollars and a half a ton freight from Park City to the smelters in this valley. What was the result? The freight was put down to two dollars and a half; the round trip fare from here to Park City was seven dollars; what is it now, after the little road was built up there? Four dollars and a half. Did any man make anything out of that road? Was it not solely for the benefit of the public? Have not the people that put their money in there forfeited every cent of it and has it not gone into the hands of a receiver? And why? Because the railroad saw fit to say that we will not receive your freight, we will not take your freight here in Salt Lake City and haul it up to Park City. We will not take your freight at Park City and haul it down here and allow it to be transferred over the Union Pacific or the D. & R. G. railway company. Now, gentlemen, are you going to say, "Oh, we will allow the Legislature to regulate all these things?" We cannot do it, because it is tramping upon the roads. Still those things go on. I say you might as well strike it out, gentlemen. You have taken its teeth out. When the provision was put in that section that an equal charge will be made in each direction and the charges should be indiscriminate, then was when the work was done that created the great howl that went up all over this city.

Mr. KIMBALL (Salt Lake). Has the committee conferred with the business men's association—the chamber of commerce, regarding this?

Mr. JAMES. No, sir; we wrote them a letter, and had some correspondence from them regarding it, but there has no information come from them in regard to it.

Mr. KIMBALL (Salt Lake). Mr. Chairman, I will state that only recently the manufacturers and jobbers of this Territory have formed an organization, the special purpose of which is to confer with the railroad companies and regulate the tariff. This discrimination has become so painful and extensive that it was necessary for the manufacturers and jobbers to combine together against the railroads on this proposition, and I believe if we strike this section out and leave the matter for the time being, that they will confer with the next Legislature, and arrange a section that will meet the emergency.

Mr. VAN HORNE. Mr. Chairman, there is a principle of law, that the expression of one thing is the exclusion of another. The lines 10, 11, 12, and 13 of the article as drawn, we find that charges not exceeding the charges of transportation, or persons and property of the same class, in the same direction, under similar circumstances and conditions, to any more distant station or landing. The mention of in the same direction, under that principle of law, allows the very thing that the chairman of the committee was claiming as a wrong here—a discrimination when it was in another direction, because mentioning that they were prohibited from making that discrimination in one direction by exclusion says that they can make the discrimination in another direction. And wholly in sympathy with the purpose of the committee in regulating these discriminations, it seems better to me

to make the general classes of discriminations as to persons, places, facilities, and charges, limited only by similar conditions and circumstances, and leave the Legislature to interpret the matter. I believe the wrong complained of by the chairman of the committee, of one railroad company refusing to receive the freight of another railroad because it was in competition, is fully covered by section 13, which provides that all railroad companies shall receive and transport each other's passengers and freight without discrimination or unnecessary delay. The other was devoted towards leaving general the power of the Legislature, and not, by the mention of particular things, make the constitutional prohibition against the Legislature, saying that discriminations in other respects should not be prohibited by them.

Mr. EICHNOR. I would like to ask Mr. James a question. Section 14, as it originally appeared in the article, was taken from the constitution of California, and from the constitution of the state of Washington. In California that section has been in existence since 1879, when the constitutional convention framed a constitution of that state, the last time. Do you know how this section has worked in the state of California?

Mr. JAMES. No, sir.

The motion to strike out was agreed to.

Section 15 was read.

Mr. RICKS. I would like to ask the chairman of the committee what he means by that?

Mr. JAMES. It is put in there for this very purpose: When this Territory grants franchises, and gives rights to a railroad company, building in a similar direction, to reach the same point, that they shall not then combine their interests and deny the State of benefits that should come from competing lines by consolidating their interests; after they have benefitted by giving them those rights, they expect them to do according to their agreement with the State.

Section 16 was read.

Mr. VAN HORNE. I would like to ask the chairman of the committee what are the provisions of the article on revenue and taxation? Do they not provide for the taxation of the property mentioned in this section? If so, it is a duplication of the action already taken by the Convention.

Mr. JAMES. Mr. Chairman, I am not familiar enough with the article on taxation to say. I suppose probably it does. That is my recollection.

Mr. RICHARDS. Mr. Chairman, I move to strike this section out, not because there is anything in the section that is objectionable at all but because it is simply a reiteration of what we have had in the article on taxation and a statement of what would be the law in the absence of any statute at all or any provision. The rolling stock of the company is personal property. It has been so held by every court in the land and everywhere, and it is liable to taxation, and subject to execution, and we cannot in this Convention enact everything that ought to be said on the subject of the management and conduct of railway companies.

In reply to the suggestion made by the chairman of the committee—he seems to think that there is unnecessary stress being laid upon the fact that this legislation, or that certain provisions in this article are legislative and ought not to be included. Now, I do not make this objection simply because it is legislative, although I think that that alone is sufficient reason. I think we ought not to encumber the Constitution with detailed matters—matters that ought to be on the statute book and could be changed from time to time. We ought not to duplicate these things, and when we have provided substantially for this in the article on taxation, as to what property should

be taxable, etc., I think we ought not to enumerate it here, and then as I have said before, there is danger of, by enumeration, limiting the power of the Legislature when we do not intend to. I think that these things ought to go out, and it is not because I have any objection to the matter itself, but I think it belongs on the statute books instead of in the Constitution.

Mr. MALONEY. Mr. Chairman, I do not object to the words "taxation and," coming out in line 4 of section 15, but I do object to the other going out. This section was fully discussed in the committee. We attempted to make one complete article on incorporations other than municipal. The committee worked earnestly and long for this object to be attained, and I think we have attained it. Now, the very fact that other constitutions in many of the states have made provision with regard to the rolling stock and other movable property belonging to any railroad company or corporation is sufficient evidence to my mind that the section ought to remain entirely as it is, with the exception of the words "taxation and."

Mr. ROBERTS. Mr. Chairman, before voting to strike out this section, I should desire to know whether it duplicates any provision in the article on taxation and revenue. So far as I am able to discover there is no duplication in the article on taxation and revenue.

Mr. CREER. Section 11.

Mr. ROBERTS. The section as I remember it, however, read by the gentleman, would make the personal property subject to taxation, but it does not make it subject to execution and sale, and I desire for that reason, sir, to say that it is not an entire duplicate, one of the other. There are provisions in this that are not to be found in the other, and for that reason I shall vote to retain this section.

Mr. RICHARDS. I would like to ask the gentleman from Davis a question, and that is if he knows of any case where any railroad property has ever been made exempt from execution?

Mr. ROBERTS. I shall have to confess that I have no knowledge of that kind. I am not a lawyer, not engaged in that kind of transaction, and therefore am put at a disadvantage in that matter. As suggested by my friend from Weber, who comes gallantly to my rescue, as a voice behind me, we never want the Legislature to have the power to exempt the property from execution. I want it fixed, sir, that these railroad corporations cannot escape either taxation or having their property subject to execution and sale where it becomes necessary to meet just taxation, and in order that we may be dead sure that we have got them, I propose to vote for retaining this article.

Mr. SMITH. Mr. Chairman, it seems to me that the section will give no strength to the section already in the law on taxation. Everything that is possible to reach, in any way, shape or form will be reached under that.

Mr. VAN HORNE. Mr. Chairman, I want to call attention of the gentleman from Davis and members of this Convention, that in section 9 of the article on legislative the Legislature is forbidden to grant to an individual, association, or corporation any privilege, immunity, or franchise whatever. The exemption of property of a railroad company from taxation will be fully covered by that section, beyond question. If that be true—if the general law also be true, as announced in our article on revenue and taxation, that such companies must pay taxes on all property owned or used by them, the Legislature is forbidden from granting them any immunity. The section, as it seems to me, consists of nothing but declaring that the rolling stock and movable property of a railroad company shall be held as personal property, and that is all that is done by the law. The immunity would also extend to the

proposition that their property should not be subject to execution. It would be an immunity guaranteed by the Legislature to say that the rolling stock of a corporation would not be subject to execution.

Mr. THURMAN. Will you please read, if you have got it before you there, the section that you referred to about the immunity?

Mr. VAN HORNE. Section 9; that is the prohibition of the Legislature passing special laws.

Mr. THURMAN. That relates to special law. That is a different proposition.

Mr. SQUIRES. They might do it by a general law.

Mr. VAN HORNE. The same proposition is contained in the same article against any special law where a general law would be applicable. Are we to understand the gentleman as fearing that the Legislature of this Territory should ever pass a general law that all the movable property of the railroads should be exempt from taxation or should be exempt from execution and sale, on the judgment of a court?

Mr. THURMAN. It might depend on whether all the legislators were railroad men, or not. If they were, we might get just that kind of a law.

Mr. VAN HORNE. It seems to me that the general provision that the Legislature may control the creatures of the State—the corporations within it, is sufficient, taken in connection with the other, that they must pay taxes on that, and that the Legislature is not going to grant any immunity by general law to all the railroad corporations in it, that their property shall not be subject to execution and sale.

Mr. JAMES. The gentleman either does not understand this proposition or else does not want to meet it. We all know very well that the rolling stock may belong to one company and the railroad to another company. We are trying to cover the whole, that is why the section is put in the shape it is.

The motion to strike out was rejected.

Mr. VAN HORNE. Mr. Chairman, in accordance with the amendment suggested by Mr. Maloney, I move to strike out the words "taxation and," in line 4.

Mr. MALONEY. Mr. Chairman, since my attention has been called to it, by the gentleman from Davis, I think that ought to remain there.

Mr. SQUIRES. Mr. Chairman, I am opposed to the motion.

Mr. EVANS (Weber). Mr. Chairman, I seconded the motion to strike out simply because in my judgment it was fully covered in the article on revenue and taxation. Otherwise, I should not vote to strike it out.

The amendment was rejected.

Sections 17 and 18 were read.

Mr. HART. Mr. Chairman, I move to strike out section 18. The Legislature has that power.

Mr. MALONEY. Mr. Chairman, I object to it. I want a constitutional basis for it here in the event that the future Legislatures of the State may find it proper to establish a commission.

Mr. RICHARDS. Would not the Legislature have the power to appoint this commission without the section?

Mr. MALONEY. It is very possible, but we want a constitutional recognition of the commission. They have it in nearly every state in the Union.

Mr. RICHARDS. Is there any possible question about the power of the Legislature to do it?

Mr. MALONEY. I doubt it very seriously. Therefore, I insist that it remain in.

The motion to strike out section 18 was agreed to.

Section 19 was read.

Mr. VAN HORNE. Mr. Chairman, I move to insert the word "if," at the beginning of the paragraph.

The amendment was agreed to.

Mr. VARIAN. I want to ask the committee if it is necessary to put into the

Constitution a declaration that the State of Utah has jurisdiction over all property within the State? If not, what is the use of spending money to print it? I move to strike it out.

The motion was agreed to.

Section 20 was read.

Mr. RICHARDS. I desire to ask the chairman of the committee what the purpose of this section is and what it means.

Mr. JAMES. It is to avoid such things as a year ago of the Pinkertons. That I guess will explain it so as to save time. Just say the Pinkertons.

Mr. RICHARDS. I would like to have some gentleman explain to me what the meaning of the words, "without authority of law," as used in that connection. If the chairman of the committee or any other gentleman will explain that I would be glad.

Mr. JAMES. Well, I suppose it is meant to cover the proposition that they might bring them if they got permission of the governor under a legislative act.

Mr. RICHARDS. I move that the section be stricken out.

Mr. SQUIRES. Mr. Chairman, I do not think the chairman ought to give Mr. Richards, he being a corporation attorney, the information he needs that will show him how to act upon this section after it is adopted.

Mr. THURMAN. Mr. Chairman, I hope this section will not be stricken out. I think it is necessary. "Without authority of law," not only means the authority of the governor of this State, who should at least be the executive head, but the President of the United States, to protect the property of the United States, might have the right to send troops in. That is, by authority of law, but outside of that authority, some one charged with the official duty, the committee thought that no private company or individual had a right to import an armed body of men into the State to protect the State or the people of the State against domestic violence. We think we can do that ourselves—or the property, as suggested, of any individual. We think the State is able to do that. If not, we have no business organizing as a State.

Mr. SNOW. Can not the Legislature provide this prohibition and also state when that authority can be exercised?

Mr. THURMAN. The Legislature can provide for just about everything that we have got in this article, but for fear they will not do it, we propose to do it here if we can. That is the idea.

Mr. EICHNOR. Mr. Chairman, I desire to amend section 20, by striking out all after the word "violence" line 4, and inserting in lieu thereof, "except upon the application of the Legislature or the executive when the Legislature cannot be convened."

Mr. THURMAN. Do you desire to exclude the right of the President of the United States to do that if necessary to protect the property of the United States?

The amendment of Mr. Eichnor was rejected.

Section 21 was read.

Mr. ANDERSON. Mr. Chairman, I move we strike out this section.

Mr. VARIAN. I second the motion. This section—certainly the intent of the committee could not be as this section is expressed. It would deprive a large number of citizens of the privileges of citizenship. In terms it simply says, that no man who is employed by a corporation, company, or association, doing business under or by virtue of a municipal charter or franchise, may hold any municipal office or employment. I presume the intention was to prevent their holding certain classes of municipal offices, but it does not express that. It says he shall not hold any employment therein. I do not know what it means.

Mr. SQUIRES. Mr. Chairman, as I see they have ruled my friend, Mr. Richards, from being a candidate for any-

thing this fall, I second this motion to strike out.

Mr. EVANS (Weber). Mr. Chairman, I am opposed to striking out that section without any qualification.

Mr. VARIAN. Let us amend it then, to make it clear.

Mr. EVANS (Weber). Well, then, let us amend it before we strike it out. The design of that section is good. It may not be worded just as it should be, but it is designed to prevent a good many evils which exist, and they are evils, too, which exist right under our noses daily. Men belonging to corporations, having stock in them, and controlling them, are members of the city council.

Mr. VARIAN. I agree with that.

Mr. EVANS (Weber). And they sit right in the city council, and passing ordinances and resolutions contracting with themselves with respect to the price which will be paid for various things—the electrical company for one. We have had an instance of that kind lately, which is shameful to permit, and many of the best authorities and economists in this city have called attention to this thing, and asked that this Constitutional Convention correct it. We had a friend here—one of our fellow delegates, who stated upon the floor of this Convention himself, that just such a condition of things existed with him. It is not right, in principle, so I shall oppose the striking out of this section.

Mr. VARIAN. Mr. Chairman, I move to amend by striking out "or employment." Let us perfect the section before that motion to strike out is carried. That will make it clearer. As it reads, certainly it would prevent an ordinary servant of a corporation from having any employment in the city. It is not intended, I am sure, to have it go that far.

Mr. VAN HORNE. Mr. Chairman, I think the word "therein" should be included in the motion to amend. I move to amend by striking out the last three words, "or employment therein." The reason I do that is that "therein" could properly be held to refer to the State and not to the municipality, and that a man who was an agent or servant or employe of a corporation, working under a municipal charter, should not hold any municipal office in the State, it seems to me would be further than the committee intended.

Mr. RALEIGH. Mr. Chairman, the word employe should be stricken out also, in the first line.

Mr. KERR. Mr. Chairman, it seems to me the word therein should not be stricken out.

Mr. BOWDLE. Could "therein" refer to any other word than State?

The CHAIRMAN. Gentlemen, the question is upon the amendment to the amendment offered by Mr. Van Horne, to strike out the words "or employment therein," in line 6.

The amendment was agreed to.

Mr. VARIAN. Mr. Chairman, I move to insert after the word "office" the words, "in the municipality granting such charter or franchise."

The amendment was agreed to.

Mr. RICHARDS. Mr. Chairman, I move to strike out the words, "employe, attorney, or agent," in the first and second lines. I desire to say in support of this motion that while I think it very proper that an officer of a corporation should be prevented from being an officer of the municipality under such circumstances, it seems to me that to provide unconditionally in the Constitution that an employe, or an attorney, or agent of a corporation could not hold an office under the municipality would be a great hardship. I have in my mind as an example the case of a gentleman who holds an office now in this city. He is a member of the city council. He is attorney for a railroad company that has a franchise for a track that runs through some of the streets of this city. There is no reason in the world that I know of

why that man should be any more influenced or biased in his actions in regard to city matters than there is why I should be or any other man in this city—none whatever. He is an efficient member of the city council. This franchise was granted ten years ago or thereabouts. There are no relations between the railway company that he represents and the city that would tend to influence him in any way, shape, or manner. Now, why should he be excluded from holding an office under the city?

Mr. BUTTON. May I ask the gentleman a question? Will all the attorneys for all corporations be the same as this one you just spoke of?

Mr. RICHARDS. Well, I do not know. I am saying that the section as it now stands excludes that kind of a case; in other words, it would exclude that person from holding office.

Mr. BUTTON. If you let him in, wouldn't you have to let in all the rest?

Mr. RICHARDS. I do not know what you mean by all the rest.

Mr. BUTTON. Well, any one?

Mr. RICHARDS. Yes, if you say any one who represents a corporation under such circumstances as that ought to be in I say no; I say that a person ought not to be excluded under such circumstances, whether it is this man or any other man. Furthermore, I say that a man who works out here on a railroad, where the company has a franchise through the city, and because the man may be a section man—that may be his employment, working on the roadbed of that railroad, and I say that is no reason why he should be excluded. This section is just that broad, I say, that it excludes all that class of people. Now, I am willing that the section should be made strong enough to include officers of these corporations. I think that would be proper, but to make it include every man that works for the corporation, it seems to me that it is carrying it too far, and especially in a constitutional provision. If it was a statute, it would not be so bad.

Mr. KERR. What is the object of putting in "agent of the corporation?"

Mr. RICHARDS. Well, I am not so particular about the striking out of the word agent, although it occurred to me that might probably be stricken out, because men who come as agents are not necessarily influenced to that extent that they would be biased in those matters, but then I will limit, for the purpose of testing this question, my motion to striking out the words "employe, attorney."

Mr. BUTTON. Mr. Chairman, I amend by striking out the word "employe."

Mr. BOWDLE. Mr. Chairman, I have not very much objection to striking out the word employe. I don't know as I would stand on that, but I would object, if we have anything at all in this section, to striking out attorney. You might just as well put the president of the company himself in the city council as his attorney, and, in fact, I don't know but I would rather do it. I do not think that the case Mr. Richards cites is a case that ought to have very much bearing upon this question. He says here is a corporation that has a franchise through this city, and it would be unfair to exclude the attorney that represents that corporation. Why? If we are going to exclude him for this reason, that the corporation stands in just the same position that it might when a further extension of franchise, and the attorney would be standing there to represent that. I am opposed to the striking out of anything more than employe. I would favor the striking out of the word employe, and then that is a little broader than I like.

Mr. EVANS (Utah). Mr. Chairman, I am opposed to these amendments, both of them. If this Convention wants to get my vote to strike that whole thing out, all they want to do is to carry this

amendment. Then I am ready to move to strike out the whole thing. If we are going to undertake to curtail what this is intended to do, let us do it clean cut, without any whipping around about it. I am in favor of retaining it just as it is, and I am opposed to all the amendments.

Mr. SQUIRES. Mr. Chairman, I would like to ask the chairman of this committee if, under the circumstances, he has any objection to having the word employe stricken out of that section?

Mr. JAMES. Why, Mr. Squires, no, I have not.

Mr. SQUIRES. Then, I will support that amendment.

Mr. MALONEY. Mr. Chairman, the object of striking out the word employe is to allow the men who work daily or by the month for the corporations, to be elected under the city charter. Now, if you strike out the word employe, then the gaff is down. These men are not regularly employed like attorneys, by the year. They can very easily quit the employment of the corporation. I am opposed to both amendments.

Mr. ROBERTS. Mr. Chairman, I am opposed to the amendment for the reason, as suggested by the gentleman who last spoke, that you make a breach in the wall of defense that we build around our corporations in this instance, and I must state that it would result in mischief. I believe the principle upon which this section is founded is a good one. I think it ought to be enforced all along the line as indicated in this section. Gentlemen, remember, in the article on legislative we were very careful to exclude from the Legislature men holding office in the State or county of a certain grade, and the principle of it was to free the Legislature from those men who might be influenced in their conduct as legislators in favor of the interest that they would represent in their official capacity. And now, sir, the purpose of this section, as I understand it, is to exclude from the municipal council those who might work in the interests of these corporations. There is no danger much of the common employes, such as the section hands, to which reference has been made, of these corporations being elected to the city council, or to any other municipal office. But if they were elected, you could take it as a matter of course that they were going there as the creatures of the corporations in which they were employed, and there is no danger, however, unless it should be in the case that I have now cited—the corporation, having a man elected there that it would own body and soul, and who would be a mere creature of that corporation. Otherwise, there is no danger of men engaged in the ordinary pursuits of an employe in a corporation ever getting into the city council, and I shall vote for this section as it is, and preserve the municipalties from the danger that this section seems to provide against. It ought to be just as it is. The attorney ought to be excluded; the agent ought to be excluded; the officer of the corporation ought to be excluded, and so had the employe ought to be excluded, as the great probability is he would never get there unless he was sent there as the creature of a corporation, and would be just as dangerous as any of the other officers, because he would vote just as he was directed to vote, under the circstances, by that corporation.

Mr. JAMES. Mr. Chairman, the principle of course will be conceded by this Convention as being correct, but I want to say to this Convention the one trouble that arises is to cover the whole field. If the committee on corporations had attempted to do it, of course it would have got into deep water again. It would have been legislation. I want to say to you, gentlemen of this committee, right here is where the root of the great evil in incorporations originates. I have served in some councils

myself, and I have some opinion of difficulties and troubles that we had to contend with. It goes further though, Mr. Chairman, than what this section provides for. This simply provides for municipalities, or is intended to. I think perhaps the wording of the section should have been with a little more care and then it would have been better understood, but it is pretty well amended now, so it will be understood. But, Mr. Chairman, the evil of to-day in corporations is that the managers of those corporations, running businesses within themselves, taking contracts, providing supplies, and so on, that they are making money out of it, and the stockholder is not. Now, there has been a good deal said on engrafting into this article legislative matter. Why, my friends, I do not know why you say so much about that. If you had kept track of the article that was introduced on the fourth day of the session of this Convention, to be inserted in the Constitution, you would have found an article, in place of thirty-eight sections, as in that, with about sixty-eight sections, and I say the article was complete. You find if you go to the constitution of Missouri, it did not only take care of the municipalities, but they said that no employe of any corporation should be engaged in any contract in supplying the corporation with any supplies or any other business, through which he should receive any emoluments, excepting such as was provided by the officers of that corporation. So far did they go in the constitution of Missouri, to protect the people against just such provisions as we are trying to protect them against in that little clause there.

Mr. MORITZ. I would like to ascertain what other state has a similar provision in its constitution.

Mr. JAMES. I do not know any.

Mr. ANDERSON. Mr. Chairman, I think that these words should be stricken out. I think the cure this section intends to make is worse than the disease. This might exclude the very best men in the municipality, and in many cases would exclude the majority of the voters of the place, and I do not think that this should be placed in the Constitution. I think that the principle is vicious, that it restricts the rights of the citizen.

Mr. EVANS (Weber). Mr. Chairman and gentlemen, I just want to call attention directly to the purpose of this section. It simply is designed to prevent the election of any person to a municipal office who is an officer, employe, attorney, or agent of any corporation, that has received a franchise from the municipality. That is the real purpose of it, and the underlying principle in this section is undoubtedly a correct one. To strike out "employes, attorneys," would be as the chairman said this morning respecting another matter, taking the teeth out of the section. You know, gentlemen, that if you permit an attorney of one of these corporations owning a franchise, to be a member of the city council, he would be more dangerous than the president of the corporation himself, or any other officer in it. He would probably devise means by which benefits would be derived which other officers of the company could not. And in that, it would be doing violence to the section to eliminate the word attorneys, because, gentlemen, an attorney would act in the city council as an attorney of his corporation and as the officer of the city, in a dual capacity. I say that word ought not to be stricken out, neither should the word employe be stricken out, because it is just as dangerous to have an employe in the service of a corporation owning a franchise, sitting in the city council, as to have his principal; he will do his bidding anyway. He would be under the constant fear and dread of his employer and of being discharged from service, if he did not vote in the interest of his company

when he was casting his vote in the municipality. Gentlemen, these men who sit in city councils and take part in municipal governments ought to be there in the interests of the people and not in the interests of any particular corporation that has received its franchises from the city. The principle itself is right and the section ought to be retained.

Mr. ANDERSON. I would like to ask the gentleman a question, if a wealthy man doing the same kind of business as a corporation in the city—should his employes or attorneys be treated in the same manner?

Mr. EVANS (Weber). Could not the wealthy man have his agents in the city council, you mean?

Mr. ANDERSON. Could not not he, under this? A wealthy man could do business without incorporating, that would not affect his agents.

Mr. EVANS (Weber.) That is quite true; we are simply dealing with an evil which we know has existed, and we are trying to put a limitation upon that and prevent it. The other evil has not yet arisen.

Mr. SMITH. Mr. Chairman, I trust that this section will not pass in the form in which it is. I think that any person that is doing business in a corporation whether of a private character or what the conditions are, should not be proscribed from holding an office, and by this means so far as practicable, take every man of good common sense out of the reach and manipulation of city concerns; it strikes me this section is of that character and aims a blow at the best interests of the municipalities, and so far as I an concerned, I shall vote for the elimination of the whole business.

Mr. CREER. Mr. Chairman, I shall be obliged to vote against either of the amendments, and against the section the way it is constructed.

The CHAIRMAN. There is no motion before the house to strike out the entire section.

Mr. ANDERSON. Mr. Chairman, I made the motion to strike out the entire section.

The amendment of Mr. Button was rejected.

The amendment of Mr. Richards was rejected.

The CHAIRMAN. The question now recurs upon the motion of Mr. Anderson, to strike out the entire section.

Mr. MORITZ. Mr. Chairman, I would like to say a word on the subject. If I understand this exactly right, it means to disfranchise a certain class of people in this Territory. Now, I am opposed to disfranchisement. I believe this Territory had enough of that. I believe that we can trust the people who they shall elect, and when they send a man of ability. If we cannot trust the people, why it is about time we quit politics, and therefore, I am opposed to the whole section, and I hope that the striking out of that section will prevail, and do not let us have any trouble in this country about disfranchisement. We have had enough of it.

The motion to strike out was rejected.

Mr. VAN HORNE. Mr. Chairman, I move to strike out the words, "in this State," in line 4. My idea is that we are only legislating for this State. We could not legislate for any other state.

Mr. VARIAN. I agree with the gentleman.

The amendment was agreed to.

Mr. FARR. Mr. Chairman, I have a section I would like to put in, or an amendment, and I really do not know whether to put it into this section or at the end of the article. I have looked this over pretty well. Most of the things in this article have been provided for in other articles that we have already passed through in this Convention. And I would like to put an amendment; as I said, I do not

know but I had better put it in at the close of this, but I feel that most of the provisions in this article have already been provided for in other places, but I would like to see this article gone through with and made plain, and every point brought up in it that is necessary to make it complete, although I am satisfied that the Legislature has a perfect right to demand all this business and will do it, but I think it is a very important amendment, to put in here, which I hope will prevail, although I do not know that it is necessary to put it in here now, but the amendment I wish to put in is to strike out the enacting clause. [Laughter.]

Section 22 was read.

Mr. JAMES. Mr. Chairman, I move to strike out, after the word "control," in line 9, down to and including the word "companies," in line 14.

Mr. EVANS (Utah). Mr. Chairman, I move to strike it all out.

Mr. JAMES. Mr. Chairman, the reason I ask to strike that out is, that I ascertained since I put that in that it would be impossible for the stations along the railroad in the country to furnish the same facilities to more than one company; that the telegraph operator, and the agent, and a whole lot of other matters are combined in one individual, and they would be unable to accommodate them with these facilities, and consequently it might work some hardship, and, therefore, I would ask to strike it out.

The amendment of Mr. James was agreed to.

Mr. VARIAN. Mr. Chairman, the motion to strike out should not prevail. I desire to offer an amendment after the word companies, in line 16, to insert "under such regulations as may be prescribed by general law."

Mr. VAN HORNE. Line 3 provides for an individual, and an individual is expected from the requirement that he shall transmit those messages.

Mr. VARIAN. I am not dealing with that question now. I am dealing with the provision in regard to eminent domain. As it stands, here is a constitutional declaration, without any limitation whatever, extending it to all telegraph or telephone companies. That might make it extremely inconvenient. My idea is that the Legislature ought to prescribe general regulations by general law, by which all telephone companies and telegraph companies could operate. If you leave it just as it is, here is a constitutional mandate which is broadly extended to all companies. Now, that ought to be circumscribed, it seems to me, so that the general law would make a general rule for all these companies, in like conditions, and under similar circumstances.

The amendment of Mr. Varian was agreed to.

Mr. SQUIRES. Mr. Chairman, I move to insert after the word companies, in the fifth line, the words "or individuals."

The amendment was agreed to.

Mr. EVANS (Utah). Mr. Chairman, one reason that I am in favor of striking this section out is that we are getting a very cumbersome Constitution. It is going to be very expensive to get it printed, and I cannot see that it is going to be of any particular use. It is purely legislative from beginning to end, and I think it is of that class of legislation that ought to be left to the Legislature. It is true there are a great many other things in this Constitution that are legislative also, but I think this ought to be stricken out and leave it to the Legislature to make those regulations. There is no question but what they will do it.

Mr. CORAY. Mr. Chairman, I move to strike out all after the word companies, in line 16, not including the amendment proposed by Mr. Varian.

The motion of Mr. Evans, of Utah, was rejected.

Mr. VAN HORNE. Mr. Chairman, I move to strike out, beginning after the

word "discrimination," in line 7, the words, "and all such companies are hereby declared to be subject to legislative control." That is fully covered in section 1.

The amendment of Mr. Van Horne was agreed to.

Mr. EVANS (Weber). Mr. Chairman, I want to propose an amendment to line 7, after the word "without," by inserting the word "unnecessary," so as to make it correspond with the section amended formerly.

Mr. CANNON. Mr. Chairman, I move to make the transposition made in the other section, "no discrimination or unnecessary delay."

Mr. EVANS (Weber). I accept that.

The amendment was agreed to.

Section 23 was read.

Mr. EICHNOR. Mr. Chairman, I move to strike out section 23.

Mr. RYAN. Mr. Chairman, I desire to offer an amendment to that section, if it is in order, and I will explain it as well as I can. I would strike out all after "generally," in the fourth line, and I would add at the commencement of the section, "except to its own servants employed in well established lines of work, no railroad or other transportation company shall grant free passes or sell tickets or passes at a discount or extend free transportation to the person or property of any person." I would not limit the railroad company to granting free passes to public servants, but I would entirely do away with that abuse. That is what I am after, and I would make the railroad companies serve everybody exactly alike.

Mr. CANNON. Mr. Chairman, I am in favor of striking out. I trust the motion will prevail.

Mr. FARR. Mr. Chairman, and gentlemen, I think we can cure the whole section by killing the motion to strike out.

Mr. EICHNOR. Mr. Chairman, I desire to say a few words with respect to my motion. In the first place, I am not a pass fiend. I have only traveled between two points free in my life, and that is between Salt Lake City and Logan City.

Mr. EVANS (Weber). Do you ever expect to in the future?

Mr. EICHNOR. I don't know, and if I hold any office in the future, I shall not deem it a bribe if I have a pass from the railroad company.

Mr. ROBERTS. You had better serve that notice on the railroad.

Mr. EICHNOR. I am opposed to this section. In the first place, it is legislation of the purest kind. The first idea of this was sprung in South Dakota and in the state of Washington. The New York constitution of 1894 followed suit; Kentucky, in 1891, too, did likewise; Mississippi has a similar provision. Now, at present, what is the effect of the constitutional provision in the state of New York? Why, the railroad companies are defeating the provisions of the constitutional enactment. It is simply ineffectual. Gentlemen who argued on this floor the other day that prohibition could not be enforced—I tell you, gentlemen, that this cannot be enforced any more than prohibition. If prohibition cannot be enforced with all the officers watching, how can you enforce this? I am not a railroad employe; I am not an attorney for a railroad; I am not connected with the railroad in any way, shape, or form. Now, I do not deem that the strongest ground is because it is legislation, or because it is ineffectual, that it should be stricken out, but there is a higher principle involved in this. Are we to treat every officer as willing to receive a bribe from a transportation company? Suppose a gentleman from the outside—I see my friend, Mr. Chidester, over there, and Mr. Allen, of Piute; suppose they would be here on passes; why it would be impeaching their honesty to say that they would legislate or make constitutional enact-

ments in favor of the railroad companies.

Mr. CHIDESTER. I would like to ask the gentleman a question. Did I understand you to say we had passes?

Mr. EICHNOR. No, sir; I simply said if you had.

Mr. VARIAN. May I ask the gentleman a question? What is the purpose of railroad and other companies' receivers giving passes to members of the Legislature and public officers?

Mr. EICHNOR. Not any more than if I had a carriage, and I asked Mr. Varian to take a drive with me to Saltair Beach; that is the secret of it.

Mr. SQUIRES. Do the people regard it in that way.

Mr. EICHNOR. I do not care how the people regard it. That is the way I regard it. I have held public office, and I have never had a pass, never asked for one, and if I had a pass I would have acted the same towards the people as I did. This thing of trying to make people honest by legislation is simply nonsense.

Mr. VARIAN. Mr. Chairman, I will agree with the gentleman; you cannot make some people honest by legislation.

Mr. EICHNOR. That may be correct as far as the gentleman is concerned that made the remark. He has held office. Now, to be serious in this matter, gentlemen, what will it show the future generation? It will simply show that we have no confidence in our legislators, and in our public officials. The practical question comes, has this matter been abused in this Territory? I never heard that it has. I do not think any one else has. If it becomes abused, the Legislature can step in and make the provision. If it has been abused in some other state why the Legislature can deal with it. I have been in another state where they have had large railway companies, and we had no legislation on it.

Mr. SQUIRES. Would the gentleman like to have the next Legislature come here to Salt Lake and hold its session on railroad passes, and then charge up mileage against the Territory?

Mr. EICHNOR. Yes, I do not care. If they can get a pass and take the mileage, I say go it.

Mr. EVANS (Weber). Mr. Chairman, that is a matter that I introduced something to be inserted in the Constitution, among the first days of the session, on, and I am somewhat particular about it. I am not going to talk more than a moment or two, but I am going to ask one or two questions. Gentlemen who are going to vote upon the floor of this committee, just answer these questions: Why is it that railroad companies always give passes to the members of the Legislature? Why is it that they always give passes to the board of equalization? Why is it that they always give passes to the judges, and why do they give passes to the governor, and these other officials? Why do they confine themselves to these particular classes of public officers? Do you not think there is method in the extension of this courtesy on the part of these companies?

Mr. HILL. May I ask the gentleman a question? Is it a fact that passes are only granted to those officials—legislators, governors, and officers of that kind, and them only?

Mr. EVANS (Weber). No, sir; it is not. I am calling attention to this particular class of officers who have it in their power to benefit railroad companies by their actions. The governor can veto measures which are against the interests of corporate power. The board of equalization can assess at a lower rate the property of corporations. Legislators make the laws which affect corporations. Assessors assess the value of the property of corporations, and I call attention to this class of people, for the purpose of showing you that in every instance that class of people receive this courtesy from these corporations. Now, why is it? And another thing, gentlemen of the com-

mittee, this class of people are usually the best able to pay transportation. The questions answer themselves, that they extend these courtesies for the purpose of influencing these particular officers in the interests of railroad corporations. Why is it that the recent trend of legislation is against the right of corporations to grant passes to public officers? Why is it that New York has recently, in its constitutional convention, made the most stringent provisions against it? Why have Kentucky and many of the other states done so? Not the least, gentlemen, in importance of those I have called your attention to, is the case of judges who sit upon the bench. What particular motive has a railroad corporation to extend the courtesy to that class of officers? Why, gentlemen, they sit daily upon the property interests of corporations. They have the right to reduce judgments when they are rendered. They have the right to grant new trials. They have the interests of corporations in their hands, and such officers also receive these courtesies; it is an incidental bribe; it is intended as such, and it is not impeaching the integrity of any man, either, to say so. I believe that officers believe themselves honest. I believe that they honestly believe they are not influenced by the extension of these courtesies, but they are influenced unconsciously in many cases. I believe that legislators are unconsciously influenced in the same way, assessors are influenced likewise, and so are other officers. Now, gentlemen, I believe this provision to be in the interests of the public, in the interests of the people, and I do trust that this committee will not strike out this section.

Mr. LUND. I want to ask the gentleman why he left out sheriffs and ministers? What good could the ministers and sheriffs do corporations?

Mr. EVANS (Weber). They want the sheriffs of course to protect their property and bring people to justice who have interfered with it. I do not know that they could benefit the corporation in any other way. So far as ministers are concerned, I do not know as a general rule that they could get passes; some of them do; they get rates, however.

Mr. RICKS. I want to ask the gentleman if he thinks for a minute that railroad companies will be guilty of trying to bribe Heaven by passing ministers?

Mr. EVANS (Weber). I suppose the gentleman has asked that in a joke. I believe if these corporations could secure a pecuniary benefit they would even bribe the angels.

Mr. EICHNOR. Mr. Chairman, assuming that my friend, Mr. Morris, of Salt Lake City, would have an annual pass from the railroad company, and he should happen to be elected to a State office, could he use that pass, as a private citizen, or would he be barred altogether by this?

Mr. EVANS (Weber). I do not say it is a direct bribe. I say incidentally it is.

Mr. EICHNOR. Would not he be barred from riding on that pass?

Mr. EVANS (Weber). Certainly he would and ought to.

Mr. EICHNOR. Would not the effect of this be to put more money into the pockets of the railroad than they paid out?

Mr. EVANS (Weber). Probably, in one way, the railroad company would receive more money. In another way it would receive a good deal less, and that is very apparent, without going into detail.

Mr. ANDERSON. Mr. Chairman, I think this section should be stricken out. It is legislation pure and simple. I am surprised at some members on the floor who seem to me so tenacious of the rights of individuals in some instances, while in other cases they will go so far as to disfranchise them to a

certain extent, and tax them without representation.

Mr. RALEIGH. I wish to ask the gentleman from Weber a question. Mr. Evans, provided this section should pass as reported from the committee, and the Legislature should enact a law providing for the carrying out of this proposition in this section, do you suppose it would be enforced any more against a railroad company or transportation company than it could be enforced against you or me or anybody else in making a donation to that effect —that is, to the effect of a pass?

Mr. EVANS (Weber). I do not know whether I exactly understand your question.

Mr. RALEIGH. I will state it differently. Do you suppose that you could prohibit by law the giving away of anything by a corporation any more than you can an individual?

Mr. EVANS (Weber). I think it will have a restraint upon them. I do not know that we can prohibit them, because, as it has been stated, we cannot prohibit crime; still we can make laws against it.

Mr. RALEIGH. Can it be enforced?

Mr. EVANS (Weber). They are enforcing it in New York, I believe, and in Kentucky. Of course, I do not say that they enforce it completely, but it is a restraint upon them, just as far as any other law.

Mr. BOWDLE. Mr. Chairman, there is just one reason why I am in favor of striking this section out, and that is the intent of it cannot be enforced, and it would debar persons from enjoying the same privilege occupying the same position. Suppose you pass this law. Now, a conscientious legislator under this would not accept a pass. If he were to accept a pass, if this were not here, that kind of man would not be affected at all one way or the other. You cannot buy that kind of man with a little pass from here to Washington County or anywhere else, but the kind of men that the corporation could use would get the pass if you put this in here. They would get around it. Therefore, I say that the very men that you are seeking to enforce this against you cannot do it. It would not be a written pass, probably; it would be a whispered privilege, to the conductor, "you let this fellow go up there; he is all right," and pass them all. Now, that kind of a fellow would get through and you could not say that that was a pass, and that is the very kind of an element that would be bought by the railroad corporations, and the man that accepts the pass—an honest legislator would not take it, if this stood there, because he would be disobeying the law, and therefore would not accept it, and there is the reason why I am opposing it, and in favor of striking it out.

Mr. FARR. Mr. Chairman, I hope this section may be allowed to remain. It is well known that I am a friend of building railroads in this country, and have done more probably financially than any other man in this Territory. Hence, I am a friend to railroad companies for this reason; I would like to have this section remain, because if this section would remain, it would save thousands and perhaps hundreds of thousands for the Utah Company, as well as the S. P. Company, because when men come to them for a pass by scores and perhaps hundreds, they say, we cannot, because we are prohibited by law. I hope that section will remain and give the companies a chance to get this money.

Mr. L. LARSEN. Mr. Chairman, I am afraid there are too many of the gentlemen right here that would accept a free pass. For the same reason, I am afraid to leave it to the Legislature for fear they would do the same thing. Up to date, they have passed no law against it. I say it is a discrimination; it is wrong in principle, and we should not sustain it. That is my idea about

it. I have always thought so for many years. Talk about that men won't accept it. I know of a great many all over this Territory—lawyers, etc. The people are tired of it. I think we ought to sustain this section. It suits me all right even with the amendment to it.

Mr. SQUIRES. Mr. Chairman, I am in favor of this section as it stands. I believe it should be adopted. During a little experience last fall in going around this Territory during the campaign, I noticed that on every railroad train where I had to pay my fare there were certain territorial officials, who were upon the same business that I was, that were riding free, and that was a discrimination that did not suit me at all at that time, and I believe it is a discrimination which should not be made. I am in favor of this section just as it stands.

Mr. EVANS (Utah). Mr. Chairman, I hope this motion will not prevail to strike this section out. These corporations have gone into business for the purpose of making money out of it, and every pass they give, they are going to keep up the rates on people who pay. They make about a certain per cent. out of their traffic, and every time there is a pass given out, and when there are numerous passes given out, they are required, in order to get the same per cent. out of the money invested in that business, to make men who pay for it pay a greater rate, and I am opposed to it. Now, it has been said by gentlemen upon the other side that they don't think it makes any difference. I submit to you, gentlemen of this committee, that if you want to gain influence of a man, you simply want to be good to him, and be kind to him. There is no one of you here but knows that that is your own experience, and if persons are kind to you by doing favors towards you, why it is in the human heart to be drawn out and have a tender feeling towads that class of men and that class of people, and this is its effect, just to that extent.

Mr. ROBINSON (Kane). I would like to know what the gentleman thinks about the kind of feeling that has been shown by this article to railroad companies, when half of us are here on passes?

Mr. EVANS (Utah). I propose to stop it in the future, and when we come up here again, let us pay our way, so that some poor fellow won't have to pay it for us. There is a another thing that I want to submit to this committee. Sometime ago there was a law passed whereby the power of equalizing the taxes of the railroad companies was taken out of the hands of the county courts in this Territory, and after that was done, I submit to you, sir, that the passes ceased to come to the county courts. Now, you can make of that just what you are a mind to, but that is the fact. As soon as the power was within those county courts to pass upon the equalization and the raising or lowering of those values, by the county courts, those passes came, and I was the recipient of them for two or three years. I accepted of it, that is true, but as soon as that came into operation they ceased and stopped.

Mr. THURMAN. And now you are opposed to them?

Mr. EVANS (Utah). And now I am opposed to them. I submit to you, gentlemen, this is the fact and you can draw your own conclusions. I submit to you that the power was placed in the hands of an equalization board, composed of officers of the Territory, but that their passes kept coming. They continued to come. Now, you can make out of this what you want to; and another reason why I am in favor of this section particularly above all sections we placed in this Constitution—my friend, Mr. Eichnor, says it is pure legislation. Mr. Anderson says it is pure legislation, and I would like to

have a section in there which is pure legislation, and I believe that is.

Mr. MORRIS. Mr. Chairman, I am in favor of striking out this section, because I believe it to be a dead letter. If the railroads want to bribe they can find other ways to bribe than to give free tickets or free passes. There are many men who are doing very extensive business for the railroads—mining men, and they have passes; that is true. Such men may be called to the Legislature, and they would have to refuse to accept of that favor, and I believe it would be better to strike this section out entirely. I do not believe it would be any good.

Mr. CORAY. Mr. Chairman, I have a substitute for section 23 I would like to offer.

The CHAIRMAN. Mr. Coray, that substitute would not be in order just at this time.

Mr. RYAN. Mr. Chairman, I have enjoyed the efforts that have been made—what I could hear. I have not been able to hear all of them, but now I wish to say a word in my own way in support of the amendment that I offer. I think it is conceded, and it is conceded by this Convention, at least in former sections of this article, that the Legislature has full control—in other words the people have full control of corporations of all kinds. Corporations are all around creation; they occupy our public lands, our public roads, and our streets under certain conditions. They occupy the property of the whole people, not of one class of people, and as a people we are interested in their economical management, and their just and equal treatment of all people. Every citizen should stand alike, and I think it is the duty of the State to make all corporations of that nature, especially public carriers—to treat all its citizens exactly alike. There is no reason why we within this bar should be granted passes and those outside made to pay their fare, because every citizen or every person that the railroad company carries free, you or I, who pay our fare, must pay that much in addition. Hence, I say it is the duty of the State, as I look at it, from my standpoint, that every citizen should be treated alike, and it is the duty of the State to compel all public carriers to treat its citizens alike. Then we stand on the same footing. Because the railroad companies, in the first place, never grant special privileges, except they expect something in return, and they never grant special privileges only to those who are in authority, or who are rich or powerful. You exclude the common people from the benefits that you otherwise have, if everybody was treated alike and everybody paid alike, for all services rendered by any public corporation. Now, it was with that idea in view that I offered my amendment, and I don't think possibly the members fully understood the amendment as I intended to offer it, and I will write it out in full soon.

Mr. THOMPSON. Mr. Chairman, from what I hear, I should judge that the members of this Convention consider the railroad corporations very hard cases. They all seem to intimate that everything that the corporations do they have an idea to effect something, or bring to them something in an unlawful way. Now, I do not view the matter in this light. I think the corporations that are formed and carrying on business in this country as a rule—I think their object is to do business in an honorable way, and to say that they will not grant a favor to any officer of the country, it seems to me is going a little too far. I think they should have the same privilege that any individual has to grant favors whenever they choose, and if it is discovered that they have been using means to bribe any public officer, then it is time to condemn them, and I am in favor of striking out the section. They are a public benefit to the country, and, as a rule, I

do not hold that they take advantage. I do not think that they charge more to people because they give some half rates. I think they have uniform prices, whether they give many free or half passes or not. I do not think it makes any difference, but they want to confer a favor on public officers, as we all, as a rule, feel to honor officers that the whole people have chosen, and I do not think that we should consider that any man that is holding an office that accepts a favor of this kind, would any way be thought that he would favor them and change his opinion in regard to what is right, in regard to that corporation. I think that the officers that the people of this Territory will choose to fill their offices, will be men of honor, and they will receive it as a favor because of the office they hold, and not view it that the corporations are doing it that they may favor them. Now, I do not feel to condemn them in that way—that are organized in companies.

Mr. LUND. Mr. Chairman, I do not believe that we can enforce this section at all, not even if we should add to it the language of section 17, which says that "and shall enforce such laws by adequate penalties." I do not believe that even that at the end of this section would make it hold in all cases. For instances, you take an excursion, and every person there is guaranteed a special rate, because it is of special advantage to the railroad company to have its cars filled. Now, from Sanpete County to Saltair last year, I believe they traveled for $2.25 for the round trip, and those who got on the train to go to Salt Lake had to pay $8.50 with no privilege to return. Now, if our sense of justice and equity is very keen, that would be a very great discrimination; but how could we get at that discrimination? What is a special advantage to the railway companies will be that to which they will cater, and we cannot help it, I do not think, by this section, and I for one, would like to see it stricken out.

Mr. HART. Mr. Chairman, I am in favor of the motion to strike this section out. The section as it stands was no doubt intended as being against the interests of the railroad companies, and yet I doubt not any railroad company in this Territory would feel bad for a moment, or any of their officers, if this section were to remain. What member of this Convention felt that a bribe was being offered him when half fare rates were offered? What member of this Convention did not deem that a courtesy, and did not feel that the company might just as well have gone further and given full transportation? Is there any member of this Convention who has been influenced in any way in this matter by accepting the courtesy of a half rate from the railroad company? With the State officers made members of so many boards, necessitating traveling all over the State, if they should be denied the privilege of free transporation, the result would be that it would take a large part of the two thousand dollars that we allow our governor for traveling over the Territory connected with the various duties of his office. I do not think for a moment that it would influence him.

Mr. EVANS (Weber). Do not these officers get their mileage out of the treasury of the State anyway?

Mr. HART. I may be wrong about that.

Mr. EICHNOR. It says the Legislature may provide.

Mr. HART. If there is to be any legislation on this subject, however, I think it would be well to leave it to the Legislature and not put it in the organic law. To my mind, it is a provision clearly in the interests of the railroad, and they will appreciate this favor, I am inclined to think, if you will relieve them from the constant annoyance it has given to have various people, officers, etc., soliciting transportation.

Mr. EVANS (Weber). I would like to ask you why it is that railroad companies issue passes to judges and the board of territorial equalization in this Territory?

Mr. HART. Well, the situation seems to me about this: Officials expect favors of this kind and they are not influenced by it in favor of them, but if you would withhold from them something which they thought the railroad company should give them, they might go further and be inclined to do an actual injustice, and the railroad companies, for not extending a privilege which they have come to look upon as a matter of course and as a matter of right, will suffer.

Mr. EVANS (Weber). Then, your idea is that the railroad companies extend these passes, so that the judges will not do them an injustice, is it?

Mr. HART. No, I do not say that. But that perhaps woud be so with officers in general, if a railroad company, having the privilege to extend a courtesy that they regard as being a matter of course, should deny it to them.

Mr. MALONEY. Do you suppose for one moment that the Legislature, coming here, every one of them, with tickets in their pockets, would ever pass anything restrictive on railroad companies?

Mr. HART. Yes, sir; do you think for a moment that any member of this Convention has been influenced by the half fare rate that he was given? Do you think any member of this house would be influenced if full transportation had been given? I would not like to think for a moment that any member upon this floor would accept a bribe in that way, and would be influenced, and if the railroad corporations engage in this general bribing business I ask you why they did not, when the organic law of this State was about to be framed, when matters either favoring or discriminating against them were to go into this instrument, why did they not commence the bribery business in this Constitutional Convention? Have you seen anything of the kind here—any attempt on their part to influence your action?

Mr. MALONEY. The question that the delegate put answers itself. The railroad company, when the passes issue, expect value received. Now, as to the delegates of this Convention, I can answer the gentleman's question. I want to say to you that for ten years, being a resident of this Territory, I have tried every Legislature to get something passed in the interest of the farmers along the railroad track. I was met in every instance by legislators and attorneys of railroad corporations in the Legislature, all of them with free passes, and not a single bill could I ever get passed in the interests of the farmer against railroad companies. I am opposed to this pass business from beginning to end. Whenever the railroad company can place passes in the hands of the judges, the governor, and the State officials, it expects value received, and it generally gets it.

Mr. KIMBALL (Salt Lake). Mr. Chairman, I understand the situation. Our votes indicate that we are willing to accept any passes. I want to say that we will do no harm in taking everything we can get from the railroads. I will say that every member that may be assisted by a pass will benefit the people, because there will be that much more of the circulating medium amongst us, while if the railroads got it, it may go out of the country. And as for the transportation, there is a schedule—there is a tariff on their mileage for passengers, which would not make any difference if they passed every official in this Territory or country over. It would make no difference to the general public. Now, as to the amendment of the gentleman on my left, I want to say that the business men of this Territory do thousands and tens of thousands of business over

those railroads annually, send men out from one end of the country to the other, drum up business for them, making transportation for them, that they ought to be willing to give those men passes, but they don't get any consideration at the present time, except to buy mileage. Now, I don't think that there is any honorable man in this Territory that we may elect to the Legislature or to other positions, that is likely to receive these considerations as bribes. I think, if there is any prohibition to be placed on this proposition, that you can place it upon the man who receives the bribe. I look upon it the same as I do the liquor traffic. Let us go to work and train the people morally that they will not accept of this bribe, rather than that we should prohibit them giving bribes.

Mr. RYAN. Mr. Chairman, I did not mean to offer any objections to men receiving passes. That is all right if men receive passes. I object to the system, simply. I do not think that we, as a people, should extend that privilege to railroad companies, of giving passes. Now, I don't think it will make any difference with the members of this Convention and their action at all, whether they rode here on passes or not. But speaking about business men riding over the Territory, that is all right. I am a business man. I have spent possibly in the last five years, twenty thousand dollars in prospecting in this Territory—or more. I have always paid my fare. Yet I go into Tintic and two-thirds of the people that ride in with me have passes. Well, now, supposing they all paid, what would be the difference? Why, I would be riding cheaper. You would be riding cheaper. I say that every pass extended to any person makes you and me pay that much more. I say it is wrong in principle. The principle of prohibiting railroad companies from the right of issuing passes is growing. Twenty years ago, we did not think anything of it, to our state and county officers, it was all right, if any one could get a pass. They were smart. Now, states are legislating against it. Some states have gone as far—Pennsylvania has prohibited passes altogether in her constitution. Now, all states and all people are thinking of this question. We will soon be there, if we are not ready in this Convention. We will soon be ready to prohibit all passes and all that system. It is to the interests of the whole people that it should be done, not to one class. If we go on as we are, we simply recognize the right of corporations treating a class of citizens different from another. It is wrong in principle.

The amendment of Mr. Ryan was rejected.

The motion to strike out section 23 was agreed to.

Mr. Coray offered the following to take the place of section 23:

No person, holding office under the State of Utah, shall ever be permitted to accept of a pass or discount on the regular fare charged by the various transportation companies within the State. Any violation of this provision shall be deemed a felony.

Mr. CORAY. Mr. Chairman, I believe it is a fixed rule in the United States that the officers of the United States are prohibited receiving any present from any foreign country whatsoever, and I think that is the line we should work on. We have been discussing the question from the wrong side entirely, and if we prohibit the members of the Legislature from accepting passes on railroads, the railroads certainly will not grant them.

The substitute was rejected.

Section 24 was read.

Mr. JAMES. Mr. Chairman, I move to strike out section 24.

The motion was agreed to.

Section 25 was read.

Mr. JAMES. Mr. Chairman, I move to strike out section 25. My object in moving to strike this section out is this:

There is only one local insurance company in this city. They are required to be responsible under this provision for their losses. I do not know how many other insurance companies do business in this city, whose stockholders are in foreign places. We cannot enact any law which will hold those stockholders responsible. Consequently we enact a law that discriminates against home industry and in the interest of foreign stockholders. That is my object in striking this section out, and as we proceed in this article under insurance, the amendments that I shall offer will even support my position further than what I have stated.

Mr. EVANS (Weber). Mr. Chairman, I fear that we are going too far in this matter, and I do not see how it is that the chairman of this committee has been converted so readily upon this section which he himself has reported here for favorable consideration. It is a very usual provision in many of the states, in fact in all well regulated states, and it is designed for the protection of those people who take out insurance. It makes the stockholders liable for the insurance when the loss shall have occurred. We simply want to have a Constitution here, it seems to me, according to the spirit, which does not protect the poor man at all. Everything is in the interests of organized combination, of the moneyed power, and we certainly ought not to pass over things in this way. I protest against the striking of it out.

Mr. MALONEY. Mr. Chairman, I am at a loss to know why, on a meeting of the full committee, this section 25 was deliberately agreed upon by every member of the committee, the reasons therefor were given, and without consultation with any member of the committee, as I understand it, the chairman of the committee moves to strike it out. Now, there are no safeguards at all if these stockholders have money in there and the corporation becomes involved, and the policy holders ought to be protected in some manner. This is a usual provision in a great many of the constitutions, and I insist that it remain in.

Mr. CANNON. I would ask Mr. Maloney if he states that these sections on insurance were agreed to by the whole committee without any protest?

Mr. MALONEY. I so understand it. At the last meeting I never understood that there was a single protest from any member of this committee.

Mr. CANNON. I wish to explain that at the last meeting I stated there were several sections I did not agree to, because I did not think they were proper, but I thought they could be amended in committee of the whole as well as there.

Mr. SQUIRES. Mr. Chairman, I want to call attention to the provisions of section 26, and have those provisions considered in connection with section 25. Under section 26 every corporation is required to make a deposit with the state treasurer. Now, why should we make a distinction, and in addition to that make our own local company, the only company we have in Utah, responsible through its stockholders? I believe that is an unfair discrimination against our home company, and I agree with the chairman of the committee that that section should go out.

Mr. JAMES. Mr. Chairman, I wish to make an explanation, as chairman of the committee. The chairman has moved to strike out, after a few consultations with some members that he could reach, but not with a full understanding of the committee, and Mr. Maloney is right as far as I understand it, that we did agree; but I do not think Mr. Maloney would wish to hold me or any other man, after we have investigated and found out we have made a mistake. I say, as Mr. Squires has said, that it discriminates against one company and all the great insurance business that is done here it gives no protection whatever to, it is my inten-

tion to support the striking out of section 26, because we have also discovered that a uniform requirement of all insurance companies in this Territory of a hundred thousand dollars at least would be an injustice, and I do not want to perpetrate any injustice in this Convention on any corporation.

Mr. SQUIRES. Strike out that amount and substitute some other.

Mr. JAMES. I have a substitute here, which, just as soon as we can reach the question, will be considered.

Mr. THATCHER. I desire to ask Mr. Squires whether, if this section is stricken out, the same action would be then had in reference to section 32, which requires banks to be responsible, not only for the amount fully paid up, but a like amount in addition? That is for the safety of depositors, and this is for the safety of those who insure.

Mr. SQUIRES. I submit that banking is a different business from insurance, and we can meet that when we reach it, but I see here an unfair discrimination with section 26 as it stands, against a local company, and I am opposed to that discrimination.

Mr. THATCHER. Mr. Chairman, we are on section 25, and I would like to say a few words on that question. Insurance companies insure business property and residences, not only to the limit of their capital stock, but far above that. Supposing now, there should be a fire that would sweep out a number of insured buildings and wipe out the entire capital stock of the Home company, to which reference has been made. Then ought not the stockholders to be doubly liable, in order that those who paid their money may be protected, just the same in insurance companies as banks? If you do not preserve this section and the Legislature would fail to enact one similar, you will have a good many home insurance companies and a good many bankrupt ones, too, in my opinion.

Mr. KIMBALL (Salt Lake). Mr. Chairman, I believe there is no discrimination against the Home company, but it is going to give them prestige over the foreign companies. If an agent from the home company should come to me and show me this law, whereby we would be protected, or I would be protected, and that each individual shareholder in that institution was liable, by all means I would accept of the home company in preference to the foreign company, and we are going to give them prestige in this respect; consequently, the way I look at it, I am prepared to sustain this section.

Mr. THATCHER. So am I.

Mr. SQUIRES. Mr. Chairman, my own impression is that if this section should be adopted, or should remain there, and this discrimination should remain against the Home company, instead of benefitting it in the way the gentleman suggests, I believe it would succeed in winding up the affairs of the company; that none but foreign companies doing business in this State would have any business.

Mr. BARNES. Mr. Chairman, I agree with Mr. Squires exactly. I think if this discrimination is allowed to be adopted that it will undoubtedly have the effect of winding up the affairs of the Home company. Now, I submit, gentlemen, that for years there has been no law that I am aware of upon our statute books requiring anything of this kind, and there has only been the one home fire insurance company organized. Some gentleman, I believe, made the assertion that there will be a great number of home fire insurance companies organized unless some provision of this kind is made. Gentlemen, there is not sufficient money made in insurance in this Territory to warrant the formation of another company. Already, I can tell you, that the Home Fire Insurance Company has considered the propriety of winding up their affairs by way of insurance, and if you go to work and cripple them, what Mr. Squires has said,

will most assuredly be brought about. I submit, gentlemen, that the Home Fire Insurance Company has dealt honestly and fairly with every one that has insured with it; not one, I believe, who has fairly dealt with the company has been cheated or despoiled. When they have incurred losses, or when they have met with an accident by way of fire, that company has been honorable and expects to be honorable, and will treat the public honorably. Then, why should we cripple them, why should we ask of them that that we cannot ask of these great companies that come from abroad? Why, gentlemen, are you so afraid of corporations? I have sat here and listened to-day and I have come to the conclusion that you all believe the adage, that corporations have no souls. I submit, what is a corporation, if it is not an assemblage or aggregation of individuals? If the individual is honest, if the individuals composing the corporation are honest, then the corporation will be honest, and why should we have such doubts and endeavor to legislate so against corporations, I cannot understand. I take the position, gentlemen, that this is entirely unfair with regard to the Home Fire Insurance Company, and hope that the suggestion of the chairman of the committee, that it be stricken out, will prevail.

Mr. RYAN. Mr. Chairman, it appears to me that that is an improper way to commence that matter on insurance. It does not strike me as being proper at all, and that probably one general section might cover that and banking, directing the Legislature to do certain things. If the section on banking would be amended to embrace insurance companies, and leave the whole matter to the Legislature as a matter of detail, the balance of the matter might go out.

Mr. JAMES. May I inquire of Captain Ryan what he is speaking about? I want to ask him if he is desirous of placing the matter in the hands of the Legislature and letting them deal with it?

Mr. RYAN. Exactly. I was just giving my views on the section covering insurance and banking, that it seems to me wholly unnecessary, and that it did not start in right in one way.

Mr. JAMES. The proposition is this: The Legislature shall enact laws, compelling each company, corporation, association, or individuals, doing an insurance business in the State of Utah, to deposit with the state treasurer of Utah, in money or its equivalent, such sum as they may deem sufficient to protect policy holders, or in lieu thereof, require such companies, corporations, associations, or individuals, to hold unincumbered an equal amount in value of real estate. The secretary of the State has a guaranty fund for the security of policy holders. It turns it over to the Legislature and leaves it absolutely in their power, compelling them to do something to protect the public.

Mr. THURMAN. Mr. Chairman, I am opposed to striking out section 25. A great deal has been said here about the Home company and how this action would affect the Home company. My view of the law is that the Home company would not be affected at all, or any other company organized before the Constitution goes into effect, because we cannot, by a legislative enactment, or by a constitutional provision, increase the liability of a stockholder over and above what he contracted for at the time he entered into the contract of incorporation. That cannot be done. It would be impairing the obligation of a contract, and it is not one of those things that the Legislature has the power to regulate and control after the contract has been made; but it will operate in the future, as to future organizations, and for the good and wholesome reason suggested by the gentleman from Cache County, I do not see

why we should not have that liability attached to the stockholders. It is certainly a peculiar business. It is one in which, by virtue of the exigencies that may exist or occur, the capital stock subscribed will not be sufficient to pay the obligations of the company. It is not like another business in which a company can foresee what its liabilities are going to be, and can guage its liabilities according to its capital stock. It may be thousands; it may be millions; they cannot tell, according to the value of the property it has insured, and it is a proper case for the law to require of the stockholders of the company something more than the ordinary guaranty to satisfy liabilities. And I trust, gentlemen, that we will retain this section if the chairman does strike out the next one.

Mr. WELLS. How do you construe section 2, in connection with your statement that it does not affect the companies now in existence?

Mr. THURMAN. Well, I do not know what section 2 is, but I will say without seeing it, that no matter what it is this Convention cannot say that the liabilities of stockholders in existing corporations shall be doubled, because that is a matter of contract.

Mr. WELLS. I merely wished to ask if in your opinion that would affect the stockholders in the present company?

Mr. THURMAN. It would affect them, as suggested by Mr. Evans, simply as to future legislation. That is what it merely relates to.

Mr. KERR. I would like to ask Mr. Thurman a question. If it is desirable that each stockholder of any insurance corporation shall in the future be individually and personally liable, etc., why is it not also desirable that any corporation incorporated in the past—the stockholders should also be responsible? I do not see why we should discriminate in favor of any corporation already existing.

Mr. THURMAN. It might be very desirable, but it would simply be unconstitutional. It would be in violation of the Constitution of the United States, which says that the state can make no law impairing the obligation of a contract. Now, when they entered into a corporation they entered into a contract in the first place. What was that contract? They contracted with the law as it was, and that was that they were liable to the amount of their capital stock subscribed and paid up—and no doubt a clause in their articles to the effect that the personal or private propery of the stockholders should not be liable for the corporate debts. Now, we come along after that contract is formed on that basis, and by an enactment here, can we say that that contract shall be impaired by declaring that the liability shall be doubled? I say no. I do not care what declaration we make, it is void in so far as it impairs the obligation of a contract.

Mr. SQUIRES. Then the same rule would apply to section 32, relating to banks?

Mr. THURMAN. We will climb that hill when we come to it. I believe that was your language a while ago.

Mr. BOWDLE. Mr. Chairman, I want to coincide exactly with what Mr. Thurman has said. If I had been near him, I would have given him a book which I have here, Morrowitz on private corporations, that covers exactly the proposition Mr. Thurman has laid down:

Whatever doubt there may be as to the correctness of the doctrine that a charter of a corporation embodies a contract between the state and the incorporators, there can be no doubt that the charter of an ordinary business corporation embodies a contract among the corporators themselves. The shareholders of such a corporation may agree to unite for the purposes indicated in their charter. Each shareholder agrees to contribute his proportionate share of the capital of the association, and each in return becomes entitled to a share in the profits and

in the management of the corporate affairs. The agreement thus created is in the strictest sense of the word a contract, and every reason exists for treating it as a contract within the meaning of the provision of the Constitution of the United States, that no state shall pass any law impairing the obligation of contracts.

So that, as far as the Home insurance company is concerned here, or any corporation that is incorporated at the time this Constitution shall be adopted, we cannot affect their rights, nor increase their liabilities, and section 2 with its declaration cannot, compel them to make a single change in any contract they have entered into.

Mr. BUTTON. Mr. Chairman, in view of there being so many members absent, I move that we arise and report progress.

The question being taken on the motion to strike out section 25, the committee divided and by a vote of 31 ayes to 27 noes, the motion was agreed to.

The motion to rise and report progress was rejected.

The count being challenged on the vote to strike out section 25, the vote was retaken and stood 31 ayes to 28 noes.

Section 26 was read.

Mr. James offered the following substitute for section 26:

The Legislature shall enact laws compelling each company, corporation, association, or individual, doing an insurance business in the State of Utah, to deposit with the state treasurer of Utah, in money or its equivalent, such sum as they may deem sufficient to protect policy holders, or in lieu thereof, require such company, corporations, associations, or individuals, to hold unincumbered an equal amount in value of real estate, subject to the order of the secretary of state, as a guaranty fund for the security of policy holders.

Mr. JAMES. Mr. Chairman, in support of this substitute that I offer, I will have this to say: When the committee on corporations was formed, they adopted a policy of sending out a communication to all corporations and associations, and even business men, in this Territory as far as they could reach them. We addressed the insurance companies. The insurance companies neglected to answer our communication. The chairman of the committee had several conversations with gentlemen doing an insurance business here, and some other members of the committee had conversations as well with others, but we were unable to get any information. Knowledge came to the committee that there was probably no set of institutions, associations, or incorporations, in this Territory doing business, that were doing greater injury or wrong to the public than insurance companies. We found out that there had been a company which came into this Territory a few years ago from California and did a large amount of business. They had gone into one mining camp and the miners almost in a body went into that company. It was a life and accident company. There were a great many claims against that company, but not one man in that mining camp in Park City ever received one cent back, although thousands of dollars of those poor men's money was taken from them and went into the pockets of these individuals that were robbing the public.

Mr. THURMAN. If that be true, why do you want to strike this out and put in something that has no effect at all?

Mr. JAMES. Did not I understand you, in a conversation with you, that we would have to do something regarding that section?

Mr. THURMAN. Reduce the amount?

Mr. EVANS (Weber). I would like to ask a question right there. If the policy holders are the ones that you want to protect, why do you want to relieve the stockholders from individual liability?

Mr. JAMES. Simply because the stockholders do not live here and that section does not cover them. We cannot get at them. They live in Califor-

nia. Well, then, we also learned of another company in Salt Lake City that organized and started in to do business, but we were not able to ascertain as to the amount of business that they did, whether it was very extensive or not, but it seems to me that they got some one to make oath that they had collaterals or something that our present statute requires, to the amount of two hundred thousand dollars, and they started out and did some business, and we understand that people were robbed through that company. Then, about the time that this matter was being considered by the committee—this insurance matter, there came to my observation some information regarding an eastern insurance company, that is called the Mutual Reserve Fund Life Association. I had quite a good deal of knowledge of my own regarding that company.

Mr. SQUIRES. Is that the New York institution?

Mr. JAMES. Yes, sir. Now, I know of over a hundred thousand dollars of insurance that they took in this town between eight and ten years ago, and some of it about twelve years ago. The life of the company was about twelve years. I know one gentleman, that is a member of your Convention here, that has a fifteen thousand dollar policy in that company. I know another that has a ten thousand dollar policy in that company. I know a prominent business man in this town that has a twenty-five thousand dollar policy. I know another that has a twenty thousand dollar policy. I know several that have fifteen thousand, several more that have ten thousand, and some five thousand.

Mr. MALONEY. Now, if all that be true, why not say here, "life or accident?"

Mr. JAMES. I will answer that as I go along. Now, the information that comes to me from the New York Herald states that this company has been practicing the most high-handed and outrageous fraud. I find here, stated by the commissioner of insurance of the state New York——

Mr. EVANS (Utah). Mr. Chairman, I arise to a point of order. The gentleman has occupied his five minutes.

The CHAIRMAN. The gentleman has not occupied five minutes of his own time. He has been interrupted by questions.

Mr. THURMAN. Mr. Chairman, I make the point of no quorum.

Mr. BUTTON. Mr. Chairman, I move we arise and report progress.

The motion was agreed to.

The committee then rose and reported as follows:

Your committee of the whole beg leave to report that they have had under consideration the article on corporations other than municipal, and report progress.

Mr. SQUIRES. Mr. President, I move we now adjourn.

Mr. Cannon, in the absence of the president, was called to the chair.

Mr. ANDERSON. Mr. President, I move we take a recess until 7:30.

Mr. SQUIRES. Mr. President, I arise to a point of order. Under Roberts' rules, whenever it is discovered in committee of the whole that there is not a quorum, the only thing to do is to rise and report progress to the Convention, and then there is nothing for the Convention to do but to adjourn.

Mr. EVANS (Weber). Mr. President, I arise to a point of order. My point of order is that it has not been ascertained that there is no quorum present.

The PRESIDENT pro tem. The point of order is well taken. The secretary will call the roll.

A roll call showed no quorum present.

On motion, the Convention then adjourned.

FIFTY-FIFTH DAY.

SATURDAY, April 27, 1895.

The Convention was called to order at 9 a. m., President Smith in the chair.

Roll call showed a quorum present.

Prayer was offered by Delegate Howard, of Emery.

Journal of the fifty-fourth day's session was read and approved.

Mr. Keith was excused for a few days.

File No. 378 was presented, asking that a woman's suffrage clause be placed in the Constitution. From Wayne County, 250 names; from Salt Lake City, 15 names; from Uintah County, 450 names; from Rich County, 91 names; from Washington County, 9 names, from Garfield County, 133 names, by Chidester, of Garfield.

File No. 379 was presented, signed by Isaac O. Brown, and 425 others from Kane County, by Robinson, of Kane.

Ordered filed.

Mr. Roberts offered the following resolution:

Whereas, Convention rule 32 requires that at a reasonable time, to be determined by the Convention, and at least five days before final adjournment, the committee on engrossment and enrollment shall be instructed to accurately engross and enroll the Constitution, therefore, be it

Resolved by the Convention, that one hour and a half each morning shall be devoted to hearing read those articles of the Constitution which the committee on compilation and revision have prepared, and that when finally adopted by the Convention, said articles pass into the hands of the committee on engrossment and enrollment, which committee is hereby authorized to direct the engrossing clerk to engross the same on suitable material preparatory to final reading and signing of the document.

Mr. ROBERTS. Mr. President, I wish to call attention to this fact, that unless some step of this kind shall be taken, we will have completed our rough draft of the Constitution, and then we will have to wait some time for the committee on revision and compilation to complete the last article, if we are going to wait for them to present the Constitution as a whole, after passing through their hands; and then, I take it, sir, that there will be some delay before the final adoption of this instrument and passing it into the hands of the committee on enrollment and engrossment, and this Convention would be held here for some time awaiting the engrossment of the Constitution. But if this resolution shall be adopted and we devote an hour or an hour and a half each morning to considering those articles that are reported by the committee on compilation and arrangement, they can then pass into the hands of the committee on enrollment and engrossment, and we will have things running parallel, and the amount of delay that the committee would be subjected to would be materially decreased. It is out of these considerations that I offer the resolution to the Convention.

Mr. THORESON. I see by the resolution that it provides that they engage some person to engross the Constitution. Is not that the duty of the clerk that we have engaged for that purpose?

The PRESIDENT. Yes.

Mr. ROBERTS. Well, if that is true, instruct him to proceed. I did not know what condition that was in, in fact I did not know we had an engrossing clerk. If you have an amendment to that effect, I will accept it.

The PRESIDENT. I would state that the engrossing and enrolling clerk is now trying to get the proper paper upon which to do the engrossing.

Mr. ROBERTS. I think the resolution there requires that suitable material be obtained. I presume that that would be parchment if it can be had.

Mr. THORESON. Mr. President, I am very much in favor of the resolution, and I wish to state that the chairman in behalf of the committee on compilation and arrangement—that this

meets the hearty approval of that committee and we are working to this end.

Mr. RICKS. Mr. President, I am opposed to the resolution, because I do not think it is necessary. I understand from the chairman of the committee on compilation and arrangement that all the articles that have passed this Convention are now ready to be presented to this Convention. The only thing that we are waiting for to-day is to have that calendar cleared there, so that we can consider them, and if the calendar can be cleared this afternoon, we will go through all the Constitution that has passed the Convention this afternoon. It will then go to the engrossing clerk. There need be no delay whatever when we get the calendar cleared, and I don't think the resolution is necessary at all.

Mr. THORESON. Mr. President, just in explanation, I wish to state that there have been objections made to the committee on compilation making any report at all until the entire Constitution is passed. I understand by this resolution that that committee can report in part, as the compilation has passed, and the engrossment will commence immediately, and this I consider will expedite the work.

Mr. RICKS. Mr. President, the question has been raised whether this motion is in order, inasmuch as it involves a suspension of the rules. I move as an amendment to the motion that the rules be suspended and that the committee on compilation and arrangement be requested to report their work as fast as possible to this Convention. I think that will do away with the resolution entirely.

Mr. ROBERTS. Mr. President, I think there is no reason why that should be done, as this resolution is in strict accord with the rules of the Convention, and especially meeting the requirements of rule 32. I hope we are within five days of the close of this Convention, and certainly the action contemplated by rule 32 ought to be provided for, and this work of engrossment and enrollment ought to be set in motion. Something ought to be done to meet this rule, and with that in view I have drawn up this resolution.

Now, sir, with the indulgence of the house, I wish to call attention to the necessity of some step of this kind. In the first place, for this Convention to complete the Constitution and then wait while the committee on compilation and arrangement shall complete its revision and then have five days elapse before the Convention has the Constitution finally engrossed, is unnecessary. We want to place this work in such condition that it can all be going on at the same time. The articles of the Constitution are so distinct in their nature, and I am sure have received such careful consideration by the committee on compilation and arrangement—for instance the article called the bill of rights, and perhaps the article on executive, the article on legislative, the article on judiciary, could be considered we will say one morning, and then they could go to the engrossing clerk and that work be going on, and then the next morning we could consider three or four other articles that have been finally finished at the hands of the committee on compilation and arrangement, pass upon them and let them go on to the engrossing clerk.

Mr. RICKS. I do not think that resolution contemplates that. It says after they have all been passed upon by the Convention, then it goes to the engrossing clerk.

Mr. ROBERTS. It says such articles as have been passed.

Mr. RICKS. Then I have no objection to the resolution.

Mr. LUND. I will ask if that does not read, when they are finally adopted they go to the engrossing and enrolling clerk?

Mr. ROBERTS. It is the articles as finally adopted, as for instance say,

Monday morning we consider in the hour and a half devoted to that, the article entitled declaration of rights, the article on executive, the article on legislative. Each as it is finally accepted by the Convention then goes to the engrossing clerk and not the complete Constitution. I am sure it is the meaning and it is expressed.

Mr. RICKS. Mr. President, there is one amendment I would suggest. It says an hour and a half each morning. I should suggest an hour and a half each day.

Mr. ROBERTS. I have no objection to that, although the morning would be a good time.

Mr. CRANE. Mr. President, I will say for the committee on compilation and revision, that about next Tuesday we shall have fifteen of the articles revised, compiled, and printed for the use of the Convention. It was thought advisable by a majority of the committee, I believe, that we should have the bill of rights, legislative, executive, and ordinance printed at the same time, so that that there will be no conflict between any of the sections that might be introduced. It has been thought by some of the prominent members of the Convention that we could not do that, that there might be a conflict between some of the sections, and that no article should be introduced for the final passage before this body until the whole Constitution was printed before them, so that each and every member can look for himself. But I am impressed with the fact that this resolution of the gentleman from Davis County is a good one. It will certainly save us four days at the close of the Convention.

Mr. CREER. I just wish to make a suggestion, to change the word, inasmuch to whereas.

Mr. ROBERTS. I have no objection.

Mr. HART. Mr. President, the resolution appears to me to be a very wise one to adopt at this time, but it also occurs to me that it will overrule rule number 22. I think it will entirely change the latter part of that rule, and I think it should go to the committee on rules as a matter of course before the Convention passes upon it. I raise the point of order that under our rules it be referred to the committee on rules.

Mr. ANDERSON. Mr. President, I move that this be referred to the committee on rules.

Mr. EVANS (Utah). Mr. President, I would move to amend, by suspending the rules on the adoption of this resolution.

Mr. CHIDESTER. I move the previous question.

The previous question was ordered.

The resolution was adopted.

Mr. CORAY. Mr. President, I desire to offer the following resolution:

Resolved, that the sergeant-at-arms be directed to spread the names of the tardy members on the bulletin board, and that the aforesaid be required to produce a reasonable excuse for said tardiness, and that in the absence of such excuse said members be reprimanded by the president for slothfulness.

I move its adoption.

Mr. BUTTON. I move to lay it on the table.

The motion to lay on the table was agreed to.

Mr. HART. Mr. President, I have a resolution I wish to offer:

Resolved, that the secretary record upon the journal of the Convention the names of all absentees and also the names of members excused by the Convention from attendance.

Thus far there has been no record kept upon our minutes of the names of absentees. There has been no incentive to attendance, that is so far as that is concerned. A member might go about his business for two weeks and no one was the wiser for it. He drew his four dollars per day, just the same as the member who faithfully attended upon this Convention. The situation that has confronted us the last day or two sug-

gests the propriety now of enforcing the attendance of members of this Convention. There are some members that should be excused, but the Convention should pass upon the necessity of excusing them, and from this time on I am in favor of keeping a strict record of those who absent themselves, and permitting members to be absent only upon consent of the Convention.

Mr. CORAY. Mr. President, I concur in what the gentleman from Cache says. There seems to be a disposition now upon the part of members to stay away and go home, and a great many of the Salt Lake delegates are tardy. It is almost impossible to get some of the members here. It is the duty of every member to stay here until the work is thoroughly done.

Mr. THURMAN. Mr. President, I do not know whether that resolution is wise or not. Is it not a fact that we get along better when there are only about half of us here?

Mr. EICHNOR. Yes, sir.

Mr. CHIDESTER. Mr. President, that may be true, as suggested by Mr. Thurman, but I suggest they have no right to draw their pay.

Mr. THURMAN. We are not drawing any pay. The pay has been stopped days ago.

Mr. CHIDESTER. There may be a little to come yet and those that do attend and make the Constitution should have it.

Mr. EVANS (Weber). Mr. President, I move that the resolution be tabled.

The motion was rejected.

The resolution was adopted.

Mr. BUTTON. Mr. President, I move to suspend the rules, and that no members be allowed to speak more than three minutes on any question.

Mr. RICKS. Mr. President, I would amend by making it one minute.

Mr. IVINS. Mr. President, either of these motions is entirely inconsistent. There will be some very important matters yet to come before this Convention, and it seems to me that it is unreasonable to say that no man shall occupy more than three minutes on this floor. I am entirely opposed to any such motion prevailing.

Mr. BUTTON. Mr. President, I have sat here and listened to members putting in resolutions and withdrawing them and spending three or four hours over them. Now, if we get this through we will have less time on these resolutions that are put in, just for somebody to make an effort.

Mr. MORITZ. Mr. President, I wish to state that I am opposed to that rule; we probably have not enforced the five minute rule yet.

The motion of Mr. Button was rejected.

The Convention then resolved itself into committee of the whole, with Mr. Van Horne in the chair.

Mr. JAMES. Mr. Chairman, at the adjournment of this committee yesterday evening—I will be as brief as I possibly can, in calling the attention of the Convention to this matter. The reason why I offered to strike out the first section, which I was explaining yesterday afternoon, at the time of the adjournment, was as I explained to you yesterday; we found that there was a vast difference between insurance companies. We found that fire insurance companies had not created a dissatisfaction that life insurance companies had created. We found further that fire insurance companies had not been the cause of impositions upon the public that life insurance companies had. We found further that a uniform deposit as a guaranty fund for the protection of policy holders was not practicable, for the reason that one company may have a capitalization so that it is able to do a hundred thousand dollars' worth of business in a year and another may not be able to do twenty-five, although each company may be absolutely sound. For that reason, I concluded that the best thing I could do was to draw up this

resolution which you have before you, and have it presented to the Convention, so that the Legislature might fix some sum as a guaranty fund for the protection of the policy holders, and that therefore that guaranty fund might be increased in proportion to the amount of business engaged in our community by these companies. In answer to Judge Maloney yesterday evening as to why I did not strike out the words "fire insurance," and fix a hundred thousand dollars for life insurance, it was this very reason. Some very good companies would be unable to do any business at all, and it would practically put the business into the hands of a monopoly. For that reason I offered this resolution. I do not believe that there is any class of business in Utah that deserves the attention of the Legislature any more than this insurance business, and I believe we ought to pass this resolution, and if it is not strong enough, make it stronger. I do not say that I have made that resolution as perfect and as strong as it should be. I have simply done the best I can, and I hope if any members of this Convention can see any opportunity to improve that resolution, they will take up the opportunity. Insurance companies to-day are controlled by combines just as complete as any combine can be. The sugar trust, the trust with its oil and with its white lead, and a dozen other combinations are no more complete combines than this business, and I am sorry for the insurance men of this town, after having investigated the business, that do not dare to come to me and write a policy without the consent of the combine in San Francisco. I say, when men are tied up hand and foot in that sort of manner, it is time that this Convention put the matter in shape so that the Legislature can take it up and deal with it intelligently and so as to correct these evils as far as possible. It cannot be done in this Convention. It is a detailed proposition of legislation that we cannot go into and we cannot handle it, but let us do the best we can.

Mr. MALONEY. Mr. Chairman, I am opposed to the substitute. I want to know what good it is to the policy holders for the company to be subject to the control of the Legislature of Utah, what officer is to look after this land, see the value of it, see whether or not it is encumbered or not. I say the resolution is not worth the paper it is written on, and if that is the only security that policy holders are to have in this Territory, we might as well not have any. Now, I am opposed to it from the beginning to the end. This committee unanimously passed upon this section 26. I do not care whether it applies to fire insurance companies or not. It is originally intended to reach life and accident companies, and not fire companies. There is no complaint here against fire insurance companies. I am unable to see why the chairman of this committee now moves to strike out more of the sections of the article than any of the other delegates in this Convention.

Mr. JAMES. Do not you admit, Judge Maloney, that that section has got to be amended as it stands before this committee?

Mr. MALONEY. Just amend it so that it applies to life insurance companies.

Mr. JAMES. Then amend it as you please. I will support you.

Mr. MALONEY. Then, I will move an amendment, to insert the words, "life or accident." Then it lets out all the fire companies. I have never had any complaint against them.

Mr. BOWDLE. I want to ask Mr. James a question, if this section was stricken out, would not the Legislature have complete control of the whole business?

Mr. JAMES. Why, I think that question answers itself. We understand

that it does. Is there anything then that compels the Legislature to give this matter attention, I ask you, to prevent this robbery that is going on by these wildcat companies? The insurance men do not object to the legislalation that will keep insurance business on a safe basis. They ask to have it done. In answer to Mr. Maloney, so far as the insurance companies are conconcerned, the strongest insurance companies in this town admit that something should be done. To Mr. Evans and me, the man that does one-third of the business in this town, admitted that a deposit should be required of fire companies.

Mr. BOWDLE. As I understand this substitute, there is no amount fixed. It simply says to the Legislature, you must do something. It may be a dollar bond or a ten dollar bond. That would be the interpretation would, it not—leaving it perfectly optional with the Legislature?

Mr. EICHNOR. I would like to ask Mr. Maloney a question. I think I understood your amendment that life and accident insurance companies would be required to put up a deposit say of a hundred thousand dollars?

Mr. MALONEY. Yes, sir, I understand that the main companies of Utah have made no objection to it at all.

Mr. EICHNOR. I do not want to be understood as objecting. I had enough of railroad companies yesterday, but will your amendment preclude or nullify any insurance that was taken out, outside of the State of Utah, and the person should happen to move into the State?

Mr. MALONEY. Oh, no.

Mr. THURMAN. Mr. Chairman, I desire to say one or two words in opposition to the substitute. I hope the substitute will not prevail. I think it is useless in every sense of the word. If we want to do something, if something must be done, let us do it here. Whatever must be done should not be left to the Legislature. The Legislature would have full power to do all this business anyway. I am in favor of the amendment, when it is in order, proposed by the gentleman from Weber. I do not know that a hundred thousand dollars is the proper amount. If it is too much, cut it down, but as far as the principle goes, I am in favor of it.

Mr. SQUIRES. Mr. Chairman and gentlemen, this question just spoken of by Mr. Thurman of the sum to be deposited by these companies—ought it not to be left so that it can be fixed in proportion to the amount of business transacted by each company? One company may do ten thousand dollars' worth of business and another a hundred thousand. It would be hardly fair, it seems to me, to compel them both to make the same deposit.

Mr. BUTTON. Is this the substitute we are talking about?

Mr. SQUIRES. The original section is just as much before the house as the substitute or the amendment. I should be in favor of this section as it stands, if it could be so amended as to make the amount of desposit in comparison to the volume of business transacted by each company in the Territory.

Mr. MALONEY. The trouble about that is, no one knows the amount of business they are doing, unless their reports filed with the secretary of state will tell.

Mr. SQUIRES. Then the other trouble is that we are stating the figure so high that we will rule out a whole lot of good safe companies, and if that is the case, the matter should certainly be left to the Legislature so that no injustice will be done to any company.

The question being taken on the adoption of the substitute offered by Mr. James, it was rejected.

The CHAIRMAN. The question recurs upon the amendment proposed by Mr. Maloney.

Mr. MALONEY. Mr. Chairman, at the suggestion of the gentleman I will

move to insert the words, "until otherwise provided by law."

Mr. JAMES. Mr. Chairman, I cannot help but oppose this proposition. Whenever a proposition comes before this Convention that will be an injustice to some company or a hardship, I am going to vote against it. As I said to you before, there is no use of my going over this ground again. There are companies that are perfectly sound; people would just as soon insure in them as any other company that can afford to put up a hundred thousand dollars, and others that cannot put up to exceed five. Now, is that any sort of a proposition for this Convention to adopt?

Mr. IVINS. Mr. Chairman, I move that section 26 be stricken out. My only reason for not supporting the substitute offered by Mr. James was that I believed the whole matter ought to be left to the Legislature, that they will have ample power to act, and they will act, and therefore, I favor the striking out of the section.

Mr. JOLLEY. Mr. Chairman, I move that in line 8 the words "one hundred thousand dollars" be made to read, "fifty thousand dollars."

Mr. BOWDLE. Mr. Chairman, if I understand the amendment it would apply to all secret societies would it not?

Mr. IVINS. That is right.

Mr. BOWDLE. No question about it. If any of you men are in the Masonic association or have a life insurance in that, or if you are an Odd Fellow, or belong to any other secret society and carry beneficial policy in that, and such an association wishes in this Territory or coming State to write any such insurance——

Mr. BUTTON. May I ask the gentleman a question?

Mr. BOWDLE. Just wait until I get through and I will answer you, gentlemen. There is no question about that, gentlemen. I don't carry a policy in any of those associations of which I speak, although I carry considerable insurance, some in the regular old straight line and so on; but I submit to you, gentlemen, that that would strip the Woodmen of this city. I understand they have quite an organization here—and all that class of insurance. And I know there are poor men in this city that are carrying that kind of insurance, and that in a number of cases of death it has been the sole protection of the families of those men, and I am opposed to that kind of legislation here that will bar the poor man from getting the insurance he can carry by paying his little monthly installments as he goes along.

Mr. BUTTON. The gentleman yesterday got up and read a long speech citing authorities that any corporation or association doing business in this Territory would be exempt. I want to ask the gentleman if the Odd Fellows or the Masons or Woodmen or any other of the secret societies in this city that were doing business would be affected by this?

Mr. BOWDLE. I would answer your question most emphatically and unequivocally, it would affect them.

Mr. BUTTON. That was not the decision you read yesterday.

Mr. BOWDLE. No, sir; that was a different question. In the case that we were discussing yesterday, it was of a corporation organized before the adoption of this Constitution, which would depend upon two things; first, there is an implied contract with the State that that corporation shall do business according to the arrangement they have entered into. That does not cut much of a figure in the courts, and in the decisions and in the text writers, but there is a contract between the stockholders in that corporation—a sacred contract that you cannot impair. Now, all the insurance that is written up to-day would not be affected, but you want to go into an association of that kind; you are not a stockholder or

a policy holder in it. It would affect all subsequent contracts of that kind.

Mr. EVANS (Utah). Mr. Chairman, it seems to me that as many men as there are here, there are just about that many opinions, and I think that we ought to vote down all these amendments, and vote to strike out this section entirely and leave it to the Legislature, and perhaps they will be able to ascertain about what would be right, and if it should be found that whatever they may fix upon has been an error, it will be in the power of a future Legislature to recall, and I am in favor of striking this out.

The amendment proposed by Mr. Jolley was rejected.

The amendment offered by Mr. Maloney to insert the words, "until otherwise provided by law," was rejected.

The remainder of the amendment offered by Mr. Maloney was rejected.

Mr. HART. Mr. Chairman, the only thing to do now, it seems to me, is to strike out the entire section. This amount is altogether too high.

The motion to strike out section 26 was agreed to.

Mr. BARNES. Mr. Chairman, I move that section 27 be stricken out.

The motion was agreed to.

Section 28 was read.

Mr. CHIDESTER. Mr. Chairman, I move to strike out section 28.

Mr. IVINS. Mr. Chairman, I move that the words "semi-annual" be stricken out of line 4 of section 28, and the word "annual" inserted in lieu thereof.

Mr. CHIDESTER. Mr. Chairman, until this motion is made, I will withdraw the motion to strike out.

Mr. IVINS. Mr. Chairman, in the confusion, I did not hear the motion to strike out. If there is a motion to strike out, I will withdraw the amendment until that is determined, because I prefer myself to have the whole thing stricken out.

Mr. EVANS (Utah). Mr. Chairman, I am opposed to striking this section out. I think that when companies organize in this State for the purpose of doing business, it will be a protection for citizens to know their standing, and I am in favor of asking the Legislature to require that they shall make reports. I have no objections, however, to the amendment, as suggested by the gentleman from Washington; perhaps semi-annually will be too often; but I hope that the motion to strike out will not prevail. It ought to remain in there. The citizens ought to have an opportunity of knowing the standing of the companies.

Mr. CANNON. Mr. Chairman, I quite agree with the last speaker, that it is a good thing for the public to know the standing of the company through its published statement, but I disagree with him in placing it at this time in the Constitution. I believe it should be left to the Legislature, and I think the Legislature will take the pains to regulate that matter. It has always done so in the past, and I am in favor of striking out.

Mr. SQUIRES. Mr. Chairman, I am in favor of striking out the whole section, but before we take a vote upon that it might be well to correct it in case it did not go out. I should like to see stricken out, in line 5, after the word "expense," these words, "for the information and protection of the people." It does not make any difference what they make the report for or what the object of the report is, so that it is made and printed.

Mr. JAMES. Mr. Chairman, I think that the gentleman has misapprehended the purpose of those words. The purpose of those words in this section is to compel a statement that will set forth what business they have done, and as the Legislature may determine how they have done it in this Territory, so that it will become a protection, that business may not run loose and slipshod

and leave matters in a way so that the public may be taken advantage of.

Mr. MALONEY. Mr. Chairman, I would like to have the chairman of the committee say one word in favor of the report.

Mr. JAMES. In answer to the——

The CHAIRMAN. Mr. Preston has the floor.

Mr. PRESTON. Mr. Chairman, I am very agreeable to the amendment that is made here, but I think section 28 ought to be stricken out. I think the Legislature ought to be required to give us information concerning those companies at least once a year.

Mr. IVINS. Mr. Chairman, the question has been sprung as to whether in case the motion to strike out shall prevail, it will still be open to amendment; some of the members are of the opinion that it will not, that amendments to perfect it will first be made. Now, if there is any doubt in regard to this question, I want a vote on my proposed amendment, in line 4, before a vote is taken.

Mr. HART. Mr. Chairman, I think I can give the necessary information on that point. When amendments are made to a section, or any member desires to make any amendment to a section, those amendments should be put before the motion to strike out, but if, after all the amendments are put, and the motion to strike out is put and not carried, the section is still open to amendment under our rules.

The amendment of Mr. Squires was agreed to.

The CHAIRMAN. The question is on the motion of Mr. Ivins to make the report annually instead of semi-annually.

Mr. CANNON. I would ask the gentleman if he would not accept the amendment making it this way: "To make reports at least annually to the governor;" so that it will not prohibit reports being required to be made oftener if necessary.

Mr. IVINS. I would prefer the amendment just as I proposed it, Mr. Chairman.

Mr. THURMAN. Mr. Chairman, I am opposed to the motion, on thinking over the effect it may have. It will limit the power of the Legislature so that they can never require these companies to make a report oftener than that if they see fit. I don't think we ought to do that. There may be a reason for requiring a semi-annual report.

Mr. EVANS (Weber). Mr. Chairman, I want to state, too, that banks are all required to make quarterly reports, and I see no reason why an insurance company should not make reports twice a year. I am opposed to the striking out of the word semi.

Mr. STREVELL. I would like to ask if this be stricken out, in case we had an insurance commissioner, if he could call on the insurance companies for a statement at any time? First, I thought it should be left so that if a special statement was wanted we could call for it and have it.

Mr. IVINS. Mr. Chairman, my purpose in making this motion is this: Those who are acquainted with the insurance business know that it requires a great deal of time for these insurance companies, which are doing business all over the country, to prepare these reports, and if you require them to make a semi-annual report, they will be almost continually engaged in the work of making the reports. If an annual report is published, and that the present law requires, and there is no doubt but that future Legislatures would still require it—this seems to me to be sufficient. It is for that reason that I wish this change made.

Mr. EVANS (Utah). Mr. Chairman, I move to amend by striking out "semi," in line 4, and inserting in lieu thereof, "make at least annual reports to the governor." That will make it proper for them to require quarterly or semi-

annually or anything else, but they must do it at least once a year.

Mr. JAMES. Mr. Chairman, I hold now that it is merely encumbering the Constitution to adopt this section. All the benefits that were in the section have been stricken out. The Legislature has required of all insurance companies in this Territory to make an annual report, and that annual report is made. I defy any man on this floor or anywhere else in this Territory, to take that annual report, and use it, for any protection whatever for himself, or to give himself any information. It is just merely what you see on the walls of all insurance companies, that they have so many millions, and that is all you get. Now, for heaven's sake, what do we want to encumber our Constitution with a provision of that kind for? This section provided that they should make a report for the protection and benefit of the policy holders. That has been stricken out. Now, gentlemen, let us strike it all out.

Mr. THURMAN. Second the motion.

Mr. THORESON. Mr. Chairman, I believe it will be proper at this stage of the proceedings to strike out the words, "William F. James, Chairman," at the end of this article.

The CHAIRMAN. The gentleman's remark is out of order.

Mr. JAMES. I say, Mr. Chairman, such remarks as that should be——

The CHAIRMAN. Mr. James has not been recognized by the chair yet.

Mr. CHIDESTER. I arise to a point of order. The gentleman has spoken once.

Mr. JAMES. I asked the chairman to require personal remarks made before this Convention to be withdrawn.

Mr. THORESON. Mr. Chairman, I withdraw the remark.

Mr. BARNES. Mr. Chairman, I think that careful consideration of this subject will show us in advance that the section is unnecessary and no protection whatever. The law already provides for an annual statement to be rendered. I favor the striking out of the section entirely.

The amendment of Mr. Evans of Utah was agreed to.

Mr. THORESON. Mr. Chairman, I move to strike out the word "print," in line 4 of this section, and insert "published" in lieu thereof.

Mr. RICKS. Mr. Chairman, I arise to a point of order. I think the vote ought to be continued until we finish up before making any more amendments.

Mr. BARNES. Mr. Chairman, I move to strike out the section.

The motion was agreed to.

Section 29 was read.

Mr. BUTTON. Mr. Chairman, I move to strike out all after "thereto," in line 7. That is covered in two or three places already in this Constitution.

Mr. JAMES. Mr. Chairman, I hope that that proposition will not prevail. This proposition is submitted to you after consultation with the best bankers in Salt Lake City, the oldest and the largest, and not only from them has come information regarding that, but from individuals. This provision is the same provision that they have in the state of New York, which is said to be the best that there is in the United States, and is the one from which the national banking law was enacted, and the only difference between this and the New York state bank provision of the same section is it is curtailed to about one-half, for the reason that it was thought the New York bank provision in its full force would be too stringent for our institutions here in Utah.

Mr. BARNES. Mr. Chairman, I perceive by reading section 29 that the matter that is proposed to be stricken out refers directly to banking purposes. I think it is all right as it stands there, sir.

Mr. CANNON. Mr. Chairman, I am in favor of retaining the part proposed

to be stricken out. While it may be possibly covered in substance in other parts, this refers especially to banking, and provides that no special charter shall be granted. I think it should remain.

Mr. BUTTON. Mr. Chairman, in the first section of this article on corporations, it is covered, and it is covered in two or three other places.

The question being taken on the motion, the committee divided and by a vote of 35 ayes to 31 noes, the motion was agreed to.

Mr. RICHARDS. I desire to ask the chairman of the committee the meaning of this section—what now remains of it, in this particular; it says the Legislature shall, by general law, conform all charters of banks or institutions for banking to a uniformity of powers, rights and liabilities, etc.? I want to know whether this means that the charters of banking institutions in existence at the time of the adoption of this Constitution will be remodeled.

The CHAIRMAN. Mr. Button, you must maintain order when gentlemen are speaking.

Mr. BUTTON. I will try and not disturb them.

The CHAIRMAN. Mr. Sergeant-at-arms, call Mr. Button before the bar of this house.

Mr. VARIAN. Mr. Chairman, are we in committee of the whole? If we are, I suggest that the proceedings are irregular.

The CHAIRMAN. The only thing is that when the chair calls order for gentlemen speaking before this committee, the order of the chair must be obeyed.

Mr. BUTTON. I am willing to come before the chair if I disturbed the gentleman.

The CHAIRMAN. The gentleman will take his seat now. It is all right.

Mr. BUTTON. I want to apologize to the gentleman if I disturbed him.

The CHAIRMAN. Very well.

Mr. BUTTON. Mr. James, did I disturb you?

Mr. JAMES. No. It was Mr. Richards.

Mr. BUTTON. Oh!

Mr. RICHARDS. The gentleman did not disturb me at all.

The CHAIRMAN. He disturbed the chair. If the chair is well advised about it, it is under the impression that there is a rule against gentlemen talking on the floor of this committee, while gentlemen are addressing the committee, and it was to avoid a violation of that rule that the chair called Mr. Button to order.

Mr. BUTTON. I had not spoken a word or even whispered when the chair called me to order—not even whispered.

The CHAIRMAN. It was very singular, the chair heard the sound from there and saw the gentleman leaning half way or more across the table.

Mr. BUTTON. A man might lean over the table without speaking.

Mr. VARIAN. Is there anything before the committee?

The CHAIRMAN. Nothing, sir.

Mr. VARIAN. I call for the question.

The CHAIRMAN. Except the question of Mr. Richards to Mr. James.

Mr. RICHARDS. I asked the meaning of this language in section 29. I desire to know whether that language is intended to apply to the banks in existence at the time of the adoption of this Constitution, and whether those charters are to be made to conform to some general law; in other words, whether they are to be changed? I should suppose that the language was intended to apply to banking institutions created under the power of the State, but for what follows in that section. It seems to make a distinction there.

Mr. JAMES. This section, as I understand it, comes from the fact that there are two systems—well, you might say three systems of banking; there is the private banker, there is the state incor-

poration, and there is the national bank. Now, as I said to you a little while ago, this provision is an absolute copy from the constitutional act adopted a year ago by the state of New York, and before this committee adopted that section, the chairman sought the advice of our leading bankers here, and they said that it was, so far as they knew, the best provision for the regulation of banks that they knew of in the United States, and that was the information I got so far as it went.

Mr. RICHARDS. Then I desire to ask another question—whether the chairman, from the information that he has, understands that under this provision of law the Legislature could change the charters of existing banks, so as to make them conform to a uniform system.

Mr. JAMES. Well, I doubt that.

Mr. RICHARDS. Well, I have no doubt about it, Mr. Chairman, and this language evidently is intended to mean that.

Mr. JAMES. You will observe that at the beginning of this article there is a provision that in order to benefit by future legislation, corporations must accept the provisions of this Constitution. Now, that provision was put in there to meet just such difficulties as you have in your mind here regarding this section. The supposition is that under that provision which we passed yesterday, these corporations will conform to the provisions of this article, and that would bring them under that regulation.

Mr. RICHARDS. I do not understand, Mr. Chairman, that we can legislate in this Constitution to change the articles of incorporation of corporations existing at the time of the adoption of this Constitution. Now, it is clearly within the power of this Convention to provide in the Constitution that a uniform system of banking may be provided for, as to incorporations hereafter created, but it seems to me that we have no power to change the articles of existing corporations. I therefore desire to move an amendment to what remains of this section. I am not prepared now to suggest the amendment.

Mr. THURMAN. Isn't it a fact that the latter part of the section as it now stands cures the objection you made?

Mr. RICHARDS. No, sir; I think not. I think that clearly points out and makes beyond question the objection that I do make. It might be if the language of the fore part of the section were there alone—I think the presumption would be and the proper rule of construction would be that it related to corporations created in the future, but as it stands, it clearly shows that it is intended to relate to something else, because the latter part here refers only to those hereafter created. I move that this section be stricken out.

Mr. THURMAN. Mr. Chairman, I am opposed to striking it out. There is no court that can or will construe the section as Mr. Richards says it may be construed. In the first place, it would be unconstitutional to do it, and therefore void. It would only apply to organizations after this Constitution goes into effect, and there ought to be a a general law requiring banks to be uniform in the very particular here pointed out. It ought to be made as obligatory as possible upon the Legislature to pass that.

Mr. CANNON. I would like to ask you how you would conform to uniform powers, rights, and liabilities, the banks which are different in their character, for instance a national bank, or a state bank, or a commercial bank, or a savings bank, all of which are different in their character?

Mr. THURMAN. We cannot deal with national banks to the extent that we can other banks. I will admit that, because they are governed by the national law, but as far as other banks are concerned we can.

Mr. CANNON. Can you conform a

commercial bank and a savings bank to similar powers, liabilities, etc.?

Mr. THURMAN. I don't see why we cannot, as far their powers, liabilities, and rights go.

Mr. RICHARDS. I desire to say in reply to what the gentleman from Utah has said about what a court will do, that I concur with him fully, that a court would not give this an ex post facto construction. The court will hold that the language we have in here is absolutely void and does not mean anything, and as a member of this Convention, I do not want to be put in the attitude of placing language in this Constitution that I know is susceptible of that construction only and will receive such construction from the court.

Mr. STREVELL. Mr. Chairman, I move to strike out all after the word liability. It seems to me that would remove the objection Mr. Richards has and it would give general powers for creating banks.

Mr. CANNON. Mr. Chairman, I am opposed to the different amendments and am in favor of the motion to strike out. I find upon examining the late constitution of New York, of 1894, that the language used in this section is adapted from that, but some words are stricken out that change the meaning entirely. Section 4 of article 8 of the constitution of New York provides that the legislature shall by general law conform all charters of savings banks or institutions for savings to a uniformity of powers, rights, and liabilities. The language is the same, excepting that in the New York constitution they have it banks of a similar character. If you attempt to conform savings banks and commercial banks to like powers, rights, and liabilities, I believe you will run across a snag that you cannot get over.

Mr. ANDERSON. Mr. Chairman, I hope that this section may be stricken out. If it remains it will give the Legislature power to change the contracts of those institutions that have their charters already, which I do not think can be done. Therefore, I think this should go out.

The amendment of Mr. Strevell was agreed to.

The motion to strike out was agreed to.

Section 30 was read.

Mr. CANNON. I move it be stricken out, Mr. Chairman.

Mr. EVANS (Weber). I would like to inquire of the chairman of the committee what that section means?

Mr. JAMES. I suppose the section answers what it means. It is to prevent a banking business being done otherwise, excepting upon specie. It is the exact language of the New York act, and is the one, as I said to you before, as a number of our leading banking men have said to me, that the national banking law was enacted upon.

The motion was agreed to.

Section 31 was read.

Mr. CANNON. Mr. Chairman, I think this section confers no power that the Legislature does not have. I move to strike it out.

The motion was agreed to.

Section 32 was read.

Mr. HART. Mr. Chairman, I move to strike out that section. We had a similar section yesterday in reference to insurance companies. I was in favor of having both of these sections adopted, but the Convention here struck out the section, making a similar provision for insurance companies, and now, in order to do justice to banks, I am in favor of striking out the other also. I suppose that every member who voted to strike out the insurance article will to-day vote to strike out this article, and those who were in favor of permitting the other to remain, certainly should be in favor of striking this out now, because it places a burden upon them that is not placed upon the other corporations.

Mr. VARIAN. Mr. Chairman, it oc-

curs to me that this is a different proposition. I was not here yesterday when the matter relating to insurance companies was discussed, but I think this is a very good proposition to be retained in the organic law. I think if there is going to be any system of state banking, a guard and protection like this ought to be thrown about the people who deal with the banks. I remember quite a pronounced case in favor of the efficacy of a law of this kind, occurring many years ago on the Pacific coast, when the bank of California closed its doors, and for a time paralyzed the financial and business enterprises of the entire coast; had it not been for the fact that the law of California was substantially as this is, the bank would never have opened its doors. It is a well known matter, known to everybody, and a matter of the current history of that bank, that it was the intention of the gentlemen who were largely interested in it—Mr. Mills and others, to let the bank go down, until they were advised by the attorneys of the bank that every one of them were liable to the extent of their private fortunes, as provided here, in a sum equal to the amount of stock held by them. They went to work then, and resurrected the bank. It took them several years to do it. But it paid every dollar to California, Nevada, New Mexico, Oregon, and all over the coast, and many hundreds of people recovered their money eventually, who never would have done so. I see no objection to people being required to be held to some liability of this kind, who enter into the business of banking with the people.

Mr. CANNON. There is also this difference, Mr. Chairman, and gentlemen of the committee, between the proposition of insurance and of banking. The insurance proposition would have affected existing insurance companies differently, or any new company differently, from the one now in existence, while this proposition does not affect banks differently. Our present law is just as this provision is worded. It may not be in the exact language, but the meaning is exactly the same. Every stockholder in a bank is liable on his stock for an amount equal to that in addition. The people of Utah, so far as their banking institutions are concerned, have a good reputation. They have not lost through their incorporated banks. I believe there was one bank in Ogden, and one in Provo which temporarily closed, but which quickly reopened, owing to the fact that their stockholders were liable in the same way, and were compelled to make good the losses. I do not think any harm can be done, although it is a matter which could be attended to by the Legislature.

Mr. JAMES. Mr. Chairman, I must say a word regarding Mr. Hart's remarks comparing insurance to the bank. Now, it seems to me that it must be evident to all that there is a wide difference between insurance and banking. If he happens to have a little money that he wishes taken care of, he goes to the bank. If the humblest and poorest in the land have a dollar to be taken care of, they go to the savings bank and deposit it. The wealthy do the same. It is a place where everybody has to go, and it is a sacred trust—taking charge of the public funds, and it is a business that ought to be guarded by every possible protection that can be thrown around the people. The insurance business is a different proposition entirely. The insurance companies are where we cannot reach them, but there happens to be one little insurance company in Salt Lake City and we are going to reach that one little insurance company in Salt Lake City, that never wronged a soul out of a cent so far as we know of, and so far as we know are perfectly solvent and are going along attending to their business, while there are numer-

ous insurance companies doing business in Utah Territory that we have information of that have been imposing upon the public, robbing them of their funds, and it is impossible for the stockholders to reach those companies.

Mr. EVANS (Weber). Mr. Chairman, I should not say anything upon this matter, were it not for the fact that in our mad chase at striking out many provisions which I believe to be good, I fear that this will also be stricken out. I set my face firmly against the striking out of the liability of stockholders of insurance companies, and I am just as firmly against the striking out of this section. The stockholders of the national banks are made liable in addition to their stock to an amount equivalent to it. State banks are likewise made liable, and it has become a fundamental law of the land that stockholders of banks should be made liable in addition to their stock in order to secure the depositors. And I believe we ought to make the constitutional provision so that it will make our banking institutions safer, give our people more confidence in our institutions, and I believe that it would be for their safety, protection and benefit. I hope the section will not be stricken out.

Mr. PETERS. Mr. Chairman, I trust this section will remain as it now stands. We had very good reason for striking out thirty and thirty-one. They were from the constitution of New York. Most of us are aware that banks in New York in 1893 issued what was called clearing-house certificates. Those certificates were used as money and it was desirable by that constitution that that should not be. But now we come to a different proposition. Section 32 has no connection with 30 and 31. That is for the protection of depositors, and I hope will remain just as it is.

The motion to strike out was rejected.

Section 33 was read.

Mr. CANNON. Mr. Chairman, I move to strike out section 33.

Mr. JAMES. Mr. Chairman, this is the national banking exactly, and it is intended to apply to the state banks, when the ten per cent. may be removed, which would entitle them to go into business of issuing currency.

Mr. CANNON. I would like to ask why a man who goes in and deposits perhaps everything he has in the world in a bank, believing that bank to be solvent, should be secondary to the man who happens to have a bill of that bank.

Mr. JAMES. I will ask the gentleman if he does not consider the national bank law of the United States a sound proposition, and if every banker in this town does not know it?

Mr. CANNON. The national banking system may be the best thing that can be for a national bank, but I know of no reason why a man who may deposit everything he has in the shape of money in a bank should be made to be secondary to a man who holds a bill of the bank.

The question being taken on the motion, the committee divided and by a vote of 43 ayes to 23 noes the motion was agreed to.

Section 34 was read.

Mr. IVINS. Mr. Chairman, I move to strike out section 34. There is no provision here as to when this statement shall be made. It may be made once a year or twice a year, or once in five or six years; if I read it right, it seems to me to mean nothing. Therefore I am opposed to it.

Mr. BARNES. Mr. Chairman, if I read the section correctly, it says, as may be provided by law. The law now provides that the banks organized under the territorial law can be called upon at any time by the secretary of the Territory to make their reports. The national banks have to make it in conformity with the national act.

Mr. JAMES. Would our present law compel all styles of banks to make a report?

Mr. BARNES. I think not.

Mr. JAMES. That is why the provision is put in. The national banks are compelled to make a report. Some other banking institutions escaped that. This is put that way, so as to cover that.

Mr. BARNES. Banks kept by private individuals are not required to make statements, and I think that they should be.

Mr. CANNON. I would like to ask Mr. Barnes a question. The way the section reads, "every banking association" may be required. Is it not a fact that our present law compels every bank to publish a statement as called for?

Mr. BARNES. With the exception that I have before referred, yes, sir.

Mr. CANNON. I believe that is a fact. Every banker is required, excepting a national bank.

Mr. RICHARDS. Mr. Chairman, I am in favor of striking this section out for the reason that the section does not mean anything without legislation. Some part of it has got to be provided by law—when these statements shall be made; let the Legislature provide the whole thing. It seems to me it is purely legislation.

The motion to strike out was agreed to.

Section 35 was read.

Mr. VARIAN. I move to strike out that section. I am in entire accord with the evident purpose underlying the section. I want to call attention to the fact that, as stated here, it is a vicious innovation upon the administration of the criminal law. Every crime is made up of an act and an intent. Of necessity the ultimate criminal intent of an act of taking the moneys of other people contemplates either the wilful design to deprive the other person of his property or to gain a benefit to the person so receiving it. Now, here is an absolute declaration of the criminal law which in the absence of this constitutional provision would not exist. The simple fact that a man knows that he is insolvent, does not necessarily make him a criminal in continuing to do business after he has knowledge of that fact. Men, innocently and with a commendable purpose, do that. Insolvency has a very wide and extended meaning. A man may be insolvent in the general sense, if an account of stock were taken, if he were to cast up his accounts on either side, and it should be ascertained that at that time he would not be able to meet his obligations if called upon to do so; but it does not follow if he can tide over the period of a few days or a week or a few weeks, or a few months, that he would be insolvent in another sense. Now, this proposes to enact here arbitrarily that the very fact of a banking association being insolvent, and known to be so by the director, or cashier, or agent, when money is received, of itself makes the party receiving it a felon. I think that that sort of legislation ought to be general, ought to be left as other crimes are left, to the determination of the law upon the particular facts of the individua case.

You can imagine a case where a man would be guilty of a felony—that is, of embezzling money, or obtaining money by false pretenses, under the general language of this section, and yet you may imagine many cases when he would not be, when his honest and commendable purpose was to maintain the institution, knowing, as he might know, that the business faith and credit of many business houses depended upon the fact that the bank should be maintained; knowing that if it went down in a day or an hour, widespread disaster and business ruin might follow in the community. I do not believe, gentlemen, that we want

to do that. There is nothing here contained that the Legislature cannot control by general law, and you can safely leave it to the sense of fair dealing of the community, as evidenced through the shrewdness and desire of men to maintain their business faith and credit before the community, to protect the people, under conditions assumed to exist here. I hope that this will not prevail.

Mr. RICHARDS. Mr. Chairman, I desire to say a word or two in support of the view taken by my colleague from Salt Lake. I am opposed, in the first place, to this, because I do not believe that we ought to enact a penal code in the Constitution. On general principles, I would be opposed to it for that reason. I am heartily in accord with the idea that any officer of a bank, who would knowingly and intentionally receive money after the bank was in an insolvent condition, and when he knew that the depositors would not be able to get their money back, I think that a man under those circumstances ought to be punished and that it should be deemed a felony. But I think the Legislature should provide for that. The objection made by the gentleman from Salt Lake as to the wording of this section is fundamental. It seems to me that even if we passed this, the courts could not hold and would not hold it to mean what they say here. For example, suppose a run is commenced on a bank. The banking institution is perfectly sound; it has two dollars in property, we will say, for every dollar that it owes, but it has only got in the bank this morning, fifty per cent. of its deposits, which any banker will tell me is sufficient. It is conservative banking if he has fifty per cent. Now, a run is started on this bank, and it becomes apparent that the money he has in the bank is not going to be sufficient. A neighboring banking institution, in order to prevent the failure of this bank, which may carry down its neighbor at the same time with it and perhaps all the other banks in the place, comes in and offers to put up some money. He says, "Here we will give fifty thousand dollars, or a hundred thousand dollars of our money to tide you through to-day." The man takes the money and puts it on his counter and pays it out, and before night he pays it all out and his doors are closed. That man would be a felon under this section. Did he intend any wrong by doing that? No. He intended to save his institution and to save other institutions, and yet he was unable to meet his liabilities. And is not an institution insolvent when it cannot meet its liabilities? That is one of the definitions of insolvency. Now, I say that it would extremely unfortunate for us to adopt such legislation as this.

Mr. PETERS. Do you claim that the banker would be guilty of felony if he received money from his neighboring bank, while that individual was fully acquainted with the fact that the bank was insolvent at the time the money was handed to it?

Mr. RICHARDS. I answer the gentleman by reading this section. (Reads.) Now, if that man make that as a deposit, he is, under this section, guilty.

Mr. PETERS. Mr. Chairman, I arise to make a motion; to strike out all after the word "received," in line 9.

The amendment was agreed to.

The question being taken on the motion to strike out the section, the committee divided, and by a vote of 45 ayes to 15 noes, the motion was agreed to.

Section 36 was read.

Mr. RICHARDS. I desire to ask the chairman of the committee what is the meaning of this language:

> No law shall ever be passed granting to any citizen, class of citizens, or corporations, privileges or immunities, which, upon the same terms, shall not equally apply to all citizens? or corporations.

Mr. JAMES. I would prefer to refer

you to the author of the section, Judge Maloney.

Mr. MALONEY. That is, if one incorporation is incorporated, why not another on the same terms and privileges? In other words, that all of them stand alike. Any set of citizens can incorporate under this the same as any other. It was taken from the constitution of one of our eastern states.

Mr. CANNON. Mr. Chairman, I move to strike out section 36. I think it is covered by section 1.

The motion was agreed to.

Section 37 was read.

Mr. KIESEL. Mr. Chairman, I move to strike out section 37.

Mr. CANNON. Mr. Chairman, I trust that motion will not prevail. I believe that this section should, of all sections in this article, stand. I think it is one which provides for the rights that men should have, and it is just as important as the article on labor and arbitration was, concerning blacklisting.

Mr. JAMES. Mr. Chairman, I am very much pleased. It seems that the prodigal son has returned. [Laughter.] Probably we may get a section through. I hope that the Convention will retain this section.

Mr. CANNON. I wish to know whether the gentleman refers to himself or me? [Laughter.]

Mr. JAMES. We will debate that by and by. This section is to provide against the interference of employes and workers, and I believe it is a good section. I do not believe it can do any harm. I believe it will be a protection, and I should like to see that section adopted.

Mr. ROBERTS. I would like to ask Mr. Cannon what protection is conferred upon the individual by this section that is not already provided for in our bill of rights?

Mr. CANNON. If the gentleman will point out the section in the bill of rights that he thinks covers this ground I will try to explain the difference that I think exists between them.

Mr. ROBERTS. Why, sir, the guaranty of freedom to every individual in the State by the bill of rights would cover this. It would cover all that this covers; the right to life, the right to liberty, the right to pursue happiness. The general rights secured by the bill of rights cover everything that this section covers.

Mr. CANNON. This is to prevent people interfering with those who have got employment, by saying they shall not work.

Mr. VARIAN. Mr. Chairman, I have some amendments to offer to this section, because if the motion to strike out shall not prevail, it might preclude an amendment. I want to move to strike out "citizen," in line 1, and insert "person," and also the words "citizen and resident," in line 5, and insert "person." As to these two amendments, I want to call attention that on the face of it this is a discrimination in favor of citizens, which would not be permitted under the Constitution of the United States. Of course the courts would not sustain it in that way. I move to strike out first, "citizen of," and insert "person in," and I move to strike out, in line 5, "citizen or resident," and insert "person." That will cure the objection that I have in my mind.

The amendment was agreed to.

Mr. VARIAN. Now, Mr. Chairman, I move to strike out the word "misdemeanor," in the last line, and insert "crime," before the period; and also, "the Legislature shall provide by law for the enforcement of this article."

Mr. JAMES. Mr. Chairman, I support the motion of Mr. Varian and I want to, in reply to a remark that was made a few moments ago, simply call the attention of the gentleman, Mr. Roberts, to the argument of Mr. Thatcher on this floor the other day, where he knew of his own personal knowledge, that men had been followed

from the State or Territory of Utah into Canada, and were driven back again, and were still floating around the country when there was work for them to be doing, but they could not get it, simply because there was a combination against them to prevent them from receiving employment.

Mr. THOMPSON. Mr. Chairman, I think this section is fully covered by section 7 of the article on labor.

Mr. MALONEY. This goes a good deal farther than the section to which the gentleman refers, and it is something by which the discharged employes of the great corporations may have some protection, that they cannot be followed through into Canada, and through the United States and into Mexico.

The amendment was agreed to.

The motion to strike out was rejected.

Section 38 was read.

Mr. THURMAN. Mr. Chairman, I move to amend, commencing in line 7—I think I see what it means, but the language is peculiar. And I think it ought to be corrected. I may be hypercritical.

Mr. SQUIRES. I presume that semicolon does not belong there.

Mr. MALONEY. If the word "section" is inserted instead of "article," wouldn't that cover it.

Mr. EVANS (Weber). That is undoubtedly what it means anyway.

The amendment was agreed to.

Mr. ANDERSON. Mr. Chairman, I move that we amend the section by striking out all after the word "policy," in line 7, down to and including "void," in line 12.

Mr. THURMAN. Mr. Chairman, I second the motion. It seems to me that the language is somewhat duplicated as it stands anyway. I call attention to the way it reads. That makes that absolutely void by the constitutional provision. Then we go on and say that the Legislature shall pass laws for the enforcement of this section, etc., if necessary for that purpose, and may declare a forfeiture of their franchise. It seems to me if we want to declare them void we should do so, and quit. If we want to leave it to the Legislature, adopt the amendment proposed by the gentleman from Weber.

The amendment was agreed to.

Mr. ANDERSON. Mr. Chairman, I move that section 21 be stricken out. I think this is class legislation and is vicious in the extreme in principle, and it should not be incorporated in the Constitution.

Mr. CANNON. Mr. Chairman, I arise to a point of order. My point of order is that this identical motion was made and debated yesterday and was overruled by the committee.

The point of order was sustained.

Mr. CANNON. Mr. Chairman, I move that the word "insurance" be stricken out. We have struck out everything but the word.

Mr. JAMES. Mr. Chairman, I think we had better let this go to the third reading of the article. Maybe the Convention will get into better temper and deal a little more considerately with it.

Mr. VARIAN. Mr. Chairman, I just take advantage of this motion to call attention of the gentlemen to the principle embodied in section 37. We cannot disturb it now, but it seems that it ought to be considered between now and the third reading so that it would not apparently on its face reach all persons who may be honestly and in good faith and for a useful and beneficial purpose interfere and prevent the employment of others. I would like to have my friends think that over so that we may get it into proper shape on third reading. The intention is to prevent a criminal or wrongful interference with the rights of others. It is broad enough to include anybody, for a good and useful purpose, depriving his fellow citizens from getting employment. It ought to be, it seems to me, remodeled

in that particular, so that we will not write ourselves down as it will appear we will if we let this stand. Nothing can be done now, however, and the gentlemen who are in favor of the proposition can consider the suggestion.

The motion to strike out the word insurance was agreed to.

Mr. SQUIRES. Mr. Chairman, I move that the word "banks" be stricken out. I do not see the use of it in there. We have a title for the article—corporations other than municipal.

Mr. JAMES. I hope that will not prevail, Mr. Chairman. There are some sections retained there affecting banks. This Convention is not so wise but they might get a little wiser before the third reading, and there might be something that would want to be changed under that heading of banks.

The motion to strike out was agreed to.

Mr. CHIDESTER. Mr. Chairman, I move that when we do arise we report this article for third reading.

The motion was agreed to.

The Convention then took a recess until 2 o'clock.

AFTERNOON SESSION.

The committee re-assembled and proceeded to the consideration of the article on public lands.

Section 1 was read.

Mr. PETERS. Mr. Chairman, I move to amend section 1 by transposing in line 31, and classifying the agricultural lands to second in place of third. Now, in order to give my reasons, I will call your attention to section 2, which says that lands of the first of said classes may be sold under such regulations and rules as may be provided by law. Then, it goes on to say that the agricultural land may be either sold or leased under such rules and regulations as may be prescribed by law. By making this transposition we can just merely say that lands of the first and second class may be sold or leased under such rules and regulations as may be prescribed by law, and lines eight, nine, and ten, can be stricken out. It is just simply to shorten up this thing.

The amendment was agreed to.

Mr. MALONEY. Mr. Chairman, I move that after the word value we insert the words—I will write it out and send it up.

The CHAIRMAN. What representatives of the committee on public lands are present in the committee of the whole?

Mr. ROBERTS. I am a member of that committee, Mr. Chairman, and I will say that my recollection is that when this article was up before in committee and then referred back to the joint committee of education and school lands and public lands, with which, by the way, I did not have an opportunity of meeting, the part that Mr. Maloney is now offering an amendment to was evidently lost sight of.

Mr. Maloney's amendment was read as follows:

In line 14, after the word "value," insert the words "as of the date of settlement thereon."

Mr. CREER. Mr. Chairman, that question was discussed in the committee and it was concluded that it would be the proper thing for the commissioners to take that matter into consideration—the valuation of the land. Furthermore, it will be observed by reading along down to the 16th line that the valuation may be adjusted as provided by law. I think that it is all right as it is.

Mr. MALONEY. Mr. Chairman, at the time of settlement, the lands were not surveyed and they did not know they were on the school lands; they could not get title; they are willing to pay the value of the lands and interest on the money, as of that date. It will work a great hardship upon them—they have built their homes upon those sections.

Mr. ROBERTS. I would ask Mr

Maloney if the provisions in line 16 would not obviate the difficulty that he sees in line 14; that is, it is stated in line 14 that the disposition, etc., "to be ascertained in such manner as may be provided by law." It seems to me that the matter is relegated by this section to the Legislature to fix the market value of those lands.

Mr. MALONEY. I would construe that to mean as of the date of the disposition. I hardly think the Legislature would construe it in the way the gentleman suggests, and in order to make it certain I think we ought to have the amendment, as of the date of the settlement thereon.

Mr. ANDERSON. I would like to ask the gentleman a question, where settlers settle on land, before it is surveyed, isn't there a United States law that other lands should be selected as school lands?

Mr. MALONEY. I don't know how that is, but the section I speak of is in Weber County, and the settlers there are anxious to have something done so that they may secure their homes.

Mr. EVANS (Utah). Mr. Chairman, I was a member of the committee on education and school lands, and we provided an article upon school lands that fully covers that question. Why it has not been reported here I do not know. It does not appear upon the calendar, neither have I heard the report made here, but that fully covers that question. It provides for the objection that Mr. Maloney raises, and there were no other lands, excepting school lands, that are in that situation, so far as I know. It is confined exclusively to school lands; for all other lands the people have located upon they have their titles. Now, any one can tell me, if there is another member of the committee here that knows anything about that report, I would like to know.

Mr. MALONEY. I have never seen the article.

Mr. BOWDLE. Mr. Chairman, I was a member of that committee on school lands, and Mr. Evans is correct upon that. We agreed upon that kind of an article. Why the chairman has not reported it I don't know. It covers this very question which is here raised by this section.

Mr. JOLLEY. I trust, gentlemen of the committee, that the amendment of the gentleman from Weber will prevail. It will be a great benefit to many people, and very poor people some of them, too, of our Territory. Now, we have in one of our little settlements in Sanpete County a whole section of school lands that runs up into the edge of the town——

Mr. SNOW. I would like to say to the gentleman—I think we are talking through our hat on this question. It does not refer to school lands at all. The chairman of the school lands committee will report an article that will cover this entirely.

Mr. JOLLEY. Perhaps I am laboring under a mistake. I understood this included school land.

Mr. CREER. No, sir; it does not include it at all.

Mr. MALONEY. Mr. Chairman, if that ground is covered by another report which we have not had, I do not wish to bother the committee now.

Mr. EVANS (Utah). By permission, I would read this for the benefit of the committee. (Reads.)

Mr. CHIDESTER. Do we understand that that is what will be reported by the committee for our consideration?

Mr. EVANS (Utah). Yes, sir.

Mr. SQUIRES. Let us dispose of this section first.

Mr. EVANS (Utah). Yes; I have no objection to that.

Mr. HART. Mr. Chairman, I have an amendment to offer. In the first line of the section, I move to insert after the word "State," the words "except school lands."

Mr. CREER. Mr. Chairman, it seems

to me that we might get in confusion by adopting this, because there are distinct grants made for schools and then for the university, and then it will be observed that the committee on public lands had nothing at all to do with the consideration of those educational purposes, and I think the amendment suggested by the gentleman would not cover the ground, because they are specific, both for colleges, university, and schools, and different kinds of institutions, of lands, and I think the gentleman ought to defer his amendment until we see whether it will be proper or not. I don't think it is proper to introduce it in here.

Mr. CANNON. I think it would be inappropriate to insert the words moved by the gentleman from Cache at the point he has stated. Now, if you insert the school lands and do not receive those, it would not be a proper exception.

Mr. HART. Mr. Chairman, I am quite certain as to the point, and I would be willing to let this go to the third reading.

The CHAIRMAN. The amendment is withdrawn.

Mr. MALONEY. Mr. Chairman, I move to strike out the word "receive," and insert in lieu thereof the word "accepted," in lines 5 and 6.

The amendment was agreed to.

Section 2 was read.

Mr. PETERS. Mr. Chairman, I move to insert after the word "first," in line 1 of section 2, the words "and second," and then strike out the 8th, 9th, and 10th lines. I would simply say that when I made my motion to transpose part of section 1, I stated my reasons for it at that time, that I intended to move to strike out these lines.

Mr. RICKS. Mr. Chairman, I do not think we ought to be in a hurry about that amendment. In the first place, it covers coal lands.

The amendment was agreed to.

Mr. HOWARD. Mr. Chairman, I move that the word "second," in line 4, be stricken out and the word "third" inserted.

The amendment was agreed to.

Mr. THATCHER. Mr. Chairman, I move to strike out the words, "may be sold," on the fourth line.

The amendment was agreed to.

Mr. EVANS (Utah). Mr. Chairman, now, I move you that section 2 be stricken out down to and including "by law," in line 10. It seems to me that it is purely legislative and ought to have no place in this Constitution. It all goes on and provides that it shall be prescribed by law, and the Legislature will have to deal with this question. They will have to take it up and define its boundaries, and how it is to be disposed of, and so on, and inasmuch as they have got to deal with it at all, I am in favor of leaving the whole question to them. I am in favor of the last two lines for the reason that it is a specific classification and defines what they cannot do or what they must do.

Mr. THURMAN. Mr. Chairman, I support the amendment of the gentleman from Utah. The only limitation in that whole section, in lines 11 and 12—that I think is a good limitation and the Legislature ought to be forbidden from disposing of those lands, except as herein specified.

The CHAIRMAN. Don't you think that perhaps that was put in there to cover the question of leasing by the State?

Mr. THURMAN. Even if it was, Mr. Chairman, and if this Convention thinks that that is necessary, the section is very cumbersome. Of course, if this Convention wants to limit the power of the Legislature to sell certain lands or to lease certain lands, that is a nec es sary limitation, but the section is certainly very cumbersome the way it is, and I favor the motion to strike out.

Mr. CREER. Mr. Chairman, I am in favor of that, providing that there should be something substituted. It

seems to me there ought to be something placed in this article with reference to the disposal of the lands. I am in favor of striking out and substituting the provision in the Wyoming constitution. I have prepared it as a substitute. I supposed there would be some exceptions taken to this second section.

Mr. HART. I would like to hear from the chairman of this committee his reasons for inserting this clause. As he is not present, I would then vote to retain this and let it come up on third reading. There may be some reason for retaining it and it can be acted upon on third reading.

Mr. HILL. Mr. Chairman, the chairman of this committee is not here. I am a member of it. I accept of the proposition of Mr. Hart, notwithstanding which, I consider the provisions which are here made are even better than those suggested by Mr. Creer, who is also a member of that committee. With the amendments as proposed, I think it covers the entire ground. Did I understand, you, Mr. Thurman, to say that you desired to eliminate the eleventh and twelfth lines?

Mr. THURMAN. No, I desire to retain those two lines, and strike the balance out.

Mr. HILL. I am willing to submit to that, as a member of the committee.

The CHAIRMAN. The question is upon the motion to strike out all of the section down to line 11.

The question being taken on the motion, the committee divided, and by a vote of 26 ayes to 28 noes, the motion was rejected.

Section 3 was read.

Mr. EICHNOR. Mr. Chairman, I move to strike that section out; that is a legislative enactment.

Mr. EVANS (Utah). Mr. Chairman, I move to amend by striking out section 3 and inserting the following:

The lands selected to satisfy the grants which have been heretofore or may hereafter be made to the State, shall be allotted to each of the several uses for which the same were granted, so that each may receive its fair proportion thereof, both as to quality and value.

Mr. EICHNOR. I will withdraw my motion to strike out. I would like to ask the gentleman if that is a section prepared by the committee on school lands?

Mr. EVANS (Utah). Yes, sir.

Mr. CANNON. And was agreed upon by that committee?

Mr. EVANS (Utah). Yes, sir.

Mr. CANNON. But no report has been made on it?

Mr. EVANS (Utah). There has been no report made at all. I do not know where the chairman is.

Mr. BOWDLE. In looking up the minutes, I find the report was made, but I do not understand why the article was not printed.

The substitute offered by Mr. Evans of Utah was adopted.

Mr. MALONEY. Mr. Chairman, I move to add after the last word in the section offered by the gentleman from Utah County, the words, "as of the date of the settlement thereon."

Mr. EVANS (Utah). Don't you want to add that in the next section?

Mr. MALONEY. Yes, sir. I will withdraw it for the present.

Mr. EVANS (Utah). Mr. Chairman, if there are no amendments to that, I desire to offer a new section entirely:

The selling price of the public school lands shall not be increased by reason of any improvements made thereon by actual settlers, but such settlers or their grantees shall be given priority in the purchase of such lands.

Mr. MALONEY. Now, I move that the words, "as of the date of settlement thereon," be inserted at the end of that section.

Mr. EVANS (Utah). I desire to say this, that means, as I understand it, that the commissioners will fix a price

upon that land, and they are confined only to the specifications as set forth in that, and then those who first settled upon it, or those who have purchased from them, who are the actual settlers, will have the opportunity of rejecting under these stipulations, and then of course they can be sold to any one else—those that may be rejected.

The section offered by Mr. Evans, of Utah, was adopted.

Mr. MALONEY. Now, Mr. Chairman, I wish to add the words, "as of the date of settlement thereon." There are a great many settlers of this kind in Weber County. They have tried in every way they could to get titles and they could not get them. A great many of those people are in very poor circumstances. Some of them are Swedes, some Danes. They are now ready to pay whatever is the reasonable price of their lands, but to allow the commissioners to value those lands at this time, why, it would be simply to drive them away from their homes, because they cannot pay for them.

Mr. SQUIRES. Do you not understand that under this section the improvements on that——

Mr. MALONEY. I understand that, but those lands will now be valued at something like two or three hundred dollars an acre, maybe. Those people cannot pay it. There is no use talking about it.

Mr. FARR. Mr. Chairman, what Mr. Maloney has stated is strictly correct. I have seen a number of such instances.

Mr. JOLLEY. I hope, gentlemen of the committee, that this amendment of Mr. Maloney will prevail. As I stated when I was up before, in one of our little towns in Sanpete County, we have there a section of school land that comes up into the town, that the people had settled on and had cultivated, had built upon, before it was ever known where the school land lay. To-day the men that owned that land, many of them, are dead and gone, and their widows have that land and it is all that they have got. Now, if the price is put upon that land as it is worth to-day, it being right in the edge of the town, it will be more than they are able to pay. It will drive them from their homes, and I think it is just and right that that land should be appraised as it was when they first settled upon it, and I trust in the interest of those that will be robbed of their homes, you will consider it and vote for the amendment.

Mr. CREER. Mr. Chairman, I think this is a very important question and should be fairly considered before we pass upon it. It may be true and is true that quite a number of settlers settled upon land, when they did not know that they were school lands at the time; but it is also true that a great many of the citizens of this Territory settled upon school lands that they knew at the time were school lands and they have probably for the last ten or fifteen years had the benefit of those lands without paying any taxes upon them, simply by paying taxes upon the improvements, and thereby the balance of the people have been handicapped by them going and settling upon those school lands. I know there are a number of townships around—in Utah County there is one at least, and in fact part of another one that I am aware of, that they knew perfectly well they were school lands at the time they were settled upon, and, therefore, they have received the benefits all those years of being exempted from taxation, and now to say that they should simply pay the price they were valued at at the time of settlement, I think would be wrong, and furthermore, I think that by this action of the committee, it would deprive the school funds of many thousands of dollars should we dispose of this section in this manner. I do not believe it is the correct principle. I do not think it is right. I think that the interests of the school population of the Territory should be considered as well as those of

the settler. It must occur to everyone that the lands of this Territory settled upon have been surveyed for many years. I have no way of conputing it. I do not know whether the gentlemen on this floor have any way of computing that, but I believe there are far more of the school lands settled upon that the settlers knew at the time they were school sections. This would also affect four sections of the township as I understand it, and I think it is a very important matter, and I am opposed to the amendment of the gentleman from Weber, Mr. Maloney.

Mr. ALLEN. Mr. Chairman, it appears to me that we ought not to vote on this in a hurry. The amendment as proposed will work a great injury to our school fund. These men, although they have been living on this land and improving it, while, as has been stated here, it would work an inj ry to them in one respect, yet, they have not had to pay taxes on this. They have been getting the benefit of it for years and years, and have never paid a dollar's price, and to place the price of this back as it was twenty and thirty years ago, I do not think it would be right. Further than that, I know of some men who are holding considerable school land to-day, just on purpose to get a chance to buy it when it comes into market, and get it cheap. I know of some holding lands in this way, and it will work an injury to the school fund and put considerable money in the pockets of some men who are now wealthy. Therefore, I think this should be left to the Legislature.

Mr. ANDERSON. Mr. Chairman, I think that the settler is sufficiently protected by the section as it now stands. They are given priority of right and the improvements that they have made are not considered. According to United States law, if a settler settled on land before it was surveyed, that land was not set apart as school land.

Mr. IVINS. Will the gentleman allow me to say just a word? I know of many instances where people settled upon land before it was surveyed, and occupied it for fifteen years before the government survey ever was made, and when the survey was made of alternate sections, and they were set apart as school sections, and it is school land to-day, and those people have been occupying it for twenty-five or thirty years, ten or twelve years of which was before it was ever surveyed by the government at all.

Mr. ANDERSON. That may be, but there is a United States law, as I say, providing that if settlers settle on land before it was surveyed, that other lands will have to be selected in lieu thereof. But I think that in order to protect the school fund, we should adopt this section as it now stands. The settler is protected. He is given a priority of right; he has the first chance to bid, and the improvements that he has made upon it are not taken into consideration.

Mr. MALONEY. You say that they are given the right to purchase. Suppose the land is valued at three or four hundred dollars an acre and he is an actual settler——

Mr. ANDERSON. Well, if it is worth that much I suppose he could get the money from almost any bank to pay for it.

Mr. MALONEY. Well, they would have to mortgage their homes. Some of them have no more than half an acre.

Mr. CREER. Is it not a fact that if a party should go and settle upon school lands before the government survey, he has the same privilege as any other settler of entering those lands—sections 16 and 36.

Mr. MALONEY. Suppose he tried to get a title and failed—he could not do it.

Mr. CREER. I understand the law to be that the original locator can do so.

Mr. THURMAN. Mr. Chairman, I

favor the spirit of this amendment, but it is not exactly what I think it ought to be. I think a man who in good faith settled upon school lands before they were surveyed ought to have the privilege of buying those lands at the government price with reasonable interest added, because he would have gladly paid his money and bought the lands, but could not do it. But he has had the use of it. Let him pay a reasonable rate of interest—six to eight per cent. Those who settled on school lands, knowing they were school lands, took their chance on whatever regulations the State might make. Let them be governed by the provision as it stands here without the proposed amendment. Now, gentlemen, I think that ought to be the form of the amendment, and it could be made with a little time, and that kind of an amendment I would like to support; but I can see that this provision as it stands without the amendment will work a great hardship upon men, who in good faith went upon the public domain and established their homes. They may have lands which to-day, without any improvements on them at all, are worth forty or fifty dollars an acre, and to compel them to pay that is practically to compel them to abandon their homes; I do not believe it is right.

Mr. SQUIRES. Mr. Chairman, I was about to vote for this amendment, for fear, if we did not do it, the early settler might have some hardship, and if there was the least doubt about it, I wanted to give him the benefit of the doubt; but after what Mr. Thurman has said, I believe that some other form of amendment should go in there. But why take up our time now over that matter? Why not pass this section as it is, and give us time between this and the final reading to prepare such amendment as we need?

Mr. FARR. Mr. Chairman, the gentlemen have spoken about men having the land and that they have paid no taxes at all. Now, in our section of the country where we have got the land, they paid the same tax there on these school sections as others have. Consequently they have been to the same expense on the land, and I trust this motion of Mr. Maloney's will pass. Any person who has gone and taken up school lands, knowing they were school lands, ought to pay the full value, but those who settled and put up their homes before they knew what those lands were, whereas others put them up on government lands, and they have got their lands, and these poor people on the school lands have been trying to pay for it all this time—I am willing to have it that they pay a reasonable interest, because they have had the use of the money, but no more. I do not think we should tax them any more than a reasonable interest. I think we might just as well postpone this until the amendment can be properly drawn.

Mr. BOWDLE. Mr. Chairman, I am not, myself, this afternoon, prepared to vote upon this question, and I know this same thing will come up on third reading and I consider that what we do now will simply be time lost unless we so largely be of one mind that it would practically settle it, both here and in the Convention, and I am in favor of passing this section. I do not care what you put in this afternoon, because I know the same thing will come up again.

Mr. MALONEY. Mr. Chairman, I will withdraw it with the consent of my second and bring it up on third reading. The settlers are undoubtedly willing to pay some interest, whatever is reasonable.

Secton 4 was read.

Mr. KIESEL. Mr. Chairman, I have an additional section to offer:

In the investment of proceeds derived from the sale of public lands, preference shall be given to the securities of the State of Utah.

I apprehend, Mr. Chairman and gen-

tlemen, that when lands are disposed of, when the time comes, there will be money in the treasury, there will be a great rush made for that money. and there is a chance that the money may be loaned out and given to parties where the interest is very hard to collect. I do not think that a better investment can be made than that of the securities of the State, because it will at once enhance those securities, and in a short time after the sale of the lands and we have the money, we will be the owners of our own debt—the State of Utah. I think you must not lose sight of this, and I think the Legislature should be compelled to make that a law. I had my attention called to this by the governor of Idaho. They have loaned out the money to Tom, Dick, and Harry—to farmers, and they are having the greatest difficulty to collect the interest on the investments, and in a talk that I had with Governor McConnell, he strongly recommended to embody that in the Constitution as the result of their observation.

The section proposed by Mr. Kiesel was adopted.

Mr. CANNON. Mr. Chairman, I move that when the committee arise, we report this article to the Convention, with the recommendation that it be placed upon the calendar for third reading.

The motion was agreed to.

The committee then proceeded to the consideration of the article entitled salaries of public officers.

Section 1 was read.

Mr. ALLEN. Mr. Chairman, I move to to amend section 1 by inserting the word "assessors" between the words "excepting" and "notaries," in line 2. I cannot call to mind where the assessor would receive any fees. Of course the collector would, and if the assessor is paid a salary, it is not one man out of a dozen that would get anywhere near a fair assessment on property. Now, there are two things to be considered in making an assessment. If he is paid a per cent he would get it just as high as he can and keep the taxpayers good natured, and he has got something to induce him to get that as high as possible, and it is not one time out of a dozen that I know of in the Territory that they get it too high, either, and they do not get it too high as a rule, because they want the good will of the people for re-election. Therefore, I believe a man who is working on a salary, would not be particular. He knows he will get his pay anyhow. He would not be particular about getting that property assessed as high as he would if he was receiving a per cent.

Mr. MALONEY. Mr. Chairman, for the very reason the gentleman gives, I oppose the amendmeat. I will say to the gentleman that there are five hundred to a thousand people in Ogden and Weber County that will be glad to sell their lands for a less sum than the assessors place them at.

The amendment was rejected.

Mr. CANNON. I desire to ask some of the legal gentlemen present whether or not it would not be better to have that included among the list of officers which are to be paid by fee, the sheriff? Is not his office of such a nature that you have to pay him, and cannot definitely arrange to pay him a salary? You do not know how many criminals he is going to have to look after, and he does not know what processes he will have to serve. I would like to ask some of our legal brethren that.

Mr. EVANS (Utah). Mr. Chairman, I will say that our experience has been in the county which I have the honor to represent, that it was better to pay a salary than it was under the fee system, and we inaugurated that plan, while we were almost overstepping the bounds of the law in order to do it. Now, in all these offices it provides for expenses, and his time would be covered by salary, and the necessary trav-

eling expense, and whatever he would have to actually pay out.

Mr. THURMAN. Mr. Chairman, after the word "State," I move to insert the word "district," in line 1. There might be district officers. We already have provided for judges to be elected by the district, and they may be called district officers, although they are paid by the State.

The amendment was agreed to.

Section 2 was read.

Mr. CANNON. Mr. Chairman, in accordance with the amendment, made by the gentleman from Utah, I move to insert in line 7, after the word "State," the word "district."

The amendment was agreed to.

Mr. EICHNOR. Mr. Chairman, I move to amend section 2, by striking out all after word "treasury," in line 10. The words stricken out—that is the exact purpose for which he gives the bond.

Mr. VARIAN. Mr. Chairman, I fear that for the reason that it puts upon the officer who is to receive the money a penalty, because of the failure of the man who is to pay it. I do not think that is the proper thing. That ought to be left to the laws. I am an officer, compelled to do these things, and pay the fees I collect over to the State officer. If I do not do it, for that officer to be held responsible on his bond for it, it seems to me is hardly the thing. Now, by striking that out, you refer it all to the Legislature.

Mr. ROBERTS. Mr. Chairman, it occurs to me that the thing of which the gentleman complains is the very thing we want. If we are going to have any virtue in this fee system at all, in the change that is proposed, of paying fees into the treasury, you have got to provide for their collection, and you must provide for that collection through the officers that collect, and I believe that these officers ought to be bound to collect those fees and be held responsible for them to the extent as provided for in this section, and for that reason I shall vote to retain it just as it is. It seems to me that if we do not make some arrangement such as this for the collection of those fees, we are going to fail in every part, getting the fees at all. Make the man responsible who collects them.

Mr. VARIAN. I think probably that interpretation is right, so far as I am concerned.

The amendment was rejected.

Mr. MALONEY. May I ask what officers "district" has reference to, which was inserted there?

Mr. THURMAN. I did not have any particular officer in mind. We may have district officers. I said we had provided for judges to be elected in their districts. There might arise a question as to whether they are district officers or State officers. They are paid by the State, but they are elected by the district. I think they are district officers.

Mr. MALONEY. Ought we not to say judicial, then?

Mr. THURMAN. Not necessarily; district will cover it all, whether it is judicial district, or land commissioner district, or whatever is the district created by the Legislature in the future.

Mr. MALONEY. It seems to me it is left open for conclusion. I would like to have it more definite.

Mr. VARIAN. Mr. Chairman, I move to strike out the words, "justices of the peace," in line 5, and insert "and justices of the peace, except in cities, as may be otherwise provided by law," to make it conform to the proviso of the first section.

Mr. FARR. Mr. Chairman, I arise to ask a question for information. In the third line of the first section, what is meant by court commissioners? We have a county court that we call county commissioners—three selectmen, and what court commissioners has this reference to?

The CHAIRMAN. Mr. Varian, may I

call your attention to the fact that the justices of the peace, in lines 4 and 5, is limited by the fact that they are such justices as are paid by fees?

Mr. VARIAN. Yes. I will send it up in a minute. This matter can be arranged by simply transposing, "and constables," before the word paid.

The amendment was agreed to.

Mr. THATCHER. Mr. Chairman, I move that the word "other," on the seventh line, be stricken out. My idea is that all the fees should be paid into the treasury and then their salaries under fees be paid back to them again. That will give the State an opportunity of knowing what their receipts and disbursements are and what surplus there may be. If you leave it without striking that out, the fees may amount to a large sum, and the State has no means of ascertaining that fact.

Mr. CHIDESTER. Mr. Chairman, as I understand it, if we should strike that word out, then the officers that we provided will be paid a salary would have to pay the fees into the treasury and then receive back a salary?

Mr. THATCHER. That is right.

Mr. PETERS. Mr. Chairman, I hardly understand that amendment. I think the word other here refers to the officers who receive their compensation in fees; for instance, boards of arbitration and court commissioners.

Mr. CHIDESTER. Mr. Chairman, I cannot see any good reason for compelling the notary public to go and take every fifty cents that he receives for acknowledging a paper to the treasury, and taking a receipt for it, and then at the end of the year going and asking the treasurer for that money back again and giving a receipt, which he would have to do. It seems to me that it would create a great deal of trouble and annoyance by compelling them to do that.

Mr. MALONEY. Mr. Chairman, I agree with what Mr. Chidester said. It strikes me that the Legislature might take care of that. There are scores of notaries public that do not make two dollars and a half in five months. It strikes me it ought to be left to the Legislature to regulate such matters.

Mr. THATCHER. What business man would expect success upon the proposition that he kept account of a part of his business and not the other part. It is true the fees may be small, but the State should understand what they are. In instances in the past I have known fees to be very large. If the State has no means of ascertaining, why, then, they are not posted on that proposition. I hold that every well conducted business, and the State government itself, should carefully keep an account of every cent of receipts and disbursements. For that reason I make that motion. It is no trouble to pay in, and the salary being fixed by the fees, it is no trouble to pay out.

Mr. CHIDESTER. Would this not necessarily compel a notary public to demand cash for everything that he did?

Mr. THATCHER. Not necessarily.

Mr. CHIDESTER. It is for the benefit of the poor man that this should not pass, because they can make arrangements to have their deeds acknowledged without paying the cash, but if this passes then the cash must be paid so that it can go into the treasury.

Mr. BOYER. Mr. Chairman, as I understand the word "other" being qualified to the officers that are to be paid by salaries, I would move as an amendment to the amendment, instead of striking out the word "other," that you put there the word "salary," and that will apply strictly to the salaried officers that shall make this return and account as required by the gentleman from Cache.

The amendment of Mr. Boyer was agreed to.

Mr. THATCHER. Mr. Chairman, as I understand it, it reads now exactly the way it was before. The proposition I made was that every officer in

the State should account for every cent of public funds he handled.

Mr. RICKS. Mr. Chairman, I move, when the committee arise, it report this article to the Convention, and recommend it be put on its third reading.

The motion was agreed to.

The committee then proceeded to the consideration of the article entitled public buildings and state institutions.

Sections 1, 2, and 3 were read.

Mr. ANDERSON. Mr. Chairman, I move that section 3 be stricken out to the words "Salt Lake City," in line 16, and that these words be inserted before Salt Lake City, "the seat of government shall be located at Salt Lake City, Utah."

Mr. VARIAN. Mr. Chairman, I offer as a substitute for section 3, the following: "The capital shall be located at Salt Lake City."

Mr. CREER. Mr. Chairman, I am opposed to either the amendment or substitute. I think, gentlemen of the committee, that it is proper and right that this question should be submitted to the people—to the voters of the Territory. Notwithstanding it may be the opinion of the majority of the members of this committee that that would be the final result of this section, if it should be carried, that the seat of government would be located at Salt Lake City. You are aware that in quite a large number of the states of the Union, probably more than one-half, the capitol is not located in the metropolis. Now, we know that Salt Lake City already has one or more—it has a university, and I believe that this article further on provides that the State penitentiary or prison should be located in Salt Lake City, and also the State fair. It seems to me, gentlemen of the committee, that this is a question that is worthy of your consideration, whether it be just and right to have the capital located here at the metropolis; and there is another consideration, which perhaps may be of greater importance than all. If we should at this time locate—and that is, that following up the history of our past Legislatures, just as soon as the question is decided and settled, why they at once begin to make appropriations for the necessary buildings to follow the location.

Now, I think, Mr. Chairman, it will appear to everyone that the new State will not be in a condition to at once proceed and make appropriations for a capitol building, and I am thoroughly satisfied in my own mind from the experience of the past that if this should be done, that that will no doubt be the action of the next Legislature, to involve the new State in debt, and I think—in fact I am satisfied in my own mind that it is far better that we should take a respite upon the matter of borrowing money, and this will of necessity compel that respite. That is, a pause, or a time to consider well what the new State would require in this respect. Furthermore, there are ample opportunities, and will be, to facilitate every requirement that the State will need until that time. Many have expressed themselves to me that they would prefer to have this postponed until some ten years, and others five years, after the initiation of the new State, but it certainly appears to me, and I believe it would be nothing but just and right, that there should be some limit, some time that we should settle this matter of the State capital. In California and also in Nevada, and in many of the older states and also recent states, they have not established their seat of government at the metropolis. Therefore, I think it would be nothing but proper and right that other cities should have an opportunity of entering into competition for the seat of government. I am satisfied that it will give a greater prestige to our new Constitution. Many no doubt would be more willing to vote for the adoption of a Constitution of this kind with a proviso, than they would if it

established it at once in Salt Lake City, and I think it is nothing but fair, it is nothing but right, that the people should have an opportunity of voting upon this matter. Provide that a vote may be had hereafter for a change. If that is so, it seems to me it ought to be left to the vote of the people. This is the most important location of any institution that has been presented for our consideration.

Mr. ANDERSON. Mr. Chairman, I will withdaw my amendment, as the substitute of Mr. Varian is the same thing. I think the capital should be located at Salt Lake. It will save a great deal of expense. I think it is the proper place and it will save a great deal of agitation and intense feeling that will come hereafter.

Mr. HEYBOURNE. Mr. Chairman, I shall certainly support the gentleman's amendment from Salt Lake. I am opposed in my feelings to agitating the minds of the legal voters of this Territory in respect to the location of the seat of government. I believe that, of right, it belongs to this city. This is centrally located, so far as the new State is concerned, and I am of the opinion that it is nothing but right and proper that this body should determine this matter at the present and thereby settle this controversy. Therefore, I shall sustain the gentleman's amendment from Salt Lake.

Mr. THURMAN. Mr. Chairman, I am not prepared to say that I will oppose this amendment, but I am going to ask this Convention to do something in reference to this matter, which probably they will not be willing to do, but which I think they ought to do. We have work enough to keep us this afternoon, if we do not enter into a discussion of this question.

There will be a discussion of it if it is settled this afternoon. Now, I suggest that we postpone the consideration of this section until Monday and get through with our work about which there will not be much difference of opinion, perhaps. We will probably have to be waiting here for the committee on revision to present us with some work, and while we are waiting we can settle this question. I think myself it ought to be determined by this Convention, but I ask the Convention to do that. I am not prepared to say just now that I will oppose this amendment.

Mr. ANDERSON. Could not this be considered when it came up on the third reading?

Mr. THURMAN. Well, of course that puts parties who might want to oppose it at a disadvantage. Of course it could be considered on third reading, but when we get through with a matter in committee of the whole, we generally think that a matter is about settled.

Mr. EVANS (Weber). Mr. Chairman, I have an amendment, if it is in order, which, although it may be somewhat imperfect, I would like to submit:

The location of the seat of government shall be at Salt Lake City; provided, that there shall not be an appropriation of any money for the construction of a capitol building for a period of ten years; and, provided further, that the city and county of Salt Lake shall furnish convenient rooms and accommodations for State officers and State purposes during such period.

Mr. Chairman, I believe like some other gentlemen who have been talking, that we ought to settle the question of the seat of government in this Convention, and I think it ought to be settled in Salt Lake City once for all, but I do believe, in view of the present condition of the treasury, that there ought not to be any money appropriated or expended for the construction of the capitol building for a period of about ten years. Whether that length of time is the proper time or not, I will not assume just now to say, but it does seem to me, and I believe, too, that the city and county would agree to it, as they

have a most magnificent building here in which we meet, to permit rooms, and accommodations for State officers and for State purposes for the period of ten years. Then, in the meantime, the State may be in that condition financially that it may be able to construct a handsome building, but I would fix it definitely in the Constitution that the capital is to remain at Salt Lake City and stop this continual agitation which we have had ever since the capital was fixed here. I believe the proposition to be eminently fair and just. I believe it will not injure the people of Salt Lake, and I know that it will benefit the general taxpaying element of the new State. This matter I have had in mind some little time, but just drew the amendment upon the impulse, as I came in late. I only submit it now that it may be properly considered and taken up upon its third reading and definitely settled.

Mr. FARR. Ten years is a pretty long time. I would ask you to accept of an amendment and instead of ten make it five years, in this motion.

Mr. EVANS (Weber). No.

Mr. CREER. That can be amended upon third reading.

Mr. SQUIRES. I would like to call the attention of the gentleman from Weber to one portion of that substitute. It would be absolutely impossible for us to forecast what all the future councils of this city might be willing to do in the way of furnishing room for the accommodation of the legislative bodies when they are called upon to meet here. I don't believe that the delegates upon this floor representing Salt Lake City are in any position to make any guaranty. I am quite sure they are not, and if on any one occasion there should be a failure on the part of a city council or a county court to furnish these rooms for the Legislature, why, then, the capital is not located, although it is put in the Constitution. It seems to me an unusual constitutional provision.

Mr. EVANS (Weber). I was just going to remind you that it does not require any guaranty from the city or the county but it fixes it here definitely, if they do those things, that is all. It seems to me like a reasonable proposition.

Mr. JAMES. I want to call the Convention's attention to the fact that the city council has already donated a site for the capitol, and that they have gone to a good deal of expense in the way of improving it, putting out trees, reservoirs, etc., and there may have to be some provision for taking care of that site, and providing for keeping it in order, even though there may be no building.

Mr. IVINS. Mr. President, I do not like the substitute offered by the gentleman from Weber, for more reasons than one. There is nothing definite in it. He locates the capital here, provided Salt Lake City and county will do certain things. Like the titles to this land we have in different parts of this Territory, it is all conditioned. I am in favor of definitely settling this question now and here. Neither do I like that provision of the substitute which says there shall be no money appropriated for ten years. I am willing to leave that to the Legislature. I do not think they will appropriate any money unless it is proper.

Mr. VARIAN. Mr. President, in my judgment, this Convention wants to appoint definitely the place of business for the State. That is what the capital is. It does not necessarily follow that it is to be forever located there. It can and will be, if the necessities of the people require it, changed. As your Constitution now stands, amendments may be submitted by the Legislature and determined, as I recollect it, by a majority vote of the people. You do not want to go forth to the United States with an ambulatory proposition, concerning your seat of government. It ought to be definite

and fixed, because by fixing it definitely, you indicate that you are a people who know your own mind. Think of the uncertainty and indefiniteness included within the proposition to locate the capital, provided some municipality of the State shall do something, and make it also contingent upon the fact that no money shall be appropriated to provide for your necessities. Can you not safely leave that to the Legislature? Do you believe that a Legislature can be elected here which will not conform to the wishes of the people in that particular? You have placed proper restrictions and limitations upon the power of the State in the matter of incurring indebtedness, more particularly and specially to public buildings. I do not doubt for a moment, but that it will be some years before the proposition to erect a capitol building here will be considered. I don't think it ought to be considered for the present. I judge other people by myself in looking at those questions. I do not think the people would want it. I do not think it would be a good business proposition. I believe with my friend from Weber, that accommodations can be provided for the State officers at present here, but that is aside from the question. We ought to at least know our own minds now, not to permit this matter to go into an instrument like the Constitution as an uncertain and indefinite proposition, indicating that it will be and may be brought up from time to time. The capital ought to be fixed permanently as long as it is fixed, and when a necessity for the change shall come, then it should be removed and doubtless will be. There is a distinction between the fixing of other public institutions and the fixing of the capital. The capital is the seat of business of the government. It ought to be fixed—I mean fixed in the sense of permanently for the time, until it shall be changed as provided by that instrument. All those other matters, as I took occasion to remark the other day upon this floor, in my judgment, are within and ought to be within the discretion and power of the Legislature, acting for the people and meeting the varying and shifting wants and necessities of the people. I hope this amendment of my friend will not prevail. It seems to me a hindrance rather than a help.

Mr. THURMAN. Mr. Chairman, I will move to strike out the latter part of the substitute. I do not believe it is right. I do think, gentlemen, it is the part of wisdom that we fix the capital to-day, and that we say that no appropriation of public money shall be made for a definite and fixed period of time. My reasons for that I will state. We cannot exactly foresee now just what the expenses of the State government are going to be. We cannot predict with any degree of certainty how much the taxes upon the people will have to be increased to carry on the State government. Times are hard. We are still in the midst of a crisis. Those times may continue a few years, and to all appearances they will. If we leave this without any limitation upon the Legislature respecting when this money may be appropriated, we will find that in the very first Legislature that meets, there will be a strong pull made upon the members to provide a fund for the building of a capitol at once, and there will be only one way by which it can be done. We are limited now in our indebtedness. Nobody wants a capitol built that can be erected for two hundred thousand dollars—the limit of our borrowing power, and the only way to do it will be by increasing the rate per cent. of taxation upon the people, and every effort will be made to induce members of the Legislature to at once increase the taxes upon the people, and provide a fund and commence the erection of that building. Now, I say, let us have time to tide over the first stage or

stages of statehood. Let us get ourselves upon a good solid footing, pay off some of the bonded indebtedness of the Territory, and stop paying interest, which is not a good business proposition, even for a state, and in the meantime, there is no doubt in my mind but what the State can arrange with Salt Lake City and Salt Lake County, for the use of the very building that we are now occupying, or a portion of it, for State purposes, by paying them a reasonably fair compensation for it. Authorize the State to do that, or the State could do it, I presume without any authority.

Mr. VARIAN. Let me ask the gentleman, does he remember the limit of taxation, in the article we have already passed—four mills?

Mr. THURMAN. Eight mills, I think. Now, we all know the influences that are brought to bear—I am not speaking now of bribery, but men buttonhole their fellow members of the Legislature and say, "Do this. We want the capitol building, it will boom the country and it will increase the value of real estate, and we want it over here. I will give a piece of ground if you will just put up the building." And it will result in raising the taxes of the people generally before we can well afford to have them raised. That is my proposition, and if we do locate the the capital today, at least let us retain that provision that provides that the appropriation shall not be made for a period of ten years. Cannot we get along? Here is a building, it is true, that does not belong to the State, but it belongs to Salt Lake City and county, and it is large enough to accommodate them and the State, and, gentlemen, it is a building that will be good for Utah Territory as a capitol for fifty years to come, just as it stands, and we can better afford to pay a reasonable rental for this building for State purposes than we can afford to raise the taxes of the people at the present time and go on paying interest on the money that we at present owe. For that reason I am in favor of it.

Mr. MALONEY. Mr. Chairman, I am personally in favor of Salt Lake City becoming the capital of this great intermountain State that we are now building, but I like the amendment—I like something like it. Under the present circumstances of this Territory, there ought to be some limit with regard to taxation for public buildings. I agree with my friend, Thurman, that this is a magnificent structure. It will do the people of the Territory for a great many years. I don't want to see anything submitted to the people at the coming election of 1895, to give the voters an opportunity to trade one way or the other on the rejection or the adoption of the Constitution. I want the capital located by this Constitutional Convention. I want it located in Salt Lake City. The only improvement on this would be to strike out "Salt Lake City," and insert "Ogden, Weber County."

Mr. RICHARDS. Mr. Chairman, I believe there is an overwhelming sentiment in this committee in favor of the definite location of the capital at this place, so I shall not have much to say on that point. Now, as to the proposed proviso. I am opposed to that, not because I differ in my views with my friend from Utah County as to what the policy of the State should be, or with my friend from Weber County. I believe, myself, that it would be very unfortunate for the State, in the immediate future, perhaps within the limit that this Convention might agree upon, if we were going to put a limit in the Constitution of several years, to appropriate public money or incur public indebtedness for the purpose of the erection of a State building. But can we not safely leave that to the Legislature? That is the question, gentlemen. It seems to me that we can. We ought not to encumber this Constitution with

every sort of an admonition and guideboard. We must assume that the Legislature will have the same consideration for the condition of the people that we have. They will understand the situation just as well as we understand it, and when it is said by my friend from Utah that strong influence will be brought to bear upon these people to appropriate money for this purpose, I will remind him of the fact that under the apportionment that has been made, Salt Lake County will only have about one-fourth of the Legislature. Certainly if Salt Lake County cannot be relied upon, assuming that they will all go crazy and wild and that we will lose all our patriotism, and that we would be willing to wreck this State—although I think that is a very hazardous presumption—but assuming all that to be so, certainly the other three-fourths of the representatives of the State might safely be relied upon to do that which is right under the circumstances. And so I say that we ought to vote upon this proposition straight, and we ought to vote upon it without any proviso or condition; and in that connection, I will ask my friend from Weber, who proposed this amendment, with the proviso, where would be the capital, if that were incorporated in the Constitution—assuming that we take the section, just as my friend from Weber gives it to us, and put it in the Constitution, and then a Legislature were to make an appropriation for a public building, where would the capital be?

Mr. BOYER. San Juan.

Mr. EVANS (Weber). It would be at Salt Lake City, because the laws of the Territory have fixed it here, and there is nothing repealing it.

Mr. RICHARDS. What is the purpose of this proviso?

Mr. EVANS (Weber). Fixing it definitely in the Constitution, so that the Legislature cannot constantly change it.

Mr. RICHARDS. You say that the capital shall remain at Salt Lake City, provided no money shall be appropriated for the capitol for ten years. Now, the proviso is a condition or qualification of the location. Now, when the appropriation is made, what becomes of the capital? There is but one answer. It either means that the capital would be moved, because of this appropriation—and if it was moved, to where would it go, to San Juan, or to Washington, or to Cache?

Mr. THOMPSON. Millard County.

Mr. RICHARDS. It means that the putting of this proviso in the Constitution would not mean anything. It means one thing or the other. Either the capital would move and go somewhere, or else the placing of this proviso in the Constitution does not mean anything. I say we do not want it there. It ought not to be there, and there is no necessity for it.

Mr. EVANS (Weber). Mr. Chairman, I can see the spirit that moves the gentleman from Salt Lake City. It is simply a spirit of criticism. It is a spirit favoring the location of the capital at Salt Lake City, without making any concessions whatever. He knows well enough that that matter can be very easily arranged for. If the proviso does not satisfy him on account of the word provided, why not strike it out, and as my colleague suggested to me, write in the word but.

Mr. RICHARDS. I would ask you what would then be the effect?

Mr. EVANS (Weber). It would be simply a limitation upon the Legislature to appropriate that money?

Mr. RICHARDS. It is a very different thing from a proviso, is not it?

Mr. EVANS (Weber). It is very easily arranged for. The gentleman is simply standing here for the purpose of securing something for Salt Lake City, without making any concessions at all to the people. Of course we could not expect anything else. The matter of taxation for the building of a capitol is

considerable of an item. The gentleman says that the Legislature can be safely entrusted with this matter, and no money will be appropriated under our present financial condition. I was in the Legislature in 1892, and the bill came near passing appropriating two hundred and fifty thousand dollars for the building of the capitol. I remember I was once in the Legislature of 1894—the last one. Our conditions were no better then financially than they are today. The Legislature was dealing then with the important question of finance, distributing the money as best they could to make ends meet and to keep down taxation. Right in that condition of things there was a strong organized movement to appropriate either one hundred and fifty or two hundred and fifty thousand dollars, I forget now——

Mr. VARIAN. I will remind the gentleman, it was a movement to borrow money.

Mr. EVANS. I understand all about it; it was either one hundred and fifty or two hundred and fifty thousand dollars to be appropriated for the purpose of building a capitol or one wing of it. At that time, my brother Varian voted against the bonding of the Territory for any more money, but did vote in favor of the appropriation for the building of this wing.

Mr. VARIAN. I beg your pardon; I did not.

Mr. EVANS (Weber). You were in favor of the appropriation. The records show it. I am sorry my friend Varian disputes this question. I know he was in favor of building a wing of the capitol.

Mr. VARIAN. I say now emphatically, I was not in favor of it at any time during the Legislature, and talked against it.

Mr. EVANS (Weber). Well, then, I would not state it. Anyway, there was a strong organized movement for the appropriation of that money, and the honorable Judge Powers, I believe, was the gentleman who fathered the whole movement, and you all know that there were large bodies of men in the capitol building to applaud the speaker, whenever he spoke of building the capitol, because it would furnish labor. I will tell you, gentlemen, influence brought to bear upon legislators in matters of this kind, while it is not intended to be unlawful or improper, yet, they are sometimes wonderful, in order to get them to cast their votes to appropriate money to put up buildings and furnish labor. And we will find that very condition of things in this section if it stands as proposed. Locate the capital at Salt Lake City, without any conditions, and the very next Legislature will be importuned to appropriate money whether they have it or not. They may not succeed. If they do not succeed, then the next Legislature will be applied to, and finally the pressure will be brought to bear until an appropriation will be made when the people can illy afford to stand it.

Mr. MALONEY. Under the limitations in this Constitution, they never can build their magnificent capitol until they have the money on hand.

Mr. EVANS (Weber). I want to say with respect to that proviso, advocated by Mr. Thurman, that is certainly proper, to say that the State shall not appropriate any money for this purpose. I think the other proviso is all right. I think there is nothing at all degrading about it. Nothing out of taste, to put it in the Constitution—that proviso, that the city and county here shall furnish room for State offices and State purposes. I know they would be glad to do it. It seems to me they would. They would be glad to do it if they thought an organized movement was going to be made to take the capital away from Salt Lake City; but as the gentleman has stated, he seems to think that the majority of the committee here are in favor of locating it

in Salt Lake anyway. He takes that as the mind of the gentlemen here, and now, having reached that point, he says, "Now, just give us the capital, without any condition at all, and let the future Legislatures take care of this matter." If some such concessions as this be not made, I do not believe this committee ought to locate this capital at Salt Lake City in this Constitution, because we cannot afford just now to appropriate our money and build an unnecessary building, under the present circumstances anyway. Ample room and accommodations can be afforded in this building, and, as has been stated, this building would be a credit to almost any state in the Union for a capitol building. Let the people know right here and now that they are not going to be taxed for ten years for the construction of a capitol building, and it will put their minds to rest upon one very important question, and that question is the appropriation of a large amount of money for the construction of the building. Gentlemen, let us demand this concession. We should have it. It is in the interest of the people and it does no one any harm at all.

Mr. HAMMOND. Mr. Chairman, I had hoped they would get through with this, and finish up this circus without my taking the floor any more, but I can see plainly this question cannot be settled unless I take a hand in it. Now, sir, I am in favor of this proposition from my republican friend—I do not often stand by the republicans—that is Mr. Varian, to locate the capital here in Salt Lake City, and I am in favor of Judge Evans of Ogden, that there should be some conditions, perhaps, or concessions made, but I would not be particular about that. I am satisfied the Legislature will be democratic, and when our mines are fully developed in San Juan, there will be no trouble about money. We can go on and build. As to this building, I can tell you, sir, that in 1840 when I saw the national capitol at Washington, it was not as fine a building I believe as this is today. I think the dome on top was not larger than a two bushel corn-basket—old Yankee basket, and I believe we can safely trust the Legislature for fixing this matter in a way that will be satisfactory to the entire people. Now, as to the outside counties, there is a feeling existing to my knowledge in every county from Idaho on the north to San Juan on the south, that Salt Lake is our home. Nearly every one of use went out from here, that is forty or fifty years old. It was the grand beehive, and a few of us had swarmed out temporarily, but we looked upon Salt Lake as our home. Now, these are my feelings, gentlemen, in this regard. Locate it now and fix it permanently at Salt Lake, and we will not regret it.

Mr. ROBERTS. Mr. Chairman, I am not altogether satisfied with either of these amendments. I am willing to go this far with the gentleman from Weber, who has moved that the capital be located at Salt Lake City, provided that no appropriation shall be made for the building of a capitol for ten years, and with a second proviso that Salt Lake City and county shall supply the new State with the necessary rooms for offices, etc.—I am willing to go this far, to say that the capital shall be located at Salt Lake City, and put that definitely and finally in the Constitution, but that no appropriation shall be made for erecting a State capitol for five years, and leave the second proviso out altogether. That would be the proposition that I would be in favor of voting for. I think there can be no serious objection to that—certainly, as I view it, no reasonable objection to locating the capital at Salt Lake City. That is just where it belongs. I think if gentlemen will take second thought, they will not make the location of the capital conditional upon the city and county of Salt Lake furnishing necessary rooms for State

officers. I do think it the part of wisdom, however, to give notice to the people of this Territory that there shall be security against an agitation for any increased taxation for five years, to build a capitol building. Now, sir, that is what I want to vote for, and with a view of making such an amendment as would bring that about, I shall vote for the substitute offered by Mr. Evans, with the hope that we can get it amended to make it what I have in these few remarks indicated.

Mr. EVANS (Weber). Mr. Chairman, with the consent of the house, I would be willing to withdraw the latter proviso, to the effect that the county and city shall furnish rooms.

Mr. GIBBS. Mr. Evans, if your amendment should prevail, after the lapse of ten years, would not that leave the question open again for a bid for a capital?

Mr. EVANS (Weber). No, that does not, as amended now. The first sentence locates the capital at Salt Lake City, and it simply says there shall be no appropriation made for the construction of the capitol building for a period of ten years.

Mr. MORRIS. Mr. Chairman, as chairman of the committee on public buildings, it would be natural for me to favor Salt Lake City, but I favor Salt Lake on principle as the best location for a new State capitol. This question of making appropriations came up in our discussion. I do not think that there is any danger whatever that the new State can make appropriations for the new State buildings, under the encumbrances that we are now in. It will take a good many years to get out of our debt—seven hundred and fifty to eight hundred thousand on the Territory, two or three million on the city, and about four hundred thousand on the county, so I do not think there is any danger whatever to fear that the Legislature under these circumstances can make any appropriation for the State buildings. We are perfectly safe in regard to that, and I hope and trust that Salt Lake City will be like the old strings tied to it, trust to liberality of Salt Lake County.

It is true we are passing through a crisis now, that we have never experienced before, but I do not believe that it is going to last many years. We might find a change in six or seven years that we could have plenty. It is possible, and I do not think it is well to state the time, but trust to the Legislature that will have the interest of the commonwealth at heart.

Mr. ROBERTS. Mr. Chairman, I move to amend the substitute by striking out ten years and inserting five years.

Mr. VARIAN. Now, I ask, gentlemen, of you, what is the underlying thought that impels gentlemen to suggest the attaching of conditions to the location of your capital? Is not the capital the property of the entire Territory? Do you want to put it upon us here in Salt Lake, and make us feel that it is looked upon by you as a concession, as a matter in which we have a proprietary interest? Do you not, and will you not by your votes, in locating this capital, locate it because of the best interests and necessities of the entire people? Can you justify it to your constituents in any other way or upon any other ground? Can you go home and say, "we located it at Salt Lake City, not because that is the place for it, but because, all things considered, we got better terms by locating it there?" Now, if you admit that proposition, what sort of a reason have you for attempting to incorporate in your organic law something that would prevent the people, if their necessities demanded it, from having suitable public buildings in which to transact their business? I venture to say that this argument about what has come before the previous Legislatures is absolutely wrong in its application. The governor of this Territory, last year, at

the last Legislature, insisted, that this Territory should be bonded in the sum of two or three hundred thousand dollars, for, among other reasons, building a capitol, and it was Salt Lake people, as well as the outside, that stood up and refused to lend sanction to that undertaking, in and out of the Legislature. Do you believe that our people here, who are paying now nearly fifty per centum of the taxes of this Territory, have not enough of the burdens of taxation upon their shoulders, that they will be willing to countenance any such scheme as has been indicated here in argument? I tell you, our people do not care any more about paying taxes than do the people on the outside, and we have got all that we can stagger under now. If our Territory should be in a situation to demand it, if the business and prosperity of the country should revive, if the mines should revive to such an extent that you should have a full and overflowing treasury, as you may have—if anything like occurs in the future that has occurred in the past, there are two or three mines in this very Territory that would pay all your expenses of your State government and build a capitol too. Think of the millions of dollars, if they had been taxed during the past twenty years, that have been taken out of the mines here—twelve, fifteen and eighteen millions, from one single mine alone; if it had been taxed, where would your Territorial finances have been? I only allude to show you the necessity of leaving this matter open to the Legislature. You have limited the debt to a hundred thousand dollars, very properly.

Mr. THURMAN. There is a proposition now for five years. Do you think the capitol can be built or that any money will be appropriated—any likelihood of it being done in five years?

Mr. VARIAN. I have not considered it from that standpoint. Certainly it ought not to be built now. I say that. I was of that opinion a year ago, and I am still of that opinion. What I am contending against is this thought that seems to be rankling between the different localities of this Territory, which is always cropping out in some such way as this, "We will locate the capitol building, but we will tie up the hands of the Legislature from, in the future, for a certain indefinite time, providing for the necessities of the State government." Now, it may well be that in two years or that in four years, or in less time, the necessities of this government may be such that it will be very desirable that you shall have a permanent place for the location of the governmental offices and the transaction of your State business. Certainly it will be desirable, just as soon as it can be completed, because until then you have them scattered about in different localities, the different departments of the government, to the manifest inconvenience of the people, and the manifest injury of the transaction of public business. Why should you fear your Legislature? Certainly, so far as the people of Salt Lake are concerned, you may rest assured that, as in the past they never have been able yet to divert the Legislature into their way of thinking in the matter of taxation, in the future they will not be able to do so. But the security is greater than that. The burdens of taxation are now resting so heavily upon this people that they will look long and anxiously into the future before they will consent—those of them who are called upon to bear these burdens, to any additional burdens. But aside from that, public buildings are not built by taxation primarily. Loans are negotiated, and the burdens of taxation to secure the payment of those loans and the interest thereon are distributed through the years, fifteen, twenty, and twenty-five years, so that the people who come after shall also, having the benefit, be called upon to contribute to their portion of the burdens. I apprehend, if there is

ever a capitol building erected in Utah, it will be in that way. I imagine that it would not be a wise policy, nor would it meet with the approval of business men or the taxpayers anywhere, to levy a tax to raise at once the amount of money necessary to erect a capitol building. I will confess I had not considered it in that light, and I did not think it possible and do not think it possible now. I only say that you are getting entirely too precise, too much in detail, when you undertake to tie up the hands of your Legislature in a matter of this importance. You can rest assured that the Legislature will not for years to come undertake to bond this State—certainly not without the assured approval of the people behind it. I trust that you will not lumber up this Constitution with conditions and provisions of this kind.

Mr. THURMAN. Mr. Chairman, I would not again trespass upon the time of this committee, but some of the gentlemen from Salt Lake have insinuated that there is an underlying thought—there is a motive. Now, gentlemen, if any of that has reference to myself, I appeal to any man on this floor to state when, where, at what time, I have ever raised a question against Salt Lake for the capital. It is true, some men from Provo in the past have represented Provo as the proper place. It is a proper place. It is a place that is just as suitable as any in the Territory, but, gentlemen, I have not set forth any claims for Utah County in this respect. I came here with a view to assist in making a Constitution for the benefit of the people, without reference to the little spot of ground where I happen to have my home. And I call your attention to the fact, gentlemen, if you doubt this, that in a speech on this floor, nearly two months ago, I had something to say incidentally on this subject. Why is it, when I stand up here and make a motion that I believe to be in the interest of the people, the taxpayers of the country, and in fairness and in justice, to not only the people that I represent, but to all the people, that Salt Lake men stand up here and impugn my motives? That is the question, gentlemen. You have no right to do it. I tell you the proposition advanced is a fair one, and the people of this Territory, I believe, with all my heart, will regret it in the first Legislature, and in the second Legislature, and in the third Legislature, if we do not adopt just such a provision as we here desire to have adopted. You all know that we cannot commence to build the capitol in five years, and probably not in ten years. Then, why not put the matter at rest? Why not give the Legislature—the first one that will meet in the State, the second one, and the third one, a rest on this proposition, and where they will be in a position to say, "Hands off, gentlemen, we can do nothing." You know, gentlemen, just as well as you know you sit on this floor, that there will be lobbies from Salt Lake in the very first Legislature that meets, harassing the Legislature from day to day, invoking debate and discussion, from day to day, as we have had here on this floor, in relation to just such questions as this. It is time to prevent that. It is for peace. It is to settle it once for all, that this thing cannot be done at least for five years, and I say it ought not to be done for ten years. And I shall vote for that proposition, and, gentlemen I think that you are unreasonable, when you stand here and insist that there is some underlying motive or thought in men who are standing here just as much as you are, contending for the public good. I repudiate any such insinuations. I say that they are unjust, unwarranted, uncalled for, and there is nothing in my course on this floor that justifies any man in saying that I have a selfish motive in relation to any of these things.

Mr. RALEIGH. I want to ask the gentleman from Provo a question. What is the reason, or is there any

reason why this question cannot be settled here as a separate proposition without any conditions, and then make the conditions in another article or proposition—any time hereafter, before the close of this Convention.

Mr. THURMAN. Well, what is the difference? This is a common provision. Gentlemen say that it is not. I say there are constitutions that have just such a provision as this, keeping the Legislature's hands off for a given time, and no man can say that it is an unreasonable one. Does it mar our Constitution? Is it an eyesore to anybody? Whom does it hurt? Who is aggrieved? If I had the disposition to impugn motives as gentlemen have impugned mine, I would say that Salt Lake men, who are standing upon this floor contending that there should be no limitation, have something in mind themselves.

Mr. VARIAN. I would like to ask the gentleman a question. Whom does he mean when he talks about Salt Lake men impugning motives? Does he mean me?

Mr. THURMAN. Yes, sir; I mean the gentleman.

Mr. VARIAN. Well, then, I say you are entirely mistaken. I said nothing to impugn motives. The gentleman is defending himself before he is attacked.

Mr. THURMAN. I want to know what the gentleman meant when he said there was an underlying thought? He meant there was something concealed in the motives of the men who were contending for this proposition.

Mr. ROBERTS. Mr. Chairman, it seems to me that there is a misapprehension in relation to this amendment, as it now stands. It seems to me in the minds of some who have spoken that we are locating the capital at Salt Lake with a proviso. Now, sir, I take it, there is no proviso in this amendment. It locates the capital at Salt Lake most definitely, without any proviso. But there is a separate proposition accompanying it, and that is merely this, that there shall be no appropriation made for the building of a capitol building for the next five years.

Mr. JAMES. Isn't this, Mr. Roberts, strictly what is done in Congress and is called a rider to force you to accept of one proposition or you will have to reject the whole?

Mr. ROBERTS. No, sir. There is no rider about it. It is a separate matter altogether. I hold that the amendment locates the capital at Salt Lake City, and there is no possibility of putting any other interpretation upon it. The proviso that makes it conditional has been withdrawn, and now this locates the capital at Salt Lake City, but it does say that the Legislature shall make no appropriation for the construction of the capitol building for five years. The gentleman from Provo argued the necessity of doing something of this kind as an easement upon the Legislature, that they might not be troubled with lobbyists who would come here for the purpose of getting appropriations to begin a capitol building, and who would doubtless appear before the first Legislature, and I think his reasoning was very clear upon that point. But, sir, the way this matter appeals to me is, not that you may relieve the Legislature from the inconvenience of lobbyists, but that you give an assurance to the people that they will not be plagued for five years to come, there, with propositions to bond the State to build a capitol building, or increase the taxation to accomplish the same purpose, and that is all there is to it.

Mr. THATCHER. Under what authority has the Territory of Utah been put under public debt. Was it by the act of the Legislature?

Mr. ROBERTS. I think it was.

Mr. THATCHER. If so, then we have reason to place this limitation upon the Legislature?

Mr. ROBERTS. I think so.

Mr. THATCHER. A period of five or ten years will do us no harm, but a great deal of good.

Mr. KIMBALL (Salt Lake). Mr. Chairman, I notice in looking back in the bill of elections and suffrage we have a provision that will assist us in this matter, namely, that referring to a property qualification of voters. Were it not for this, I would vote for the five years' provision, but I do not believe that there are any people, in this city especially, or any of our larger cities that are so terribly in debt, that would be willing for any special tax, or any election proposition, to bond this city or bond this Territory, to build a State capitol, that they will submit to, because here is a provision to allow the people to vote on the subject. For this reason I believe that we are safe trusting to the people. If it is only the Legislature—while I do not doubt their honor, I would be in favor of this proposition for five years, to make the people safe.

The question being taken on the amendment of Mr. Roberts, the committee divided, and by a vote of 43 ayes to 7 noes, the amendment was agreed to.

The CHAIRMAN. The question is now on the substitute as amended.

Mr. CHIDESTER. Mr. Chairman, I arise to a point of order. The point of order is that when we voted on Mr. Roberts' amendment, that settled it.

The CHAIRMAN. The point of order is not well taken.

Mr. IVINS. I appeal from the decision of the chair.

Mr. VARIAN. I arise to a point of order. The gentleman can appeal after this vote is taken, but he cannot interrupt a vote.

The CHAIRMAN. The chair will state the motion upon which we are voting. An amendment to the substitute offered by Mr. Varian for section 3 and the amendment as amended now, by the gentleman from Davis, is as follows:

The location of the seat of government shall be at Salt Lake City, but no appropriation of money for the construction of a capitol building shall be made for a period five years.

The question being taken, the committee divided, and by a vote of 33 ayes to 31 noes, the motion was agreed to.

Section 4 was read.

Mr. BUTTON. Mr. Chairman, I move that section 4 be stricken out.

Mr. CANNON. Mr. Chairman, I am opposed to striking it out. It provides that it should not thereafter be changed except by a two-thirds vote.

Mr. JAMES. Mr. Chairman, if I understand the question right, I am in favor of striking it out. The capital is fixed at Salt Lake now permanently.

Mr. CREER. Mr. Chairman, this is a provision that is almost universal: That it may be changed by a two-thirds vote.

Mr. SQUIRES. I suggest to the gentleman from Salt Lake that that is a very wise provision. If they get the capital located at Salt Lake it takes two-thirds to take it away.

Mr. JAMES. They cannot take it away at all.

Mr. SQUIRES. They can, by an amendment to the Constitution, at any time.

Mr. RICHARDS. Mr. Chairman, I desire to offer an amendment to this section. I think some members misapprehend the scope of it. The fact that the capital has been located does not remove the necessity for this section. I move that all of lines 1, 2, and 3, down to the word be, be stricken out, and the following substituted: "The location of the capital shall not."

The motion was agreed to.

Mr. THURMAN. I want to ask the gentleman a question. What is the use of this? Is it not liable to be changed by an amendment to the Constitution, which requires the same vote? The vote is by two-thirds to

amend the Constitution. I am in favor of the motion to strike out the whole section.

Mr. RICHARDS. I desired to amend the section before the motion to strike out was put. I shall vote to strike it out at the proper time.

The question being taken on the motion to strike out, the committee divided, and by a vote of 28 ayes to 25 noes the motion was agreed to.

Section 5 was read.

Mr. ANDERSON. Mr. Chairman, I move we strike this section out.

The motion was agreed to.

Mr. CHRISTIANSEN. Mr. Chairman, I have an amendment to make to section 6, subdivision 5. Strike out all after the word "blind," in line 17, and insert "in the county of Sanpete, site to be settled by the Legislature."

Mr. MURDOCK (Beaver). Mr. Chairman, I move to insert "Fort Cameron, Beaver County."

Mr. RICKS. Mr. Chairman, I move we strike out all after and including line 16.

Mr. THURMAN. Mr. Chairman, I arise for information. Isn't there something in the Enabling Act providing for an institution of this kind.

Mr. CORAY. Yes, sir; and an appropriation.

Mr. SQUIRES. Is it not attached to the university?

Mr. THURMAN. Well, I do not know as to that.

Mr. CREER. Mr. Chairman, there was no permanent institution for the deaf, dumb, and blind, and there is quite an appropriation for that institution made by the Enabling Act. It is true, we located the university, but not the institution for the deaf, dumb and blind.

Mr. THURMAN. Can any man inform me whether the deaf and dumb institute is a part of the university now by existing laws? If it is, then it is located at Salt Lake City by our action the other day. I am in favor of striking it out.

Mr. JOLLEY. Mr. Chairman, I trust that this motion will not prevail. I trust that it will be voted down.

Mr. BUTTON. If the gentlemen will withdraw all their motions and pass this into the Convention, they can make these amendments in there.

Mr. CHRISTIANSEN. I will withdraw the motion.

The committee then rose and reported as follows:

MR. PRESIDENT:

Your committee of the whole has had under consideration the article on corporations other than municipal, on public lands, on salaries of officers, and report the same to the Convention with the recommendation that they be put upon third reading. They have also had under consideration the article on public buildings and State institutions, and report progress.

On motion the Convention then adjourned.

FIFTY-SEVENTH DAY.

MONDAY, April 29, 1895.

The Convention met pursuant to adjournment, President Smith in the chair.

Roll call showed a quorum present.

Absentees—Hart, Kearns, Francis, Kerr, Larsen, C. P., Lewis, Low, of Cache, Lowe, Wm., Peters and Pierce.

Excused—Keith, Eldredge, Moritz, Buys, Gibbs and Ryan.

Prayer was offered by Delegate Heybourne, of Iron.

Journal of the fifty-fifth day's session was read and approved.

The Convention then resolved itself into committee of the whole, with Mr. Evans, of Weber, in the chair, and resumed the consideration of the article entitled public buildings and State institutions.

The CHAIRMAN. The chair under-

stands that we got down to the fifth subdivision of section 6.

Mr. KIMBALL (Weber). Mr. Chairman, I move to insert in the blank in the fifth subdivision, after the words, "institution for the deaf, dumb, and blind," the words, "at the city of Ogden, in the county of Weber."

Mr. RICKS. Mr. Chairman, I move that we strike out lines 16, 17 and 18 of this section.

Mr. CHRISTIANSEN. Mr. Chairman, I present the same amendment here this morning that I offered Saturday evening, when we adjourned, that was to strike out all after "blind," and insert "Sanpete County, the site to be selected by the Legislature."

Mr. KIMBALL (Weber). Mr. Chairman, I think that it is to the best interests of the State institutions that the location ought to be made permanently now, and I think that for this reason: In view of the fact that the present building occupied by the deaf, dumb, and blind has been transferred by this Constitution to the university, now, I think, for the benefit of that institution, as well as for the benefit of the pupils that are taught in it, the institution ought to be located permanently, and it seems to me that Ogden City offers more inducements, and has more facilities than any place in the Territory outside of Salt Lake City. So far as the institution itself is concerned, the Territory now owns buildings in Ogden City, amply sufficient to accommodate all of the pupils for years to come and at very little expense. The next Legislature can so arrange those public buildings as to accommodate this institution. For another reason, it seems to me that it ought to be located permanently, it is a central location, accessible, not only to all parts of this Territory, but all parts of the surrounding states and territories, and in view of the fact that neither Montana nor Idaho has institutions of the character—if Logan had a central location such as Ogden is, there would be a considerable number of outside students. I submit, Mr. Chairman, that my amendment should be adopted.

Mr. JAMES. Do I understand the proposition made by Mr. Kiesel and other delegates from Ogden is still held good?

Mr. KIMBALL (Weber). I have no doubt, sir, but that will be held good. My view was that the Legislature would take the reform school building for this institution, and the other buildings for a reform school.

Mr. RICKS. Mr. Chairman, I believe it would be a mistake for this Convention to locate permanently either the reform school or the school for the deaf, dumb, and blind, for the reason that we have not yet definitely settled in our minds where these institutions ought to be located. It was a question at the last Legislature whether the reform school ought to be continued or not, and it is a growing sentiment throughout the Territory to-day that the school ought to be abandoned, because of its expense to the State. Now, Mr. Chairman, while the arguments of Mr. Kimball may apply all right to the deaf and dumb school, it seems to me that it would be a mistake for this Convention to locate that school. We do not know, sir, but what in the near future we may want those buildings and the grounds at Ogden, for the State normal school. The state normal school, as I understand it, is not yet permanently located, and I believe it would be for the best interests of the State to strike out the third subdivision, and also the fifth, and leave the matter of reform school, the school for the blind, and also the state normal school, for future action of the Legislature.

The amendment of Mr. Christiansen was rejected.

The amendment of Mr. Kimball, of Weber, was rejected.

The motion of Mr. Ricks was agreed to.

Mr. RICKS. Mr. Chairman, I move you, sir, that we strike out lines 12 and 13, of the third subdivision.

Mr. IVINS. I would like to hear the gentleman's reasons for asking that this section be stricken out. We may carry this thing to an extreme, if we commence to follow on in the line proposed.

Mr. HEYBOURNE. Mr. Chairman, I am of the opinion that this is somewhat of a sweeping motion. I understand that institution has quite a record, costing the Territory considerable. To go now to work and strike this matter out, I think it is a little unusual and wants some explanation. Therefore, I shall oppose the motion unless the gentleman can furnish some good reason for his action.

Mr. RICKS. Mr. Chairman, my reasons are, as I just stated, that the reform school is not a permanent institution of the State; that there is a growing sentiment throughout the State that it ought to be abolished because of its expense to the State. Now, if we strike that out, it does not discontinue the reform school. It remains just as it is at the present time, located at Ogden, subject to be removed or abolished, or some change made, as contemplated by Mr. Kimball, and the Legislature may desire, and I believe, sir, it is for the best interests of the State to not locate that in the Constitution, but leave it wholly to the Legislature.

Mr. JAMES. Mr. Chairman, I cannot realize how it can be that a growing sentiment can be found in the Territory of Utah to abolish our reform school. If there is a necessity, to my mind, it is the reform school. Why, Mr. Chairman, just think of these little urchins that are without fathers or mothers——

Mr. BUTTON. Mr. James, Mr. Ricks will withdraw that and let it come up on the third reading.

Mr. RICKS. I will withdraw it, yes.

Mr. BUTTON. Mr. Chairman, I move that the article as amended be passed and referred to the Conventon for third reading.

The motion was agreed to.

The committee of the whole then proceeded to the consideration of the article entitled schedule.

Sections 1, 2, 3 and 4 were read.

Mr. RICHARDS. Mr. Chairman, I move to insert after the word "accordingly," in the twelfth line of section 4, the following words:

All taxes assessed or levied under the laws of the Territory of Utah shall continue taxes assessed and levied in the State of Utah, and their validity shall be unaffected by the change to statehood.

I think there is an omission to provide for that.

Mr. KIMBALL (Weber). Mr. Chairman, in line 7, at the end of the line, I move to strike out the word "or," and in line 9, after the word "Utah," insert "or the people of the Territory of Utah." I do that for this reason, that all criminal bonds or recognizances now run to the people of Utah, and not the people of the United States in the Territory of Utah.

The CHAIRMAN. What is the use of the words "people of the United States in the Territory of Utah?"

Mr. KIMBALL (Weber). Some years ago all recognizances ran to the people of the United States in the Territory of Utah, and all criminal recognizances and judgments in favor of the Territory were taken in that name, that is why, I suppose, that language is inserted here. It was discontinued in 1884. In 1884, the Legislature changed the style of process to the people of the Territory of Utah—or 1878, originally, I think.

The amendment of Mr. Kimball, of Weber, was agreed to.

Mr. ROBERTS. I would ask Mr. Richards, if he would have any objections to changing the last word of

his amendment, to "State goverment," instead of "statehood?"

Mr. RICHARDS. Certainly not, I think the phraseology would be better. It was written in haste.

The CHAIRMAN. I would like to call Mr. Richards's attention to the fact that the schedule in another place continues all the laws of Utah in force under the State government. Would not that cover it?

Mr. RICHARDS. I am afraid not. This section, you will observe, deals particularly with the revenues, property, etc. It seems to me that in order to make that absolutely safe we ought to include taxes.

Mr. RICKS. I would like to ask Mr. Richards if he would insert, "taxes" right after "fines," in the third section, if that would not answer that same purpose?

Mr. RICHARDS. I think not; I do not think it is broad enough to meet the question.

Mr. EICHNOR. Mr. Richards, would not your amendment be covered by the word "revenue," in line 13, and the provision in another section that all the laws of the Territory of Utah would be in force?

Mr. RICHARDS. I think not. In my view the taxes assessed are not revenue until collected. I do not think that is covered by anything in the schedule, or else I would not have suggested it. This section, as I remarked before, is an enumeration of the various things that are to be preserved to the State, and I think that it would be dangerous to omit any thing that is desired to be preserved.

Mr. RICKS. Mr. Chairman, Wyoming, Washington, South Dakota, which have recently formed constitutions, have nothing in the constitutions that cover the amendment made by the gentleman. I believe that the word revenue there, taken in connection with the second section, will cover the ground.

Mr. GOODWIN. I would like to ask Mr. Richards if the words "assessed taxes" would not cover everything, put after the word "and," at the end of line 12?

Mr. RICHARDS. Possibly it might, I am not sure. Of course, in framing this amendment, I desire to say that I prepared it so that there would be, as I thought, no possibility of mistaking the meaning of it, and it seems to me that any section of the importance of this we should be careful to leave it unambiguous. If there is any sort of doubt about the necessity of this amendment, the amendment ought to be adopted, because this is exactly the reverse of the usual effect of the provisions we are putting in the Constitution. Ordinarily the provisions that we are putting here are restrictive of the powers of government, but this provision is just the reverse of that, it is preservative. This section is for the expressed purpose, not of limiting, but of preserving to the State all that belongs to it, and if there is any doubt about the matter, the doubt should be solved in favor of making it explicit and full. Therefore, I think the amendment is necessary, or I would no thave proposed it.

Mr. HAMMOND. May I ask Judge Richards a question? What, sir, in your opinion, would be the effect, if this amendment of yours should not prevail? Could we not assess and collect taxes? Would that be the end of taxing the people? If so, I would support it.

Mr. RICHARDS. The gentleman from San Juan does not apprehend the purpose of the amendment.

Mr. HAMMOND. No, I do not apprehend it.

Mr. RICHARDS. It is not that I apprehend there would be no power in the State to assess, but there might be taxes assessed under the territorial form of government, which were not yet collected at the time the State government takes effect, and it is to pre-

serve those taxes and allow of their collection.

Mr. HAMMOND. I am in favor of taxing every time. If we could not collect it we ought to.

Mr. GOODWIN. Mr. Chairman, I move as an amendment that the words "and assessed taxes" be inserted after the word "accordingly."

The amendment of Mr. Goodwin was agreed to.

The amendment of Mr. Richards was rejected.

Section 5 was read.

Mr. RICHARDS. Mr. Chairman, I move to insert after the word "State," in line 6, the following words: "And in the court having jurisdiction thereof under this Constitution."

Mr. RICKS. Do not you think that that is fully covered in section 6?

Mr. RICHARDS. I offer this amendment for the purpose of offering a substitute for section 6. I think section 6 is not well constructed, and I think I can offer a substitute much shorter for the section. I have no objection to reading it. I shall offer the following as a substitute for section 6:

All actions and proceedings, which may be pending in any of the courts of the Territory of Utah at the time of the change from a territorial to a state government, may be continued and transferred to the State court or courts having jurisdiction of the subject matter thereof under this Constitution.

The amendment of Mr. Richards to section 5 was agreed to.

Section 6 was read.

Mr. RICHARDS. I desire to submit the substitute just read for that section.

Mr. VARIAN. Mr. Chairman, that substitute does not cover the section, with all deference to my friend from Salt Lake. There are numbers of cases pending in the district courts of which the United States courts have jurisdiction. Provision ought to be made here for the transfer of such causes upon the proper application being made within a specified time. At least, I should think the time might be specified, although that may not be so important. The original article provides for the excepting out of causes that would have been within the exclusive jurisdiction of the United States district court. In the first place, there are no causes excepting criminal cases that are within the exclusive jurisdiction of the United States district court, or the United States circuit court either. The general jurisdiction is concurrent. Provision is made, under the acts of Congress, for, in proper season, where a case is brought in the state Court, of which the United States court has cognizance, for the transfer of such causes with certain limitations and restrictions. Later in the section, provision is made for the transfer of causes from the supreme court of the Territory to the United States circuit court. That will not do. We do not want to transfer anything from the supreme court of the Territory to the United States circuit court, because the United States circuit court is pre-eminently a nisi prius court, and the cases pending in the supreme court of the Territory will have been tried. It is impossible, of course, to, in a moment, prepare with particularity a schedule that shall cover this somewhat intricate and involved proposition. On yesterday I submitted the question to one or two gentlemen whom I knew were interested in the matter, and of some very considerable eminence here at the bar, and I have not seen them this morning. That is what delayed me. I have not been able to do it. Possibly we may pass the question in committee of the whole and let it come up tomorrow in proper shape. I simply make this suggestion.

Mr. RICHARDS. I would like to ask the gentleman a question. Omitting the last three words, "under this Constitution," which ought not to be in the section, and I, therefore, ask the chairman to strike them out—they were not there as originally written—I ask Mr.

Varian why this section would not cover the ground.

The CHAIRMAN. I suggest if that word "may" should not be "shall?"

Mr. RICHARDS. No objection to making the change.

Mr. VARIAN. I call attention of the gentleman to the fact that there are different classes of cases under the federal judiciary act, which may be transferred, and for different reasons. In certain cases there may be transfers upon the ground of local prejudice, and the moving cause of transfer is an affidavit. In others it is the citizenship of the party. In others, it is where claims are made upon grants of land, from different states, and so on. The only exclusive jurisdiction of the United States courts is that of criminal cases arising under the federal Constitution. Now, what we want is to draw this thing with particularity, not necessarily that they should be transferred, but, if in accordance with the act of Congress, within a certain time after the adoption of this Constitution, any party who would have been entitled to have it transferred, if at the time they were commenced there was a State government here, they do so. I would not absolutely put a flat in there that they should be transferred, because that would conflict again with the congressional act under the Constitution of the United States. You will see that it requires some degree of detail and particularity. I had hoped to have been able to put my ideas in more specific form this morning, but I was waiting on these other gentlemen.

Mr. BUTTON. Mr. Chairman, I was going to ask if we could not pass this section and let the gentlemen have their amendments printed in the minutes tomorrow?

Mr. VARIAN. It could come up, if Mr. Richards did not object, on the third reading. There is nothing in this except to get it exactly right.

Mr. RICHARDS. That is all, as far as I am concerned; it makes no difference whether the consideration is postponed and we take it up after lunch in the committee, or whether we go on and act on the substitute. I was going to remark that the remarks of my friend from Salt Lake have given me considerable confidence in the section I have proposed. I believed it was about right before, and certainly he has not pointed out any weakness in the section. I ask to have this section submitted as a substitute.

The CHAIRMAN. The chair is somewhat delicate about making this statement, but it is firmly of opinion that we ought to continue this until third reading. It is very important and it ought to be considered very carefully.

Mr. RICHARDS. If the gentlemen desire to have me withdraw this and present it on the third reading, I am willing to do it.

Section 7 was read.

Mr. GOODWIN. Mr. Chairman, I suppose this is all right, but I do not understand it. I arise for information. The sentence beginning in the middle of line 15—are the probate judges to remain in office after the district judges are elected and qualified?

The CHAIRMAN. According to this schedule, they are. They are to hold office until the first day of January, 1896. I suppose the idea of the committee was to give ample time to have the matters in the probate court transferred to the district court.

Mr. GOODWIN. The judges will not take their office until next January?

The CHAIRMAN. Yes; that is right.

Mr. RICKS. Mr. Chairman, I think there is a provision somewhere in the Constitution that provides that all officers elected under this Constitution shall take their offices immediately upon the issuing of the proclamation of the President.

The CHAIRMAN. The chair can answer Mr. Goodwin's question in this way, if it will be permitted: That

when the President proclaims Utah a State, the Constitution immediately goes into effect, and the jurisdiction then of the probate courts would be given to the district courts, but the idea is to continue that thing until the first day of January, 1896.

Section 8 was read.

The CHAIRMAN. The chair would like to make a suggestion, that after the word "of" in line 8, the word "this" be inserted, and the words, "the above" stricken out.

Mr. BOWDLE. Mr. Chairman, that is just the motion I was going to make, because that would refer to the other section. Therefore, I move you that the word "the" and "above" be stricken out, and the word "this" be inserted.

The amendment was agreed to.

Section 9 was read.

Mr. RICKS. Mr. Chairman, I have an amendment to offer to that section. In line 3, after the word "held," strike out the word "and" and insert the following, "on the Tuesday next after the first Monday in November, 1895, and shall be." The reason for that is this: I notice that we have not anywhere in the schedule specified the date of the election of State officers, while we have set the date for the adoption of the Constitution, and it is thought better to name the day on which the election of State officers should be held, as well as the adoption of the Constitution.

Mr. MALONEY. Mr. Chairman, I have an amendment I wish to make, to strike out the word "and," in line 13, and in lieu thereof insert the following: "All electors qualified to vote under this Constitution may vote."

The CHAIRMAN. We will pass on the amendment of Mr. Ricks, as it is a different part of the section.

Mr. CREER. I will ask the chairman of the committee if it is necessary—it is specifically provided for in section 4 of the Enabling Act, that there should be an election on that date for the adoption of the Constitution.

Mr. ANDERSON. This is for State officers.

The amendment of Mr. Ricks was agreed to.

Mr. GOODWIN. Mr. Chairman, I want to offer an amendment in line 12, after the word "election," to add "and are qualified voters," because there might be a great many citizens 21 years of age who would not be registered at that date or who might have been convicted of some crime and therefore not qualified to vote.

Mr. RICHARDS. Mr. Chairman, I move an amendment to insert after the word "election" the following words, "and all persons who are qualified to vote at elections held under this Constitution after its adoption." I think that is necessary under the Enabling Act.

Mr. VARIAN. Mr. Chairman, I submit that it is not germane to the other amendment.

The CHAIRMAN. The chair will rule under the circumstances that Mr. Goodwin's amendment will be put first.

The amendment of Mr. Goodwin was agreed to.

The CHAIRMAN. Mr. Maloney offers the following amendment to section 9: After the word "and," in line 13, insert the following: "All electors qualified to vote under this Constitution may vote."

Mr. RICHARDS. Mr. Chairman, I think this amendment is all right as far as it goes, but I do not think it goes far enough. I think that under the law all electors of the proposed State have the right to vote for this Constitution, and if they do not vote for or against it—in other words, if it is not submitted to all the electors of the proposed State, it will not be a valid submission; that is my contention, and hence, no matter how many votes may be cast for it, the Constitution would not be adopted and the State would not be admitted. Now, I know that this view was denominated an absurdity by distin-

guished gentlemen on the floor of this Convention at an earlier day in the session, when their attention was called to the matter, but it does not matter if that suggestion was made, it is a very serious question, gentlemen, that confronts us here this morning, and it is a question that no man on the floor of this Convention, and no member of this committee, can afford to allow his personal feelings and prejudices to control his judgment in relation to. I submit that if we make a mistake in this matter and do not submit this Constitution to the people who have a right to vote upon it and it fails for that reason, a grave responsibility will rest upon the members of this Convention. Now, I propose an additional amendment to the one which I have already suggested to be added to the end of this section; that all the votes given by female voters for or against this Constitution shall be deposited by election officers in a separate box and canvassed separately and so certified by the commission.

Now, my purpose for offering these amendments is this, if it be true—and I stand not here alone advocating this view of the matter; I have in my pocket a communication addressed to this Convention that would have been presented if I had been so fortunate as to get here this morning before you went into committee of the whole, addressed to the president and members of this Convention, signed by Judge J. G. Sutherland, Charles C. Dey, John A. Marshall, George Sutherland, H. P. Henderson, and in addition to those names, many other distinguished members of the bar of this Territory, entertain the same view, that these people have a right to vote on this Constitution, either for it or against it, and any submission of the Constitution to the people that did not include and carry with it the right of these people to vote, would not be a legal submission. Now, as I say, I desire to meet the views of all parties I desire to be cautious in this matter, and for that reason, while I make the proposition that all persons who are entitled to vote under this Constitution at subsequent elections, shall vote for or against the Constitution, and for the State officers, I also would provide that the female votes shall be taken separately so that no harm can result from taking a vote, and it may be the means of preventing the defeat of statehood.

Mr. SQUIRES. Will the gentleman read the letter that he gave the signatures to?

The CHAIRMAN. Unless the gentleman desires to read it as a part of his remarks it would not be proper.

Mr. RICHARDS. Inasmuch as this is a public matter, I will read it cheerfully.

Mr. GOODWIN. At the same time, may I ask the gentleman what the object is of having a separate vote in this case?

Mr. RICHARDS. Simply this, that if the contention of the gentlemen who say that this is an absurdity, and that these people are not entitled to vote, should be correct, then the vote ought to be separate or ought not to be taken at all.

Mr. GOODWIN. Who is to determine that?

Mr. RICHARDS. That is a matter that the courts will determine, of course. This Convention cannot determine it, no matter what view we take. Our decision on this matter is not final. We are not the arbiters. We cannot tell who are the qualified voters here, and have our decision final. Therefore, let us proceed in such a way that there can be no question in regard to this matter. If the vote be taken and their votes are not necessary or are improperly cast, it is not necessary to count them, or at least if the Constitution should be adopted without the vote, there would be no question as to its adoption. If the Constitution was not adopted without the female vote, then the question could be

tested as to whether or not they were proper electors, and it could be thereby determined whether or not the State should be admitted. I will read what these gentlemen say on this subject:

To the President and Members of the Constitutional Convention:

The undersigned, members of the legal profession, having a common interest with other citizens of Utah, not only in the formation of a good Constitution, but in a regular submission of it for adoption by the people, and observing that there is considerable diversity of opinion on the question whether the persons who may exercise the elective franchise under this Constitution, if adopted, may vote at the election next November for its ratification or rejection, we offer the following suggestions on that subject: Section 4 of the Enabling Act fixes the time for that election and contains this language, as to voters: "The qualified voters of said proposed State shall vote directly for or against the proposed Constitution and for or against any provision separately submitted." Section 2 also contains a provision on the same subject in these words: "Persons possessing the qualifications entitling them to vote for delegates under this act, shall be entitled to vote on the ratification or rejection of the Constitution." They are "all male citizens of the United States over the age of 21 years who have resided in this Territory for one year next prior to such election." It is supposed by some that the persons thus mentioned in section 2 are the only persons entitled to vote for or against the Constitution, on the maxim that the mention of one person or class is an exclusion of others. The maxim is sound and applicable, for the right to vote at this election must be granted and the right can be exercised only by those to whom it is granted. The mention of those who may vote need not be in one section exclusively. Particular persons may be mentioned in one section and others in another, section and the maxim will cover the accumulative enumeration, and only those not mentioned in either section will be excluded. Does section 4 profess to confer the right to vote, and by a different and possibly more comprehensive description than that contained in section 2? We think it does. The qualified voters of the proposed State are manifestly those who will be qualified voters when the proposed State becomes a State, those who possess the qualifications that the Constitution of the proposed State requires. The persons declared entitled to vote in section 2 are not declared in that section to be qualified voters of the proposed State, and in our judgment the Constitution might be so framed that no male citizen only 21 years of age could vote, so that no citizen who has not resided in Utah longer than one year could vote.

On the other hand, the Constitution may so define the qualification of voters that they may exercise the right at and over eighteen years of age, and after six months' residence. If so, it may define the right in a manner to make no distinction between the sexes. The qualified voters of the proposed State, according to the requirements of the Constitution, including the persons mentioned in section 2, whether they possess all the constitutional qualifications or not, would seem plainly to be the persons to whom the Constitution must be submitted. In other words, if women are guaranteed in the Constitution the right to vote, they have the right to vote on the ratification or rejection of the Constitution. It has been suggested that the expression "qualified voters of the proposed State," means the voters within the boundaries of Utah, and has no force to require anything, but being voters within that area. Doubtless it requires residence within that area, for it requires them to be qualified voters. To be such, they must have all the qualifications enumerated in the Constitution. It should be borne in mind that constitutions generally prescribe the qualification of the persons to whom the question of their adoption is submitted; those who will be qualified to vote after the adoption of a constitution may fitly be trusted to decide whether it shall be adopted. The submission of the Constitution to the qualified voters of the proposed State follows the American practice, is strikingly consistent with the other features of the Enabling Act, with providing for the election of the first State officers at the very election at which the adoption of the Constitution is to be decided.

Signed, J. G. SUTHERLAND,
CHARLES C. DEY,
JOHN A. MARSHALL,
GEORGE SUTHERLAND,
H. P. HENDERSON.

Mr. BOWDLE. I would like to ask Mr. Richards a question. Was this article prepared by those gentlemen?

Mr. RICHARDS. I have no knowledge by whom it was prepared. It was handed to me by Judge Sutherland. Perhaps he can furnish you the information with regard to its preparation.

Mr. SQUIRES. How many signatures are there to that letter?

Mr. RICHARDS. I read the signatures; five of them.

Mr. SQUIRES. Is that all?

Mr. RICHARDS. Five is all.

Mr. SQUIRES. I understood you to say a large number of other members of the bar.

Mr. RICHARDS. I did not say that the others had signed this communication. There are a number of other distinguished members of the bar who entertain this view.

Mr. SQUIRES. What is the political complexion of the signers of that?

Mr. RICHARDS. I have not considered that. I will look at them and see.

Mr. SQUIRES. I would like to inquire whether they are all democrats?

Mr. RICHARDS. I think George Sutherland is an orthodox republican. He was proposed as a candidate for delegate to Congress, I believe, by the republican party at one time.

Mr. GOODWIN. I want to ask Mr. Richards a question. That is, would this be carrying out the will of Congress in conformity with this Enabling Act?

Mr. RICHARDS. I think that Congress intended that the women should vote, provided that the Constitution should provide that they should have the franchise. If I did not, I certainly should not propose it.

Mr. EICHNOR. Have you any precedents in the United States where the state has been admitted that voters that were enfranchised, so to speak, under that constitution, that they could vote on the adoption of the constitution?

Mr. RICHARDS. I do not know that I can refer to any particular instance at the present time, but if I understand the gentleman's question, this proposition is in consonance with the uniform practice in all the states. I understand it to have been the uniform practice for the voters of the proposed state to vote on the constitution. In other words, all those who would have the right to vote under the constitution or in the state after the constitution was adopted and the state government organized, have a right to vote on the constitution as to its adoption. That is my understanding. I do not think that you will find an exception to that. If there is one, I am not aware of it.

Mr. BUTTON. Section 2 says, "all male citizens." Do you think that if the Congress of the United States was going to allow all the people of the Territory to vote, they would have said "male citizens," or would not they have said "the citizens of the Territory?"

Mr. RICHARDS. That relates to the qualification of those who shall vote for the delegates to this Convention.

Mr. BUTTON. That is very true. Later, it says, that those qualified to vote for delegates shall be qualified to vote on the adoption of the Constitution.

Mr. RICHARDS. That is right, but it does not say that no others should be entitled to vote, and in the fourth section it expressly says that all the electors of the proposed State shall vote.

Mr. EICHNOR. I would like to ask Mr. Richards another question. I want to get the right of this. If the question of woman's suffrage had been submitted as a separate article, could the women have voted on the Constitution as a whole—could they have voted on the separate article, or could they have voted at all?

Mr. RICHARDS. I will answer you in the language of the Enabling Act, section 4.

Mr. EICHNOR. If you answer my question the way I put it, I think I can get a precedent. Could they have voted on the adoption or the rejection of the Constitution if the question of woman's suffrage could have been submitted as a separate article?

Mr. RICHARDS. This makes no distinction. This section says that the qualified voters of the proposed State

shall vote directly for or against the proposed Constitution, and for or against any provision separately submitted. Certainly nothing could have been more explicit than the language of the act itself.

Mr. BOWDLE. When do you understand that the women, if this Constitution should carry, would be qualified voters? Would it be before that election or after?

Mr. RICHARDS. I understand that they are qualified voters to vote on the acceptance or rejection of the Constitution, and that they are qualified voters to vote at all State elections if the Constitution should be adopted. That is my understanding of it. Now, referring to the suggestion of Mr. Button, I desire to say that there is no conflict between sections 2 and 4 on this subject. Section 2, in the beginning of the section, provides the qualifications for electors to vote for the delegates to this Convention. Section 2, in the latter part of the section, provides that those persons shall vote at this election.

The CHAIRMAN. The gentleman's time has expired.

Mr. IVINS. Mr. Chairman, I am not a lawyer, but I just want to say that I am opposed to this whole scheme. I do not believe it was ever contemplated in this Enabling Act. I do not think it is good law, and I do not see how anybody can construe the wording of that fourth section to have such an application. It says, "at which election the qualified voters of said proposed State shall vote." Now, it does not say the proposed voters of the State at all, and that is all these women are. You cannot make anything else out of it, and I am opposed to this whole idea from beginning to end.

Mr. VARIAN. Mr. Chairman, I regret very much that upon the former occasion I inadvertently used a word which, if I meant it, would not have been courteous to my friend from Salt Lake (Mr. Richards). In using that word, absurd, it was done thoughtlessly and with no intention, of course, to make any application to anything that might be promulgated by my friend. I want to call the attention of the Convention to the fact that in my judgment the legal arguments or statements presented by the gentlemen who are not members of this Convention, leave out of consideration a fundamental rule of statutory interpretation and construction. It predicates their whole conclusion upon single, and as it were, isolated language, found in one particular section of this Enabling Act. Congress was dealing with a proposition which might or might not be affirmed when it enacted this Enabling Act. It uses the words "proposed State" six times in this Enabling Act. In each connection, possibly with the exception of the particular section relied upon by Mr. Richards, it is manifest that it is speaking of the proposed State in the sense of dealing with the people inhabiting a well defined and bounded area of country, who propose to form a State. For instance, in section 3 it is required that the delegates of the Convention shall, after organization, declare on behalf of the people of said proposed State that they adopt the Constitution, etc. In paragraph 2 of the same section, it says that the people inhabiting said proposed State do agree and declare in accordance with the requirements of the Enabling Act. Passing the third section for the present, in the fourth section, it provides that if the Constitution and government of the said State are republican in form, and if all the provisions of this act have been complied with, etc., the President shall issue his proclamation and thereupon the proposed State of Utah shall be deemed admitted; and finally, in section 19 it provides that the governor and secretary of state of the proposed State shall certify the election of the senators and representatives in the manner required by law, and when such

State is admitted into the Union as provided in this act, the senators and representatives shall be entitled to be admitted. Now, bear in mind, Mr. Chairman, that no legislative power, other than that that may be necessary to affect the future State, after it shall have been admitted, is conferred by this Enabling Act.

All matters of legislation relative to the forming of this Constitution and its adoption and its approval by the President of the United States are retained by and executed in this country by Congress. It would be a matter of legislation, pure and simple, not with reference to the future condition of the new State, but with reference to existing conditions now, if you could interpolate into this Enabling Act language which would authorize the conclusion that we would have a right to create an additional class of voters not existing at the time of the passage of the act, and submit to them the ratification of the Constitution. You might just as well say that you could, by enabling aliens to vote under the language of this Enabling Act, submit the ratification of the Constitution to their choice. Does any gentleman contend that you could do that? You can prescribe when you shall become a State government—that persons who are not naturalized may vote. You could even prescribe that aliens might vote as well as those who had taken out their first papers. That is a matter of governmental state policy, pure and simple, with which the the government of the United States has nothing to do, except in so far as it may affect the election of representatives in Congress. Now, in section 2, Congress is dealing with the question of qualifications of voters, and I call the attention of my friend, able and distinguished lawyer as he is, to that rule of construction, which sheds light on this. They are dealing with the qualifications of voters. First, they say that all male citizens over the age of 21 years, who have resided in the Territory for one year, etc., are authorized to vote for delegates to the Constitutional Convention. Following that, they say that persons possessing the qualifications entitling them to vote for delegates under this Act shall be entitled to vote on the ratification or rejection of the Constitution, under such rules or regulations as said Convention may prescribe, not in conflict with this Act. Now, if there is not a distinct determination of the subject matter, I am unable to appreciate the force of language. They are dealing there with the qualification of voters, not how they shall vote, but as to who shall vote. They have entered upon that field of legislative discretion and have disposed of it. Now, we come to the language relied upon by my friend and the gentlemen who agree with him, but you will observe, gentlemen, that they are not dealing now with the qualification of voters. They are dealing with the manner of voting, as to how the vote shall taken and adopted. They say it shall be submitted upon a certain day, at which election (now mark this) "the qualified voters of said proposed State shall vote directly for or against;" that is, Congress is now telling the people how they shall vote, for or against the Constitution, for or against an amendment or at least a separate article that may be submitted in conjunction with it. So that, they have prescribed that the vote shall be taken clearly and distinctly without any encumbering with other matter of any kind—no connection with the election for officers or anything of that kind.

So, you see, that in these two separate propositions, you first have a clear and distinct declaration by Congress, which is dealing with the qualifications of voters, and in the first instance as to who they shall be and as to what their qualifications shall be, and second, as to how these persons duly qualified shall vote for or against the Constitution. Now, it seems to me, with all

deference to these gentlemen, taking into consideration the situation under which this Enabling Act was passed, taking into consideration that woman suffrage is the exception and not the rule, that it is in violation of the com mon parliamentary electoral law, that it depends entirely upon legislation to extend the franchise to that class of persons, and you find Congress legislating, as it has always done, to the exclusion of this class of voters, particular to confine the right to vote for delegates to the Constitutional Convention, to male citizens of the requisite age and residence; particular to mention the fact that the same qualifications shall be those which shall entitle the persons to vote for the ratification of the Constitution. Bear in mind this rule of construction which must shed light upon every occasion when interpretation of statutory language is necessary, as to the purpose and object of the language. What is the Legislature dealing with? What particular subject matter at the time the language is given expression to was under consideration? To repeat, first, Congress has defined the qualification of voters, dealing with that subject, and of necessity has excluded it from our consideration. Second, it is dealing with the subject as to how the vote shall be taken upon the ratification of this Constitution, necessarily excluding that from our consideration. It seems to me that the construction sought here is far fetched and is not borne out by the Enabling Act. But passing that, if I am right in the first premise, then I lay down that no legislative authority for the present is given to this Constitutional Convention. What can we gain by putting anything of the kind into this Constitution? Of necessity it will have to depend upon the construction put upon this Enabling Act by those, first, who are entrusted with the administration of election laws primarily here in this Territory—the Utah Commission. And second and lastly by the President of the United States, who shall be called upon to determine, first, whether the provisions of this Enabling Act have been carried out and performed. Second, whether the Constitution proposed is republican in form and not in conflict with the Constitution of the United States. The first board of authority which shall have the power to pass upon this question may be enabled to invoke the aid of the courts to determine the question for them, but I submit that even the courts themselves here in this Territory would not probably bind the President of the United States. It would have to be an opinion by the higher federal court. But, however that may be, by putting it in and taking a vote as suggested, you certainly risk your Constitution. It is suggested by my friend on the other side, if you leave it out, you risk your Constitution. That may be, but I do not view it precisely in that light. In one sense that would be true, and in that view it might occur to gentlemen that it would be advisable to take a separate election in accordance with the view proposed by Mr. Richards, as I understand it.

Mr. RICHARDS. If you will vote separate.

Mr. VARIAN. If you will vote separate. One objection to that, of course, would be the expense attached to it. That, however, might not be sufficient to warrant the Convention in taking an antagonistic position on that subject. I had not considered it from that standpoint, only from the standpoint as first proposed here, as to what the construction of this act was, and ought to be, and while I have not procured a petition or letter of advice, nor have I procured credentials upon this subject from very many members of the bar, I happen to know that the opinion among some of the most distinguished members of the bar in Utah Territory is in accordance with the views that I

have expressed here. I certainly hope that the motion of Mr. Maloney will not prevail unless the design is to take every risk possible.

Mr. RICHARDS. Is it not a fact that if the construction that Judge Sutherland and others suggest is the correct one, and the female vote was not taken, that the Constitution would not be adopted—that is, assuming that the President took that view of it?

Mr. VARIAN. I am inclined to think there would be great force in that.

Mr. RICHARDS. Let me ask this question, and in asking it, I desire, as I am sure every member of this Convention desires, to do what is right, and avoid a failure of our work. I believe the gentlemen that I am addressing will give me credit for believing that. Now, if a provision was made in the Constitution for taking the vote of all the proposed electors, and keeping the female vote separate, how could that possibly injure or tend to defeat the Constitution, or could it?

Mr. VARIAN. I don't believe it could.

Mr. RICHARDS. Well, then, if as you say, the failure to have them vote would be a fatal error if they have a right to vote, and letting them vote separately would not injure the matter if they had no right to vote—if it should be so ultimately determined, then, does not prudence dictate to us that we should provide for that?

Mr. VARIAN. I admit there is great force in that. I was principally directing my argument to the first amendment.

Mr. RICHARDS. I put it upon that ground, Mr. Varian. I do not put it on the ground that my opinion is better than yours or anybody's else, but I do say that on the ground of prudence, this Convention ought to adopt a course that certainly could not be construed to be illegal, and could not result in the failure of this Constitution, because it had not been properly submitted.

Mr. EICHNOR. Mr. Chairman, in 1889, Congress passed the enabling act to permit the territories of North Dakota, South Dakota, Montana and Washington to frame constitutions. Now, in those territories the men that were entitled to vote for members of the legislature, or as the laws of the state provided for, could vote for delegates to the constitutional convention. When it came to the ratification or rejection of the constitution, you will find that the language of that enabling act is identical almost with the language in the Enabling Act for Utah. In the state of Washington they submitted a separate proposition. They submitted the question of woman's suffrage as a separate article, and I say to you, gentlemen of the committee, whether a man is opposed to woman's suffrage, or whether he is favor of woman's suffrage, it is not this question. I will tell you, gentlemen, in the state of Washington they were not allowed to vote. The constitution was adopted and woman's suffrage was rejected, and Grover Cleveland proclaimed Washington as a state. Now, there is a precedent for us to follow. Some of you, gentlemen, have smiled because I have referred frequently to Washington, but there is a precedent where the language of the enabling act is identical with ours, where a proposition was submitted separately and the women were not allowed to vote on the adoption or rejection of the constitution. They were not allowed to vote on the article submitted separately, and Grover Cleveland proclaimed the territory of Washington as the state of Washington.

Mr. THURMAN. Mr. Chairman and gentlemen, although I did not intend speaking on this question this morning—in fact, did not know whether it would be presented at all or not to this Convention, yet it is a question to which I have given some thought and consid-

eration. Early in this Convention, I was asked by a gentleman on this floor my opinion in relation to the right of women to vote, provided we qualified them to vote under the Constitution. I unhesitatingly gave it as my opinion that they would have no right to vote at the first election. I cannot say that my mind is entirely free from doubt yet as to my position, but I have been compelled to yield my convictions to a great extent as to the law on this question, from the reading of the Enabling Act itself. I do not see that the question raised by my young friend from Salt Lake, Mr. Eichnor, as to the Washington constitution, sheds any light at all upon this question here.

Mr. EICHNOR. May I ask Mr. Thurman a question?

Mr. THURMAN. Yes sir; if I misunderstand you, I want to be put right.

Mr. EICHNOR. Were you present when I asked Mr. Richards several questions.

Mr. THURMAN. Yes, sir.

Mr. EICHNOR. Did not I ask him if the proposition was submitted separately whether he would still claim the women had the right to vote?

Mr. THURMAN. Yes, sir.

Mr. EICHNOR. And his answer was in the affirmative. And in Washington the question of woman's suffrage was submitted separately and they were not allowed to vote, and the constitution was affirmed.

Mr. THURMAN. He might answer you affirmatively on the proposition, and I may answer you negatively. I am making this speech now for myself. I will agree with the gentleman from Salt Lake, Mr. Richards, as far as we do agree, and where we disagree, I think I will state it succinctly. As I was saying, the separate submission proposed by the state of Washington might well be limited to those who were unquestionably qualified to vote under the constitution, and it would at least take a provision in the Washington constitution expressly providing that the women should vote. Now, I will ask how is that?

Mr. EICHNOR. If Mr. Richards is right here, they should have been permitted to vote in the state of Wash ington.

Mr. THURMAN. I am asking for information, not for the purpose of provoking a running discussion. You have examined it. Did the constitutional convention provide in the constitution that the women might vote on the question of separate submission?

Mr. EICHNOR. No, sir.

Mr. THURMAN. Then of course, they had no right to vote. It was not a part of the constitution until it became so by the vote of the people, as a separate article, but here we undertake to say in this Constitution that political distinctions are abolished, both as to suffrage and as to the right to hold office. We place women in the Constitution upon an absolute equality with men in those respects, and there is nowhere in the Constitution, excepting this proposition that we are now considering, where we undertake to make any sort of distinction. The question was asked by the gentleman from Salt Lake, Mr. Squires, as to the political complexion of these gentlemen who had rendered an opinion. If there were four democrats and one republican, or four republicans and one democrat, or if they were evenly divided, I fail to see what the political complexion of those men had to do with the question under consideration, unless we have reached the point at last where this question of woman's suffrage and political rights for women is indeed a party question. I do not understand that we have. If women ever have a right to vote in this State at all, it will be because republicans voted for it and because democrats voted for it, because as far as democrats alone are concerned, if every one of them had voted for it, they never could have given suffrage to woman.

So it is not a party question, and those things ought not to be injected either by inuendo, or otherwise, into this debate. They cloud the judgment of members. They preclude us from giving consideration to this question—that fair consideration and deliberation that ought to given to it, and so far as I am concerned, I want to keep that thing out of my mind in what little I have to say. I desire now to read the Enabling Act, and I want to say, Mr. Chairman, I am directing my remarks more particularly to this question of a separate submission. On the question of ratifying the Constitution, that seems to me to be the path of safety. Anything else would seem to me to be the reverse. It it is true that in the qualification of delegates to this Convention, Congress undertook to say just what those qualifications should be, and limited them to male citizens residents of the Territory for one year. Now, at the end of that same section, right in connection with the delegates, it says what shall be the qualification of delegates to this Convention. Congress undertook to say to this Convention that those men should not be excluded from the right to vote upon the ratification or adoption of the Constitution, and that is what it means. It did not mean in that section to establish the qualification of the members on the adoption or ratification of the Constitution, but it meant to say to this Convention that whatever may be the qualification that you give to the voters of the proposed State, these men, whom we say are qualified to vote for the delegates to the Convention, shall also have a right to vote on the question of its adoption or rejection. That is the meaning of that section, if I am capable of construing the language at all.

Now, when we come to section 4, there we must look to find who shall vote upon the ratification or adoption. And I want to say, Mr. Chairman and gentlemen of this committee, if it means what the honorable gentleman from Salt Lake contends for, it is the most curious language that was ever used by an intelligent body of men in order to convey that idea. Why shouldn't they have said this, that in case the Constitution and State government shall be formed, in compliance with the provisions of this act, the Convention forming the same shall provide all ordinances for submitting said Constitution, not to the people of the State, but to the people of the Territory? We are still a Territory and in the same line of thought for its ratification or rejection at an election to be held on the Tuesday next after the first Monday in November, 1895, at which election, the qualified voters—not of the Territory, not of any particular area of land, but the qualified voters of the proposed State. Let me pause one moment, gentlemen, to ask you a question. What is a state? A state is the people, within a given area, in their organized capacity. If the state is the people in their organized capacity, the proposed State then will be that which we propose to be the State in its organized capacity. What is that? You have got to look into our Constitution to see what the organized capacity of the people will be, and in that the question of suffrage, and who has a right to vote under the State, becomes a very important feature. Can you imagine that Congress used such language as that, if it meant what gentlemen on the other side contend for? How easy it would be to say "the qualified voters of the Territory, except as otherwise provided in this act?" Combine that with the closing words of section 2, and you will get all the voters qualified to vote in the State.

Mr. CANNON. Would the qualified voters of the Territory be the same as those that were allowed to vote for the delegates to this Convention?

Mr. THURMAN. I was just explaining that. I say that, combined with what Congress has said on the subject,

would make up the legal voters. But they did not do that. They say, "the qualified voters of the proposed State." My friend, who sits at my right here, comments upon that language by saying it does not say the proposed voters of the State but the qualified voters of the proposed State. I ask you again, what is the proposed State of Utah. Is it that section of country bounded by the lines mentioned here in our article on boundaries? Is that the State? If so, we have had a State government all the time. We have had a State ever since we came here, if that is a State. It does not mean that, gentlemen, and you know it. It means that area of country and the people that inhabit it in its organized capacity as a sovereignty, limited, subjected only to the Constitution of the United States, as a sovereign power. When we consider the qualified voters of the proposed State in that light and strip from our minds that the word state there simply means a certain area of country bounded by certain lines, we then get down to what Congress evidently meant. What is there wrong, gentlemen, in those whom we say are qualified to vote for State officers through all coming time voting at all public elections? What is there wrong in principle in saying that they also shall vote rather that we shall have a State? Otherwise you are forcing upon them conditions which probably they do not want. You are forcing them into line here and giving them qualifications to do this or that or the other thing in a sovereign capacity, which if they had a voice they would probably say, "we do not want that." In fact, it has been contended here by some gentlemen that the women do not want to vote. If I was in that position, and was actuated by selfish motives, and took that view, I would say, "let them vote. Kill the Constitution." But that thought does not enter my mind as to how they are going to vote, but the question is have they the right? And that is what we are here seeking to determine. I say it is open to doubt. I say the only safe proposition, as far as this question is concerned, is to provide, even if there is an expense attached, for a separate vote of the female voters. If it should be determined they are not qualified to vote, no harm is done. If it should be determined that they are qualified to vote, their vote can be be added and counted and canvassed with the rest of the vote or in addition thereto, and it will be absolute safety. I take it, that no gentleman, after all the work we have done here, wants in either case to see that work thrown away and become of no effect, because we have not followed the provisions of the Enabling Act.

Mr. ROBERTS. Mr. Chairman, I would be opposed to the amendment offered by the gentleman from Weber (Mr. Maloney), in the first place, because I think it would come in conflict with the parts of the Constitution preceding that, which we have already amended. In line 8, the proviso begins, that all male citizens over the age of 21 years who have resided in this Territory one year next prior to such election, and are qualified voters, are hereby authorized to vote for or against the adoption of this Constitution; and the amendment by the gentleman from Weber would make it say, "all electors qualified to vote under this Constitution may vote." I do not know whether the amendment was drawn with a view of having a separate vote cast by the women of the Territory or not, but if it was not so drawn, then it renders this section, as I look at it, incongruous, and it ought not to be adopted, unless we contemplate striking out the first part of that proviso. The question proposed this morning, as I understand it, may be viewed in two aspects. It seems that there are some gentlemen who believe that the women of this proposed new State may vote for the adoption of the Constitution itself. Others, as I under-

stand it, hold that they cannot vote for the Constitution itself, but they may vote for the State officers to be elected. I think, sir, that the first proposition is a very unusual one. I remember in the debates on the question of granting suffrage to women, that I made the statement that such a thing as permitting those whom we propose to enfranchise voting upon the question whether they should be enfranchised or not, was an unheard of proceeding, at least either in England or in the United States; that no precedent of the kind could be cited, and I hold to the opinion that I then expressed that I do not believe it is a proper thing to submit this to the women of this proposed new State as to whether they shall be enfranchised or not. So that I am against that part of the proposition, and I am equally against the subsequent proposition, to permit them to vote for the State officers. Now, sir, it needs, in my opinion, no legal acumen to carry one to that conclusion. It seems to me that a very simple process of reasoning, without any straining or effort whatever, carries one to the conclusion that they ought not to vote, and cannot rightfully vote at this first election, even for State officers, and that line of reasoning is simply this, the women of the proposed new State are not enfranchised until you adopt this Constitution, and I think gentlemen will not contend that unenfranchised citizens are qualified to vote. Now, sir, that is the way this proposition presents itself to me. The contention here, and as I must think, the evidently strained efforts to permit this class of voters who are to-day unenfranchised and will remain unenfranchised until this Constitution is adopted, and until the proclamation of the President of the United States shall complete our work by permitting the State to enter the Union, is an absurdity upon its face—to contend that unenfranchised factors of the State shall vote. Of course, it may be said that my prejudices against woman's suffrage would perhaps lead me to take this view of the case, and, of course, it is quite possible that one may be unconsciously influenced by his prejudices, and I am willing to admit that, looking upon the enfranchisement of women as an evil, I would like to postpone that coming evil just as long as I can. I think we will have enough of it when it comes; that the time will come when we will all be heartily sick of it, and I therefore am in favor of postponing it.

Mr. BOWDLE. Mr. Chairman, if I understand the proposition, it is this, that the women shall be allowed to vote separately upon whether they will adopt this Constitution or not. When that vote is taken and canvassed, if there are enough men that have voted to adopt the Constitution, we do not care anything about the women. That, I understand, is Mr. Richards's position; that if the vote by the male portion of this Territory shall be sufficient to adopt the Constitution, the others will be left out, but if there are not enough men to vote to ratify the Constitution, then we will as a hazard, peradventure, try the other and see if Grover will let us through on that line. That is, as I understand, the proposition exactly. Now, gentlemen, if I wanted to defeat this Constitution, I would take that tack exactly, because if there are anything like enough men to defeat it, and you put it in that shape that number will increase, and if it is safe now in the hands of the men, it will be safer in the hands of the men to let it alone and not use that uncertain element—that contingent vote that you propose here to use, because if there has been some feeling worked up in this Territory, on the question, and it is a recognized fact that there is an antagonism now being waged against woman's suffrage here, that will still affect the vote on the Constitution. If you permit, by this schedule, the women to vote on the ratifica-

tion of the Constitution, you will increase that antagonism, and you will then be compelled to depend for the ratification of the Constitution upon the women, and if the powers that be shall say that that is not constitutional, I believe your Constitution will be gone. I am sorry that the gentlemen themselves have lost confidence in themselves and now they want the women to come to the rescue and help them through. I say, gentlemen, let that thing stand just as it is, just as the section now stands with the amendments that have already been adopted, and I believe the Constitution will be safe and that it will be ratified, and I doubt if it will be if you put that in.

Mr. MURDOCK (Beaver). Mr. Chairman, as it was remarked here this morning, I am neither a lawyer nor a son of a lawyer, but it seems to me this is a very plain proposition. In the second section of the Enabling Act, it says what kind of voters shall vote. That is, every male citizen. Then, they go to the fourth section and there it says every qualified voter may vote. Now, the question is very comprehensive to me, and I presume is to some of the members if not all, if qualified voters shall vote, when are the women qualified voters? When this Constitution makes them so, and the people of the Territory ratify the labors of this Convention and the President has had it submitted to him and he also ratifies it. Then they become legal voters and not till then, according to my judgment. While I am quite in favor of equal suffrage, yet I think it would be very unreasonable to say that they should vote upon their own acts, just as an individual might if he had a great point to gain, that he should have the privilege also to vote upon it, that those in favor of him might have the advantage of his vote also. And so I regard it in this matter, that the women portion are not legal voters, are not competent voters, consequently I should be opposed to that amendment.

Mr. GOODWIN. I would like to ask the chairman and the other eminent lawyers on the floor, a question. Suppose we should pass this and the registration should begin and some woman should apply to have her name registered and she should be refused, would it be possible for her to make a case in the courts, to go behind our work on the Enabling Act, and claim her right to vote, and get the decision from the courts that way? I am in doubt myself. I would like to have Mr. Richards, Mr. Thurman, Mr. Varian, or some of the lawyers here give an opinion on that point.

Mr. RALEIGH. Mr. Chairman, I trust this amendment will not prevail, for the reason that I don't believe it would place us in keeping with the provisions of the Enabling Act. Now, it may be presumption for me to speak on this question before this Convention, not being a practical lawyer, but I will state for the comfort of the gentlemen on this floor, that I have been studying the constitutional law for almost forty years, and when I read several weeks ago, this Enabling Act, I came to the conclusion that it would not allow those whom we have made eligible to vote on the Constitution, to vote; that is, that we have made eligible to vote and have placed it in our Constitution—it would not allow them to vote at that time, but after that, of course, if the Constitution is ratified, they will be eligible to vote on any question. Now, I don't know why it is that men will contend here on this floor that they are eligible to vote. I have never discovered any language at all that they have the right to vote at that time, and hence I hope the amendment will not prevail.

Mr. MALONEY. Mr. Chairman, I believe one thing before the house now is the consideration of the amendment proposed by myself, which is to insert

the words read. "All electors qualified to vote under this Constitution may vote." Now, Mr. Chairman, the object is to allow the women of this Territory who have been enfranchised by the provisions of this section, to vote for State officers at the coming election, on the first Tuesday after the first Monday in November, 1895. I never knew that there was any diversity of opinion, even among the distinguished luminaries of the Salt Lake bar, on this question. I thought it was unanimously agreed, that if we provided by ordinance in this Constitution for the women of the Territory to vote for State officers, that they could vote for such State officers, but I understood there was a diversity of opinion with regard to their qualification to vote for or against the Constitution. My position, Mr. Chairman, is that the women of the Territory cannot, under the Enabling Act, vote for or against the ratification of this Constitution. And it strikes me the Enabling Act is clear. The act of Congress, section 2, provides that all male citizens over the age of 21 years, who have resided in the Territory for one year next prior to the election, may vote for delegates to this Convention. The latter part of the section provides that persons possessing the qualifications entitling them to vote for delegates shall be entitled to vote on the ratification or rejection of the Constitution, under such rules and regulations as the Convention may prescribe, not in conflict with this act. Now, I take it for granted, that that language is clear that the ladies cannot vote for the rejection or adoption of this Constitution, and there is no provision in this Enabling Act saying that we, as delegates to this Constitutional Convention, may provide that the women can vote. The women may vote for State officers at the coming election if we so provide by this schedule, or if it is provided in the Enabling Act.

Mr. ROBERTS. Are the women of this State enfranchised until after the adoption of this Constitution?

Mr. MALONEY. I will answer that in this way. We have authority under the Enabling Act to provide with regard to the election of State officers at the coming November election. We have a right to say who shall vote for or against State officers. I agree with Mr. Roberts that all of these acts of Congress had no reference to suffrage in Utah.

Beginning in 1887, the Tucker-Edmunds bill took away suffrage from the women in Utah. That has not yet been restored, except this Enabling Act provides that we may by schedule or ordinance say who shall vote for State officers, to be elected in 1895, but we have not been authorized to say that women may vote for or against the ratification of this Constitution. So far as that is concerned, I agree with my friend, the delegate from Davis County. In other words, it is a question like a man being dead voting to make himself alive, or somebody out here in charge of the warden voting to get himself out. I agree with the gentleman that far, but I do contend that under this Enabling Act we have a right to say whether or not the women, as we have provided in this Constitution, may vote for State officers. And if we shall, in our Constitution, provide that under the Enabling Act, we have a perfect right to say that the women may vote for State officers at the coming election.

Mr. ROBERTS. I think the gentleman did not understand my question. My question simply was, are the women of this Territory enfranchised before the adoption of this Constitution, or can they be?

Mr. MALONEY. No, sir; but I do say that we can, under the Enabling Act, by ordinance, permit them to vote at the coming election for State officers. They are not enfranchised in so far as

the adoption or rejection of this Constitution is concerned. I make a distinction there, and I think the Enabling Act authorizes and recognizes a distinction. I am not willing to put anything in this Constitution by which it could be endangered; above all things in this world, I think I do desire statehood for Utah. I would sacrifice woman's suffrage for statehood, because while I am for woman's suffrage, and always have been, we could postpone that rather than defer statehood, as we could get it as soon as the Legislature met. I have been from the first for woman's suffrage. It is true I was willing to delay this petition if they saw proper to do so, but whenever the question came on the final vote, I was determined that they should vote so far as my vote went, and that they might have all the rights that men are entitled to, because they were equally entitled to them.

Mr. VARIAN. I desire to ask the gentleman from Weber two questions. First, entertaining the views that he does concerning the main proposition, why he offered that amendment, which in terms provides that women shall vote upon the adoption or rejection of the Constitution?

Mr. MALONEY. I did not offer any amendment, Mr. Chairman, authorizing the women of the Territory to vote for or against the adoption of the Constitution. It provides for their voting for State officers in the coming election, and no farther.

Mr. VARIAN. Then I misunderstood the effect of it.

Mr. MALONEY. The amendment was drawn up very hurriedly because I came in after the article came up, and if it is not distinctly worded, I will ask to amend it. The object I had in mind was that they might be allowed to vote at the coming election for State officers.

The CHAIRMAN. The chair is of the opinion that the amendment would permit women to vote both for the Constitution and for the State officers.

Mr. MALONEY. Then, I will ask that it be made to read so that they will vote for State officers only.

Mr. VARIAN. That is what drew out my remarks heretofore made. I want to ask the gentleman a second question. I presume the gentleman will admit, by way of a premise, that this matter of enfranchising a class of persons is a purely legislative matter. I want him to point out in this Enabling Act where that grant of authority and power is conferred upon this Constitutional Convention.

Mr. MALONEY. I think it is section 4, if I am not mistaken.

Mr. THURMAN. If your position is right, clearly they have a right to vote for the Constitution. You have been contending here that they have no right to vote for or against the Constitution, but may vote for State officers.

Mr. MALONEY. I did not understand that there was ever any trouble or disagreement among constitution makers with regard to that.

Mr. VARIAN. Well, there is.

Mr. MALONEY. But I do hold that they have a right to vote for State officers.

Mr. RICHARDS. Is it not a fact that if the construction contended for by Judge Sutherland, Judge Henderson, and others, is correct, a failure on the part of this Convention to provide for submitting this Constitution to the vote of all the electors of the proposed State might result in the failure of the Constitution; that is, that it might be held that the election was illegal, because it had not been submitted to all the legal electors?

Mr. MALONEY. If I understand your question, it is that if they were permitted to vote for or against the Constitution, it might endanger statehood?

Mr. RICHARDS. No, sir; if the position taken by Judge Sutherland, Judge Henderson, and the other gentlemen who signed this opinion that I read, is correct, and the women have a

right to vote on the Constitution and for State officers, is it not a fact that if the Constitution did not afford them that right and the vote was taken only of the male electors, it might be said that the Constitution had not been properly submitted, and therefore, that it had not been properly ratified?

Mr. MALONEY. That could be avoided by your proposition having the vote counted separately.

Mr. RICHARDS. Exactly, but isn't that a fact that it might be so?

Mr. MALONEY. It might be.

Mr. RICHARDS. If that be so, what is the objection to having a separate submission of this matter and having the women vote?

Mr. MALONEY. I am not objecting to your separate submission article. Your amendment is not before the house, and I am not objecting to the question of taking the women's vote separately.

Mr. RICHARDS. But it is involved in this question in this way, that I propose as an amendment to your amendment—the insertion of these words before the vote for the Constitution, so that it will apply to voting on the Constitution as well as for State officers.

Mr. MALONEY. It strikes me that if the women of this Territory are permitted to vote for or against the Constitution, statehood will be endangered, but I do not think there is any question but what if we provide that they may vote for State officers at the coming election——

Mr. RICHARDS. Will you answer me how statehood will be endangered if they vote separately on this proposition?

Mr. MALONEY. I do not say that if they vote separately it will be endangered. I did not understand that that question was before the house at all. I understood Mr. Richards read what he moved as an amendment. I say they cannot vote for or agains the Constitution, and that if we permit them to vote, not taking the vote separately, but if they vote for or against this Constitution, with the male voters of this Territory, it will endanger statehood; but I say if there is an amendment that the women of the Territory may vote separately, I have no objection to it. Then, it will be easily eliminated. We will know just exactly what the male vote of the State was.

Mr. VARIAN. I would like the gentleman to answer my question—to point out in the Enabling Act where the authority is given to this Convention to legislate a class of voters into existence to vote on anything.

Mr. MALONEY. By our having the authority in this Enabling Act to provide by the schedule for the voters of this proposed State.

Mr. VARIAN. Will the gentleman point it out?

Mr. MALONEY. That is exactly where I place it. I say we have the authority under the Enabling Act to say by schedule or ordinance who shall vote for State officers at the coming election.

Mr. BARNES. Mr. Chairman and gentlemen, I am not a lawyer nor the son of a lawyer, as my distinguished friend from Weber remarked, and shall not attempt to argue this matter from a legal standpoint at all. There is a matter, however, of right involved here that I think we ought not to lose sight of. The question presents itself to me in this light: Do the women of Utah to-day hold the right to vote? I say no. They will not hold that right until after the Constitution is ratified. It is clearly, then, I think, out of order for us to contemplate giving them the right to vote until after the ratification of the Constitution. That is my position exactly.

Mr. THORESON. What right have the men of the Territory to vote for State officers before the Constitution is adopted?

Mr. BARNES. They hold that right, as I understand it, by the Enabling Act. The Enabling Act clearly says who shall vote.

Mr. JAMES. Mr. Chairman, I do not propose to discuss this question from its legal standpoint. It has been ably handled by the legal gentlemen upon this floor, but I do want to say that I believe that the adoption of such a provision is purely revolutionary, and I think it endangers our Constitution, and there might be a great deal said to this Convention upon this subject if it was not evident that the temper of the Convention is such that it will not adopt any such amendment as has been offered here on the floor. But I wish to say a word or two regarding the convention that was held in Virginia in 1829. We had some remarks upon this absolute proposition from Mr. John Randolph and Mr. Nicholas and others. It was contended that conceding the right of the general assembly, by its second act, to provide for the calling and organization of the convention, it transcended its power in authorizing that body to submit the result of its labors to anybody but the freeholders themselves. Thus Mr. Randolph said:

By whose authority did the legislature pass the act under which we are assembled here? By the authority of their constituents. And who are their constituents? The freeholders of the commonwealth. By whose authority do we sit here? Whence is our power? From our constituents. And who are our constituents? The same answer must be given—the freeholders of the commonwealth. Now, the freeholders of the commonwealth having given their sanction to the act of the legislature—I refer to the first as well as the second act on the subject of a convention, and deputed us here to propose amendments to the old constitution, or the draft of a new one, to whom, I ask, in the natnre of things, did the freeholders suppose the new constitution was to be submitted for adoption or rejection? Must it not have been to that original authority, to that source and fountain from whence is derived all our authority as a convention? I mean to themselves. Let me suppose a case. A majority of the freeholders of Virginia, being the body politic of Virginia, have consented that a convention shall assemble for the purpose of devising amendments to the existing constitution or proposing a new constitution in its stead. Now, sir, the freeholders of Virginia have not yet decided—though they have decided that amendments shall be submitted to them—that, with worse than the stupidity of Esau, they shall be deprived of their birthright. The convention are proposing that the former limits of the right of suffrage shall be extended, I will say, ad infinitum. Who is to decide on this question? Those to whome we propose to extend the right? Unquestionably, no; no more than the people of Ohio or Pennsylvania have a right to decide it. They have no right whatever; they have not a shadow of a right. Sir, it is plain as any proposition in Euclid—sir, it is plainer; it is selfe-vident that no other power on earth, save that power from which this convention derives all its authority to propose any constitution at all, can rightfully pronounce on the validity of our acts, or decide upon the acceptance or rejection of such constitution as we shall make.

Mr. Corfman was here called to the chair.

Mr. EVANS (Weber). Mr. Chairman and gentlemen of the Convention, many of the statements which have been made may be admitted, and at the same time it will not change any phase of the question. We sometimes forget the power and authority which a constitutional convention possesses. As I understand it, section 2 of the Enabling Act undertook to enfranchise a class of people in this Territory who had, prior to that time, been disfranchised; that is to say, those who lived in violation of the laws of the United States. In the latter part of the same section, Congress undertook to say that that class of people, whom it enfranchised, should not be disfranchised when it came to voting upon the ratification of the Constitution. So far as section four is concerned, respecting the right of the proposed voters of the State to vote upon the ratification of the Constitution, I think that it is in some doubt, and I shall not undertake to decide that question now. But I do mean to say

that the rule of construction with respect to a matter of this kind is this, that where the authority which calls a constitutional convention together, whether it be an Enabling Act passed by Congress, or whether it be a legislative enactment for the revision of a constitution, or where there is no expressed limitation upon the right of the convention to prescribe the qualification of voters, that it is the absolute and unqualified and inherent right to bring in a new class of voters and permit them to vote upon the ratification of that instrument. That is the rule of construction. We stand here now prescribed only by the Enabling Act passed by Congress. Section 4 limits this Convention with respect to the class of voters who shall vote for the adoption of the Constitution; then we cannot go beyond it. If it does not, we then have the power in this body to prescribe the qualification of electors. Is there anything in the instrument, gentlemen, which limits this body? That is the inquiry to be made. If there be, then we cannot go beyond it. I doubt seriously whether there is anything intended in this instrument to limit this body on the question as to who shall vote for the ratification of that Constitution, but the remedy which has been offered upon that question is fair. If women have not the right to vote upon the ratification of the Constitution, then by putting their votes in a separate box, no harm can possibly result. But gentlemen, there is another question, about which I believe there can be no doubt, and that is, the right of women to vote for State officers and members of the Legislature. I have yet failed to hear any lawyer doubt or express at least a doubt upon that proposition. A constitutional convention, in its very nature, is revolutionary. It may be a peaceable revolution, changing from one form of government to another, but in the absence of any restriction, it has the right to form such government as it pleases. It has the right to prescribe the qualification of the electors of the political subdivision. It has the right to say who shall be its officers, who shall administer its affairs, and no constitutional lawyer will question this proposition. Revolutionary? Why, of course. Why should not it be? It may be by force of arms. It may be peaceful. We are sitting here now as a peaceable revolutionary body, under authority of the act of Congress to form a state government. Anything which does not restrict us, we have the power to do, and we are supreme in the exercise of that power. The gentleman from Davis County has remarked that it is a strange thing—an anomalous thing, that a class of voters who are disfranchised should be permitted to vote to enfranchise themselves. Mr. Jameson in his work on constitutional conventions, has laid it down that a constitutional convention, in the absence of any restriction, has the right to disfranchise any class of citizens and it likewise has the right to enfranchise any class of citizens. The particular paragraph read by my friend from Salt Lake is only the expression of opinion of Mr. Randolph. In the same article people express a contrary opinion, and the author himself says that this power exists to either disfranchise or to enfranchise in the absence of any restriction. I have not had the time to read it. If I had I should take it up and go into it in more detail, but let me remind the gentleman from Davis who lays down his proposition that it is an anomalous thing that that class of people who are not entitled to vote should not have the right to vote upon the question of enfranchising themselves, not even for State officers; why, does he not know that State officers will not be the officers of the new State unless the Constitution itself be adopted? Does he not know that the Convention is creating these officers? We are here in a revolutionary capac-

ity so far as that is concerned. These State officers will never take their seats, will never act under the authority of the State unless the Constitution itself be adopted. In so far as that question of State officers is concerned, this Convention has plenary power over the question as to who shall vote for their election.

The Enabling Act itself provides, in section 19, that the Constitutional Convention may, by ordinance, provide for the election of officers for a full State government, including members of the Legislature and representatives in the 54th Congress, at the time of the election for the ratification or rejection of the Constitution. Further down in the section, it is provided that the State government formed in pursuance of the Constitution, as provided by the Constitutional Convention, shall proceed to exercise all the functions of State officers. Why, gentlemen, there is no doubt, as Mr. Randolph stated in the article—if Mr. James had read a little further; this proposition, is as clear as any principle in Euclid, that this Convention has the absolute and unqualified power to confer upon women the right to vote for State officers. And, gentlemen, I take it that we would be recreant to the duty which we owe that class of voters, whom we have enfranchised in this Constitution, if we were to postpone their right to participate in this matter. There were twelve states where the question came up upon the right of the convention to prescribe qualifications of voters, of classes different from those which were prior to that time enfranchised, and five out of the twelve states, which had no power at all by the Enabling Act, or by the legislative enactment which called the convention, to prescribe qualifications of voters, brought in new classes of voters and they were permitted to vote upon the ratification of the constitution. But I do not go this far, and will not. I do not care. It does not serve the purpose of the argument, because the proposition to put these votes in a separate box will obviate that difficulty; but will any gentleman upon this floor deny the right of women under this Constitution, if we provide for it by ordinance, or in this schedule, to vote for State officers?

Mr. VARIAN. Yes, I do.

Mr. EVANS (Weber). Mr. Varian says he does. Why, gentlemen, a constitutional convention has the power in itself, when it is legally organized in the absence of any restriction, to say who shall be its State officers. We have the right to say the number. We may cut them down. We may enlarge them. We may say who shall vote for them, and they do not take their offices, they do not exercise any of the functions of their offices until the Constitution itself is adopted. When it is adopted, it is a matter purely with the State and not with the United States or any power higher than that of this Convention. I take it, gentlemen, that it is simply a question of postponing the right of women to vote for an indefinite length of time.

Mr. VARIAN. Mr. Chairman, I want to call the attention of the chair, and the gentleman who has just spoken, to the fact that he, unintentionally, of course, completely reversed and misstated the proposition as to the general rule, as to the increasing of the franchise under circumstances like this. (Reads.)

I want to call attention to the fact that we are not sitting here under the authority of an organized state government to revise, amend, or submit anew a constitution to a people who have already had that privilege. We are here under special authority to do what? To form a Constitution and State government for the proposed State. That is all that you have got to do here. There is no power anywhere in this Enabling Act giving this Convention authority to legislate. Congress has not

yielded one iota of its power and authority in that particular, and this proposed scheme is legislation, pure and simple; legislation that can only be carried out and enacted by supreme authority. We are not supreme in the sense used by Mr. Evans. We are simply supreme in the sense that we are the judges of the qualifications under certain conditions, of the election of our own members, and must form a Constitution to submit to the existing electorate of this commonwealth, and it is to be determined by existing laws as they may be changed by the Enabling Act, and that alone. It is a matter of ordinary law and a matter of ordinary common sense, and I, for one, deny that you have any power to extend the franchise to any class of citizens not now enjoying it.

Mr. ROBERTS. I wish to ask the gentleman if he understood me to question the right of this Convention to enfranchise a body of people not now enfranchised?

Mr. EVANS (Weber). No, sir; I did not.

Mr. ROBERTS. I understood the gentleman to take that position, and I wish to say that it was not my position. My position, Mr. Chairman, is simply this, that you have no right, and this Convention has no right to enfranchise any class of citizens or any class of people in this Territory, but through the Constitution and its adoption. You cannot enfranchise people before the adoption of that Constitution that are not now enfranchised.

Mr. EVANS (Weber). I have been asked these questions and I have not had an opportunity to answer them. In the authority read by Mr. Varian, the position which I took is supported, except that there were seven states instead of five in favor of my proposition.

Mr. VARIAN. No.

Mr. EVANS (Weber). Of course, we cannot go over this carefully. Mr. Varian and I both looked over this matter before we came into the Convention. The position taken by Mr. Roberts is a very peculiar one. Suppose we were here without any authority at all of law, making a revolutionary Constitution, and had no laws governing us at all, wouldn't that body have the right to prescribe who should be qualified to vote upon the ratification of the Constitution? In other words, suppose all the people were disfranchised; take any revolutionary government, where all the people were disfranchised; they get together by their representatives and form the constitution and then they submit the constitution to a certain class of voters, who in the constitution are qualified to vote. That is the position in which we are now, except where there are restrictions upon us, and I say in this matter of State officers, there are no restrictions, and we are supreme upon that question and have the right to extend the franchise.

Mr. HAMMOND. Mr. Chairman, this is a matter that I have listened to with a great deal of interest and I find from the arguments, as far as I can follow them, that the evidence is certainly in favor of Mr. Maloney's amendment, backed up by able jurists here, such as Dave Evans, Thurman, and a host of others. Now, sir, I am for the voting for this amendment, that the women shall have the right to vote for their officers at the coming election. I believe it is right.

The amendment of Mr. Maloney was rejected.

The amendment of Mr. Goodwin was adopted.

The amendment of Mr. Richards was rejected.

The committee thereupon took a recess until 2 o'clock p. m.

AFTERNOON SESSION.

The committee re-assembled pursuant to adjournment, and resumed consideration of the article entitled schedule.

Section 10 was read.

Mr. RICKS. Mr. Chairman, I notice that in the article on public lands, it provides for the election of three land commissioners. I move as an amendment to this section that we insert in line 7, between "judges" and "and," the words "three land commissioners."

The amendment was agreed to.

Section 11 was read.

Mr. KIMBALL (Weber). Mr. Chairman, I move to strike out, in lines 3 and 4, the words "judges of the district court," and let it apply to all officers.

Mr. RICKS. That would make this board, secretary of state, governor, and treasurer, a board to pass upon their qualifications for office. I hardly think it would be consistent.

The amendment was rejected.

The CHAIRMAN. I would like to suggest to the chairman of the committee, why judges of the supreme court are not also included in that list.

Mr. RICKS. The opinion was that the judges of the supreme court, being State officers, would be passed upon in the regular manner provided by territorial law, but the district judges, being a little different from State officers, being voted for by districts, we thought we would make the provision to cover district judges only.

The CHAIRMAN. Then, would not the judges of the supreme court have the right to pass upon the qualification of their election?

Mr. RICKS. No, sir, I think not; I think it would have to be done by the territorial board.

The CHAIRMAN. Suppose an appeal was taken.

Mr. RICKS. Then, sir, I think it would be handled by the territorial supreme court.

Sections 12, 13, and 14 were read.

Mr. SQUIRES. Mr. Chairman, I notice that section 14 reads, "the provisions of this Constitution shall be in force on the day on which the President shall issue his proclamation," and then down further it says, that the terms of all officers elected at the first election under the provisions of this Constitution shall commence on the first Monday next succeeding the issuance of the proclamation. There would be a lapse. We would have a State Constitution without any officers, from the time the President issued his proclamation until the next Monday.

Mr. RICKS. There would be only three or four days at the most. I hardly see that there would be any objection to it. The territorial officers hold until they are succeeded by the officers under this Constitution, and if the President should issue his proclamation on Tuesday, there would only be until the next Monday for the territorial officers to hold. I do not think it amounts to much.

Mr. EICHNOR. Of course, when the President issues his proclamation, it would be in force whether we say so or not.

Mr. MALONEY. Mr. Chairman, I have a section which I would like to present as follows:

All officers elected or appointed in the State of Utah shall serve during their respective terms and until their successors shall be elected and qualified.

Mr. RICKS. Mr. Chairman, I do not understand that that is necessary. I think that section 14, that we have just passed, covers that.

Mr. KIMBALL (Weber). That only refers to officers elected at the first election.

Mr. MALONEY. I wish to say to the committee that I presented it at the request of the chairman of the judiciary committee. I do not think the grouud is covered by any other provision in the Constitution.

Mr. EICHNOR. Mr. Chairman, I think it is unnecessary. The terms of the officers who are elected are fixed by the Constitution. Those terms which are not fixed by the Constitution, no doubt will be fixed by the Legislature.

It looks to me like lumbering up the schedule.

Mr. RICKS. Mr. Chairman, section 13, it seems to me, covers that. It provides for all officers that are not specially provided for in this Constitution, that the Legislature at its first session shall provide for the election of all officers whose election is not provided for elsewhere in this Constitution. If they meet within three months after the adoption of this Constitution, which they will, the first Monday in January, then it seems to me they will be able to provide by law for all officers not herein provided for.

The section proposed by Mr. Maloney was rejected.

The committee then arose and reported as follows:

Mr. President, your committee of the whole have had under consideration the article on schedule, and beg leave to report that they have considered the same and recommend that it be placed upon the calendar for third reading. They have likewise had under consideration the article on public buildings, and ask a like disposition to be made.

The following communication was read:

To the honorable president, officers, and members of the Constitutional Convention, Gentlemen:

The women of Salt Lake City, who appreciate the labors of the Convention in the interest of the coming State, desire the pleasure of entertaining the delegates and their ladies, including officers of the assembly, at a reception given in their honor at the Templeton hotel in this city on Thursday, May 2nd, from 9 o'clock until 11 in the evening. The reception is tendered the Convention in behalf of the women of Utah.

Very respectfully.

P. S. The invitation is without signature as it was thought possible some members might ask how many yards of names there were attached.

Mr. SQUIRES. Mr. President, I move that the invitation be accepted.

Mr. KIESEL. Mr. President, I move to amend. I move that the invitation be rejected.

Mr. BARNES. Mr. President, is not there something wrong with regard to the date, Thursday would be the second.

Mr. EVANS (Weber). I would like to inquire whether that communication was sent in before the action of the committee this morning upon the right of women to vote?

The PRESIDENT. I think it came into possession of the house before that.

Mr. SQUIRES. Mr. President, there is one thing about the communication that we ought to ascertain, that is, whether it is genuine or not. There should be certainly some signature here to signify that it means something. You will notice that there is no signature to the communication, and that the date stated is conflicting.

Mr. PRESTON. Mr. Chairman, I think the gentleman's position is right. There is no signature to it. We do not know whether it is a hoax or what it is. I move that it be laid on the table for the present.

The motion to lay on the table was agreed to.

An invitation to witness an exhibition by the Salt Lake fire department was read and accepted.

The Convention then proceeded to the third reading of the article entitled corporations other than municipal.

Sections 1 and 2 were read.

Mr. RICHARDS. Mr. President, I understood that section 2 was stricken out. No, I think I am mistaken. I desire, however, to call attention to one imperfection that occurs to me with reference to this section, and that is in the provision contained in the fourth and fifth lines. I desire to know if the chairman can tell me what that means?

Mr. JAMES. That means simply this, that no set of men will have an opportunity to apply for charters for certain lines of business under the present laws, and pigeonhole them and have them

for sale after the Constitution goes into force.

Mr. RICHARDS. Suppose a franchise has been granted, say the week before the State government went into effect, and that franchise provided that an acceptance should be had within thirty or sixty days, or any other time, would not this provision exclude the exercise of any privileges under that franchise?

Mr. JAMES. I think not.

Mr. RICHARDS. Well, it seems to me that it would.

Mr. JAMES. And I would answer that question further in this, that this provision is almost a universal provision in the constitutions of the states.

Mr. RICHARDS. I heartily approve of it, if it does not reach too far.

Mr. JAMES. And not only that, I will answer the question by asking one. If it would not be better to hold off a franchise for a week than to allow it to be pigeonholed and then held out for sale?

Mr. RICHARDS. That may be true, but I think we can make this Constitution mean just what we do want, when we can find out what we want.

Mr. PRESTON. Mr. President, I move to strike out that section 2.

Mr. KIESEL. Mr. President, I have an amendment; after the word Constitution, in line 5, make it within three months after the adoption of this Constitution; that will be the limit of time.

Mr. JAMES. Mr. President, you might just as well wipe out the whole proposition. It would pass beyond the time the franchise would have to take effect.

The amendment was rejected.

The motion to strike out was rejected.

Sections 3, 4, 5, 6, and 7 were read.

Mr. JAMES. Mr. President, section 7, if you will remember, is the section that I called the attention of the Convention to in committee of the whole. I also have had a consultation with the gentleman from Utah County (Mr. Thurman), and asked him as a legal gentleman to suggest something that would relieve this section from some of its objectionable features, and I would like to ask him if he has anything to offer the Convention?

Mr. THURMAN. I have no amendment prepared, but I will suggest what I think ought to be. "No corporation shall lease." I think that "lease" ought to be stricken out. The reason for that is this, you take a franchise, say like a street railway, and if the corporation hadnot a right to lease the franchise for a given number of years to raise money upon it without the franchise being liable for debts incurred in the operation or enjoyment of the franchise, it would effectually exclude them from leasing it. I think they ought not to have the power to grant it absolutely.

The PRESIDENT. There is no motion before the house.

Mr. JAMES. Mr. President, I move to strike out the entire section.

Mr. EVANS (Weber). Mr. President, I think that is one of the most important sections in this article, and I believe when the Convention understands its force it will not strike it out. Even the suggestion made by Brother Thurman would be a dangerous suggestion, because it would amount simply to this, that if a corporation can lease its franchises and its property, and thereby relieve itself of individual liability, the persons who might be injured in the operation of the corporation would be without remedy. Now, let me bring to your mind an illustration. Take any of these transcontinental railways that have charters, and let them lease those rights to other companies, and suppose the companies to whom they are leased are impecunious, they have nothing; simply leasing the road and the rolling stock and all the property connected with it. If any liability should occur by reason of the operation of those roads while in the possession of the lessee, there would be no remedy whatever to enforce a judgment which might

be obtained. The lessee would be penniless. The corporation would own the property, it could not be touched, and the result would be that every man who was injured or every man who made a contract with the lessee would be without remedy. That is just exactly what this section is intended to prevent. You know, gentlemen, that if any man were a corporation lawyer, or if any man were engaged in the business of running corporations, he would take advantage of the law, or the absence of any law, in order to relieve the company and its property from liability by leasing its property and franchises to some irresponsible person, and the result would be that the company would be receiving all the benefits, and the person who contracts with the lessee, or who is injured by reason of the operation of the road by the lessee, would be remediless. When you understand this, surely you will not strike this out. It is not right that it should be done. If you do it, you put into the power of corporations to relieve themselves of any law liabilities, or contract liabilities, so far as the lessee is concerned. There is nothing to prevent it at all.

Mr. MALONEY. Mr. President, I trust the section will not be stricken out. It is in the constitution of Washington. Take, for instance, the Oregon Short Line, which is a branch of the Union Pacific system. The Union Pacific is in the hands of a receiver. Where, I ask any gentleman of this Convention, is there a remedy for a man who has contracted with this railway? The people along the line are simply helpless. I am not able to see any good reason for striking this out. The lessee should be held responsible, and when the lessee is operating the road the property should be held responsible. I repeat, Mr. Chairman, I cannot understand why the chairman of the committee leads the assault on the articles which he has reported.

Mr. JAMES. Mr. President, I arise to a question of personal explanation. The gentleman knows very well that I said to him that I was in doubt about that section and wanted it corrected. Mr. Thurman and other gentlemen know that I did not want anything to go into this article that was not for the best interests of the State. I am just as anxious to protect the public against corporations as any other gentleman. Now, I appeal to a gentleman right over there—Mr. Ryan. Do not you know, Mr. Ryan, that that would shut out every leaser of mines in this Territory. Why? Because he goes to Mr. Ryan, or he goes to Mr. Evans, to lease his mine; under this provision he would be unable to lease that mine unless he would be able to put up a large bond. You know it has become a great industry in this Territory. Large numbers of men are engaged in our camps in leasing mines, and in leasing mines they go to the proprietors of those mines and make contracts. Now, what is our system in contracting with those gentlemen in leasing the mines? Our system is this, that we bind them not to run the mine in debt, and the law requires of us—so the legal fraternity advise us, and I have followed their advice, and that we are compelled to put up a notice on our mining claim that the mine is leased, and that they must look to the lessor for their pay. That is our method of proceeding in leasing our property. Now, what would a poor fellow do when he comes to us? Why, we cannot lease it to him under that provision, because it is absolutely held for the debt he contracts, and we cannot get away from it. So am I held for the debt contracted. Now, the result will be the man would be shut out, or he must furnish a large bond before he can secure that property, or he cannot run that property in debt. Now, that is the reason I want this thing amended, and I was in hopes it could be amended

so that franchises could not be alienated and avoid their debts, but so that you could contract to lease that farm, or mine, or anything else you own, and make liable the party who leases the property from you.

Mr. THURMAN. Do you not understand that a mine or a farm or any property of that kind is not a franchise?

Mr. JAMES. Why, my mine is a franchise. I have several of them in the Territory.

Mr. THURMAN. Franchise is a mere right to act—to enjoy a privilege.

Mr. JAMES. I have quite a number of mines that are under corporations.

Mr. EVANS (Weber). Let me ask Mr. James a question. Take the case you put and suppose there is a loss, would not it be as well that the owners of the property would stand the loss as the poor fellow who works for the lessee?

Mr. JAMES. Why, certainly, if the poor fellow was not aware of the fact that he took chances when he went to work for the man on his being able to pay, and we are compelled to do that under the law. We have to put up notices on our claims to notify the poor man that we have leased that mine, and that he must look to the man who leased it for his pay. Now, that is the rule that governs, under this provision, and I am so informed by good attorneys. The poor fellow could be shut out and could not make any lease under this.

Mr. ANDERSON. Mr. President, I do not think that we should strike this section out. I do not think it will work a hardship on the mining industry, and I do not think that any corporation should be relieved from liability on account of a lease. It does not appear just to me. Therefore, I am opposed to striking this out.

Mr. SQUIRES. Mr. President, the gentleman from Utah asked Mr. James a question, which I do not think he would have asked if he had carefully read this section. Now, I am in this position personally, that I am leasing a mine from an incorporated company, and I have got a two years' lease on that property. If this section is going to operate in a way to prevent one from leasing a mine from a corporation, then I do not want it in there. If any amendment can be made to except mining property from the provisions of this section, I am in favor of that, and in order to test the sense of the Convention, I move to insert after the word property, in the third line, the words, "except mining property."

Mr. RYAN. Mr. President, I cannot see anything wrong with the section. I think it is quite full and complete, and the objection raised by Mr. Squires I do not think is very good, because if he leases a property, he leases it with the obligations against it at the time of the lease, and that could not be disturbed thereafter.

Mr. SQUIRES. I did not lease it with any obligations against it.

Mr. RYAN. And if it were sold, or sold under execution even for a debt contracted afterwards, it would not disturb your right to it at all. I think the section is a good one.

The PRESIDENT. There was no second to Mr. Squires's motion.

Mr. BOWDLE. Mr. President, I am a little bit at a loss to know exactly how to interpret part of this section. I do not just understand what property would be held under a franchise. I do not quite understand the meaning of that, as it has been interpreted here. Now, I move to strike out, commencing with the word "or," in line 2, and ending with the word "thereunder," in line 3; the franchise covers the property, and it seems to me that it relieves the objection that has been made with reference to mining property entirely.

No second.

Mr. MALONEY. Mr. President, the

section does not cover mining property, and was never intended to.

The motion to strike out was rejected.

Section 9 was read.

Mr. BOYER. Mr. President, I would move to amend in line 5, by striking out the word "requiring," and inserting in lieu thereof, the words "first obtained."

Mr. KIMBALL (Salt Lake). Mr. President, I move to amend by inserting after the word "authorities," in the sixth line, the words, "and two-thirds of the people of that district."

I would like to explain one reason I have. The city council has given a franchise to a little railroad that runs out to the Hot Springs and Bountiful. If I understand right, the franchise was granted for a street railroad, electric or cable. In place thereof they put on a locomotive—dummy, smoky arrangement. The people have petitioned against it time and again, and have no redress. We have entered suit against the railroad for injuring our property. We claim that they have depreciated our property fully forty per cent. The people have no say as to giving that franchise. Now, I desire very much that the people should have a vote in these matters, and that if their property is going to be depreciated by a franchise given to a railroad company or any corporation, that they should have something to say about it.

Mr. SQUIRES. I would like to inquire what the gentleman intends to include by the word district?

Mr. KIMBALL (Salt Lake). The district of country or the street on which the railroad or telegraph line is running.

Mr. SQUIRES. Why do you not put it street, then?

Mr. KIMBALL (Salt Lake). It might be in a locality where there is no street. I will accept of the amendment.

Mr. RICHARDS. Mr. President, I desire to suggest to the gentleman who proposes the amendment that I do not think it covers exactly what he intends, by saying the residents on the street. He means, I guess, the property owners.

Mr. KIMBALL (Salt Lake). The property owners.

Mr. RYAN. Mr. President, as I seconded the motion, I would like to say that I like that principle and I would like to see it applied to all cities and towns. I think the power conferred on city councils, and even county commissioners, is altogether too extensive, and I would like to see that reservation held with the people, that the people should have the right to say whether a franchise was correct or whether the franchise was wanted by the people or not. I like the principle, that is all.

Mr. RALEIGH. Mr. President, I move to amend, by saying a majority of the property holders instead of two-thirds.

Mr. BUTTON. Mr. President, I move to strike out "requiring," in line 5. I do not see what it is there for.

The PRESIDENT. There are two amendments now here.

Mr. KIMBALL (Salt Lake). Mr. President, this was gotten up in a hurry, and if we have not the right wording, I would like to ask to have it suggested. Mr. Squires made a suggestion.

Mr. SQUIRES. My suggestion was that the amendment which Mr. Kimball offered should come at the end of the section; if it comes after "authorities" it interferes with the wording of the section.

Mr. KIMBALL (Salt Lake). I will accept of that.

Mr. MALONEY. Mr. President, supposing that the ordinance of the city or town or incorporated village through which this railroad or telegraph line is proposed to be extended should require that before anything of that sort should be done, two-thirds of the qualified voters, or two-thirds of the property owners, on that street were required; then, if that be true, none of these

amendments are necessary. In other words, the local authorities would not grant it unless the ordinance requiring this had been complied with.

Mr. EVANS (Weber). Mr. President, I hope this amendment will not prevail. The gentleman who offered the amendment understands that this is simply a restriction upon the Legislature to granting any railroad company or telegraph company or telephone company the right to use its streets without the consent of the local authorities of the cities; that is all it means. It is a restriction upon the Legislature, to allowing these grants in the face of the local authorities. Now, the balance of it, so far as the consent of the property owners is concerned, is a mere matter of detail which may very properly be left with the Legislature. Besides all that, I think in principle that it is not right that a majority of the property holders should be consulted respecting a matter of this kind. The streets belong to the public. They do not belong to the adjacent owners of the property; and you put in a provision of this kind into the Constitution, and if some great railway enterprise desires to have depot facilities in some great city, you will find that a majority of the property owners along on the street where they desire to intersect the city will simply hold that company up for a large amount of money. It is an unusual provision, one that I never saw, but it may exist.

Mr. SQUIRES. You say truly that the street does not belong to the property holders along the street, but if any damage comes to the property, they own the property that is damaged, do they not?

Mr. EVANS (Weber). Yes, sir, and they can have a remedy. They can have a remedy for shaking down their buildings. I have examined that question, and have come to that conclusion. We have already provided in this Constitution—I think it is in the bill of rights; in fact I know it is—that private property shall not be taken or damaged for public use without just compensation. Now, if a railroad company were to go into a street and construct its road so that the jar would shake down the houses, that would be taking private property in such a way as to damage individuals, and under our Constitution they could recover, but it would be an extremely dangerous thing to say that before these enterprises could be carried on at all, we must get the consent of people living along a particular street. I hope the amendment will not prevail.

Mr. JAMES. Mr. President, I am very glad that Mr. Evans made these remarks, because that is just exactly what this section is in there for, and what it covers, and if it is stricken out, just what he suggests to you will occur. It would have been impossible for the D. & R. G. railway company to have ever gone through this city, if they had to contract with the property holders. They never would have got through, and you would just simply have sent the road around the town or something else. It is a provision that, as the gentleman says, restrains, but does not go so far as to legislate and leave the matter open to the Legislature.

Mr. KIMBALL (Salt Lake). I hope that before we have finished this Constitution we can make some provision in it, if this does not pass, to protect the property owners against those corporations. There are not less than three streets down in the locality I live in that have now been almost ruined for residence property. Poor people that settled there many years ago and erected nice structures and taken pride in their homes—corporations have received their franchises from the city councilors, without those people having the least privilege of redress, or if they have made a petition they have paid no attention to it. Lawsuit—you know what it means to law against a railroad corporation, with

poor people especially. Now, homes have been ruined, and I say that before these things have gone so far as to ruin the homes of the poor people, something should be done in the way of protecting them, that they may not have to wait until their homes have been tumbled down by the jarring, and dragged through the ruinous effect of the traveling trains, and their white walls blackened with the smoke, and all these disagreeable features, saying nothing of the danger that our children are subjected to by those trains running without regard to schedule time. I submit if this is not the proper provision, that we get something that will protect the people against it.

Mr. EVANS (Weber). Do you observe that this section only provides for street railways, telegraph, telephone, and electric light plants? Was it the street railways that damaged the property?

Mr. KIMBALL (Salt Lake). That is what I had reference to. The franchise was given to this company for a street railway, and they have gone to work and used a locomotive on it—a regular trunk railway.

Mr. RALEIGH. Mr. Chairman and gentlemen, I think this city would have failed to be built up as it is now, if railroad corporations could not have had the right of way through the streets. Now, these railroads that have been constructed, as mentioned here, have all been done under my observation. I helped to pike the way myself for the first one—that is the Rio Grande Western from its depot northwards, and I was about two months—well from April to June, getting that through the city council, with all the opposition of all that street, on each side of it, against me, together with the Union Pacific folks helping to fight with the people against it. I understood as clearly then as I do now, that it was a very great convenience and benefit to Salt Lake City; that at that time grading, gravel at about a dollar a load—and the streets would not have been graveled up from that time to this if we had not got that through to the gravel beds north. Now, I know that we did not come here as a people with a view to building up a city and being independent gentlemen, having an independent fortune, to do it with, in some other way than by railroads—that is, the corporation of railroads to help us, and I am in favor all the time of the franchise being granted and granted by the city council of any city, that know better what to do. It is their business to look ahead and see and examine the facilities that they need to build up a city, and private individuals are not very likely to be acquainted with that fact. They have their little homes here and there along the street, but they do not contemplate the wants of a city, nor the facilities which are necessary to build up a city, and consequently, I am not in favor of this amendment at all, but I move an amendment to make it a less majority than two-thirds majority.

Mr. EVANS (Weber). Mr. Chairman, I want to make a suggestion before the vote is taken. This thing is so far reaching, that I want the gentlemen to understand it; that before a franchise could be granted to construct a street railway, or telegraph, or telephone, or electric light plant in this city, it would be necessary that two-thirds, or a majority, as the case might be, vote for it.

Mr. BUTTON. I think the gentleman is going to change that.

Mr. EVANS (Weber). I am speaking of it as it is now. While I am on my feet, I want to show how broad it is, what a wide sweep it takes; take a street railway company that desires to construct through all the streets of the city, if it had to get the consent of a majority of the citizens of the city, do you think it would ever be built? Never in the world. We could not carry on that kind of enterprises with such a provision in the Constitution. It would

be the same with the telephone, telegraph, or electric light company. Take an electric light plant, with poles throughout the city, and to say that they have got to get a majority of the people of Salt Lake City, for instance—could they ever build in it the world? You know before people would permit that, they would ask some consideration for it. The result would be we would have no improvement at all in this city.

Mr. ANDERSON. Mr. Chairman, I am opposed to this amendment. I think it is wrong in principle. The streets of the town belong to the general public, and I do not think they should be controlled by a certain few.

The amendment to the amendment was rejected.

Mr. KIMBALL (Salt Lake). Mr. Chairman, I was going to change my amendment to "steam." I do not think it could apply to this.

The amendment was rejected.

Section 9.

Mr. BOYER. Mr. Chairman, I move to strike out, in line 5, the word "requiring."

The amendment was agreed to.

Section 10 was read.

Mr. KIESEL. Mr. President, I want to add an amendment, "No corporation shall do business in this State," I want to add, "without first filing a certificate of its charter with the secretary of state." I think it is customary. I know I have been required to do that.

Mr. RICKS. I would like to ask Mr. Kiesel if that is not already provided in section 2?

Mr. KIESEL. I guess it is safe enough to leave it that way.

Mr. THURMAN. I second the amendment proposed by the gentleman.

Mr. IVINS. Section 2 does not refer to the matter of his amendment at all.

Mr. JAMES. I understand the gentleman withdrew his amendment.

Mr. KIMBALL (Weber). Mr. President, I move to amend that amendment by striking out the word "charter" and inserting the words, "incorporation and."

Mr. KIESEL. Mr. President, the legal gentleman suggests that instead of certificate it should be a certified copy, and I will amend it in that way.

Mr. THURMAN. Add your amendment to the section as it stands. It will read better.

Mr. KIESEL. All right. I will accept that.

The amendment was agreed to.

Section 11 was read.

Mr. STREVELL. I would like to ask the chairman of the committee a question in regard to this matter. I would like to get this idea clear in my mind. For instance, I remember of an incorporation that was doing a merchandise business, in a certain line of business; supposing we wanted to add another line, would we be obliged, in order to do it, to reincorporate?

Mr. JAMES. That was discussed for half a day and amended by Mr. Thatcher, so that it would cover everything.

Mr. STREVELL. If we incorporated in a certain way, and a year after that we wanted to add another line to our business, would we have to amend our articles of incorporation?

Mr. JAMES. Yes, sir.

Mr. KIESEL. Mr. President, I move to strike out this section, because I think it amounts to a restriction in the way of business. It is just as Mr. Strevell states, there are things occurring in the way of business every day nearly, and we could not keep track of business unless this article was disposed of. I want corporations that are endowed with a certain amount of capital to have the same rights as individuals have, and I do not see why they should not have if they go into an association and put up the capital. It amounts to a restriction of business and enterprise, and I am opposed to it on that ground.

Mr. EVANS (Weber). Mr. President, I am afraid my friend from Weber does not understand the full import of this. The public have a right to know some things, when they grant privileges and rights. They have a right to look into the articles of incorporation and ascertain what the particular business is which that corporation has been carrying on. That is all there is about it. We leave it so open that you can incorporate just as many lines of trade or business as you please, but we say that they must be designated in the articles, so that the public may see what it is and ascertain its status. I think it ought to remain, and I think that if my brother, Kiesel, would examine the matter carefully, he would not object to it.

Mr. KIESEL. I want to ask you why you do not require that of individuals? The corporations associate themselves for the purpose of business, just the same as individuals go into business, and I think the effect of it will be to restrict business. The public is always guarded. There are a number of agencies in this country. Take, for instance, Dun's or Bradstreets', that keep track of all these institutions, and there should not be any restriction on a business that I can conceive of, that it will damage the public at large.

Mr. EVANS (Weber). An individual does not receive any franchises or immunities from the law or from the lawmaking power. He is an individual, and is at liberty, to engage in business just as he pleases, and the individual doing business with him knows that, and makes his inquiry accordingly. Corporations receive their franchises from the government or from the state, and therefore, they are regulated by law; but another thing about this, that is suggested, as the law now stands, no corporation can do business in any line, except that which is designated in the articles of incorporation, and it is so everywhere. Every corporation man ought to designate in his articles the particular character of business which he is carrying on, for the protection of the public. It does not injure him any. If he wants to add another line or branch of business, all he has to do is to have his articles of incorporation amended, and then go on and carry it right along.

Mr. RICHARDS. I desire to ask Mr. Evans a question. Is it not a fact that this is not only a declaration of the statute law as it now prevails in this Territory, but that it is a declaration of the common law, and that in the absence of a statute the court would hold it ultra vires to do business not specified in the article?

Mr. EVANS (Weber). That is true, an incorporation is an artificial person under the law, and its powers must be restricted by law.

Mr. KIESEL. Mr. President, I contend that if this article prevails, it will be in the interest of the lawyer.

Mr. JAMES. Mr. President, I hope the gentlemen will not strike this out, and I know if Mr. Kiesel had been here through our long debate on this question, he would not raise the question at all. It is one of the most liberal provisions in any constitution in the United States.

The motion to strike out was rejected.

Sections 12 and 13 were read.

Mr. RYAN. Mr. President, as section 14 was stricken out, I desire to offer the following section:

No discrimination in charges or facilities for transportation shall be made by any railroad or transportation company between places or persons, and all railroad companies shall receive and transport each other's passengers and freight, without discrimination or unnecessary delay.

I will say, Mr. President, that the section, as we passed it the other day, simply provides for no discrimination between the freight or passengers of other railroads, and as section 14 was all stricken out, it appears to me that the

of it there ought to be re-
section 13. It protects the
n the railroads.
posed section was rejected.
IES. Mr. President, in sec-
vant to strike out the words,
oads," in line 3, and add in
of, the words, "and such."
mistake in some way after it
nds of the committee.
ndment was agreed to.
loney offered the following
section 14:

orporation doing business in
shall be liable for all dam-
ained by any person, includ-
yes of the company, in conse-
any neglect of the agents or
ployes of the corporation, to
n sustaining such damage.

IES. Mr. President, I move
the words, "all corporations
iduals."

HNOR. Mr. President, I offer
ite for the whole section.

ESIDENT. There was an
nt previous to yours, offered
mes.

RIAN. Mr. President, the
e offered by Mr. Maloney pro-
listurb the existing law to this
nd I apprehend this is the sole
of it. As the law stands to-
employe of a company en-
we will say, hazardous ser-
adjudged to take upon himself
of the risks of his employment
ible negligence of persons en-
th him in the same particular
or line of service. Now, as I
nd this, if adopted, it will hold
rporation or individual abso-
ble in all cases, where the in-
ccident is caused by the negli-
any one of the servants of
on or corporation. Of course,
the meaning of it, is it not? I
ery much whether that is in
ce with natural justice. I
sure that it would be a matter
us question if it were presented
in a legislative assembly, whether a state should go so far as to make all persons engaged in hazardous or risky employment, employing large numbers of men, the insurers of the lives and persons of those who are willing to risk themselves for the sake of gaining employment in that service.

Mr. BOWDLE. Was not that very bill brought before the Legislature a year ago, to cover that same thing.

Mr. VARIAN. I do not remember. If I had a chance to vote on it, I think I voted no.

Mr. IVINS. It was.

Mr. VARIAN. Because it would tend, in my judgment, to impede the proper enterprise of the country. The law is generous enough now, if it is properly administered. If it is properly administered through courts and juries, there is no trouble about it, but to say that no man can enter into the business of mining, which necessarily involves the risk of life everywhere, or in the business of railroading, which necessarily involves the risk of life and limb, at all times, and upon all occasions, or it may be indefinitely pursued into different employments and avocations, which in a more or less degree involve these risks. Men are supposed to take that upon themselves, and their employers are liable for the negligence of those in authority over them. That is just and right. That is the law as it stands, but this provision is designed to reach a case not covered by existing law, and whether it be a person or corporation, to make it absolutely liable for the neglect of any employe. Two section men on a railroad, both undertaking the same line of employment; two miners in the breast under ground a thousand feet; both undertaking the same employment, entering upon it with a knowledge of the risk; one commits some fault, omits to do something, or does something in a negligent way, and his fellow servant is injured, the employer is to be held liable for that.

That is a very different proposition from holding the employer, if the foreman or the man who has charge of the the work omits to do something and is guilty of negligence.

Mr. EICHNOR. Mr. President, I am in favor of the amendment and also of the substitute. I will state my reasons. This doctrine that the master would not be liable for one of his servants, if that servant was negligent, and through that negligence a fellow servant was injured, is the doctrine found in the old Roman law. That principle was adopted by the English common law. The first decisions we have had in the United States, I believe were in Massachusetts and South Carolina. Now, what is the status of this doctrine today? The status of this doctrine is that if a switchman opens a switch and a freight train is ditched and the engineer is killed, the company goes into court and says it is the negligence of a fellow servant, and the judge grants a motion for a non-suit on motion of the attorney for the company. That is the rule here. Now, what is the history of this in the case where it was first adopted? France, in 1834, provided an article similar to this. England, the very place where this doctrine started, has repudiated it. England, in 1880, employed what is known as the employer's act.

Mr. VARIAN. Are you sure of that fact?

Mr. EICHNOR. Yes; I have it right here if you wish to see it. Prussia, which is quite extensively engaged in mining and manufacturing, in 1881, repudiated this doctrine that they had received from the Roman law, and in all the countries in Europe where this doctrine was adopted, that the master was not responsible for the negligence of a fellow servant, it has been repudiated. The United States retains it in some of the states, and in some of the states statutes have been passed, and they have been declared constitutional, to like effect.

The state of Iowa has a statute right in line with this substitute and the supreme court of the United States lately has declared that statute constitutional. Kansas has a similar statute, and a number of other states. Now, I believe that I have been classed among my fellow delegates here as a corporation man, but I state right here, that I believe in giving corporations everything that is right, but I believe in giving the individuals some protection.

Mr. CHIDESTER. In any other constitution that you have mentioned, is this incorporated? That was in the statute law.

Mr. EICHNOR. I looked this morning, but I was not able to find it.

Mr. CHIDESTER. That is a proper provision to put in the statute, but not in the Constitution.

Mr. STREVELL. It is in Wyoming.

Mr. EICHNOR. Now, this is the state of affairs to-day, that no man that works either for an individual or for a corporation or for a partnership has any protection, if a co-laborer of his is negligent, and he loses his life—his heirs are absolutely without remedy. I challenge any one to bring the proof here to the contrary. With regard to the law that was enacted in 1881, in Prussia, to which I referred, it was claimed that the exigencies of the time demanded a closer construction in favor of the public. If we place this substitute in our Constitution, what will we have? What will be the result? The result will be that men that employ laborers will not simply employ cheap labor, but will employ competent men. They will see to it. That will be the effect, and the public will be finally benefited by it as well as the corporations or individuals, or partnerships, whichever the case may be. Clinging to an old doctrine that has been exploded in the very countries that have adopted the civil law—I think it is what the gentleman termed

me ago on this floor, a relic arism.

BOWDLE. Mr. President, I be- at I have never spoken a single on this floor against the poor s interests, or a laborer, or his s, and I do not expect to. But t in sympathy with this amend- nd I think that I will have to my brother over there and ac- e challenge that he has thrown his, as I understand it, is the law present time on that subject: If ration or an individual hires an etent and careless man and that he is such, although he is a servant, and a fellow-servant is , the corporation would be held because of hiring a negligent, un- , and untrustworthy man and him there. But, as our law is present, if any person, corpora- r individual employs competent d through the negligence of one of ompetent men the fellow-servant ed, then the fellow-servant has nedy. If you adopt any other an that, you make the person the hiring an insurance company re every single act of every one ellow-servants. Now, I submit that that would be a hardship. ld be unjust and unfair, because rporation or person hiring has s duty when it has put a careful here. It has exercised due care in that, and the man that is work- ith him knows whether he is a and competent man or not. He that if he is not careful and com- , he is the very one to avail him- that knowledge and immediately ain to the authorities that put here and get his release, and I sub- as a proposition that if a fellow- t knowing that another fellow- t is incompetent and careless, and e to give notice to the employer of act, and he was injured, he would s remedy for it. I think the courts construed that law, and would hold that the company was then negligent and should be held, because it had notice of the incompetency of that servant.

Mr. THURMAN. Do you think this proposed amendment affects the question of notice at all—not the law of negligence that you are speaking of? Wouldn't the man still fail in his demands to recover damages if it were shown that he knew?

Mr. BOWDLE. I think so. I think, under that amendment, he would fail, because then would come in the doctrine of contributory negligence, and would defeat the very action.

Mr. EICHNOR. I would like to ask Mr. Bowdle another question. Do you mean to say, as an attorney, that if that substitute were adopted, it would disturb the doctrine of contributory negligence?

Mr. BOWDLE. No, sir; I do not understand so. That was not in accord with the answer I gave Mr. Evans at all. Mr. Evans asked me the question if the person knew that the other was negligent, even if this amendment would prevail, would it affect his right to recover? I say, I do not think it would.

Mr. RICKS. I want to ask Mr. Varian a question. If this substitute passes, and any farmer sent two men out to mow hay, for instance, and one of them, through the carelessness of the other, got his leg cut, if he could sue that farmer for damages?

Mr. VARIAN. I see no reason why he should not.

Mr. HAMMOND. Mr. President, I am opposed to the amendment if that is the case. If I hire a broncho rider to break in mustang horses, and he knows the business better than I do and is acquainted with it, and I agree with him to break a mustang for five dollars or ten dollars, now, if that fellow breaks his neck in the business, am I to be hung for him? I do not think this thing is right.

Mr. EVANS (Weber). Mr. President,

if Mr. James's amendment were to prevail, the question asked of Mr. Varian is properly answered. If any farmer, mechanic, or any other individual engaged in business sends two employes out together and one injures the other through his carelessness, the liability would follow as against the employer. This doctrine of fellow-servants is one which has been construed so many times by the courts and left in so much confusion that it is very difficult to harmonize the decisions. Parliament has recently passed an act, as has been stated, called the employers' act, which makes railroad companies alone responsible in case one employe, through his negligence, injures another. It seems to have been the recent trend of legislation in some of the states. Notably Kansas, I know, has a legislative provision to that effect, and within the last few days the supreme court of Kansas, passing upon a provision identical with this, has held such provision to be constitutional. But I want to say, gentlemen, for the information of the Convention, without giving any particular opinion, that the meaning of this section is this: If it be adopted without the amendment of Mr. James, that if any railroad company employs a number of men and one of those men engaged in the same department or line of business injures another through his negligence, the company is responsible for it, and it has been held by the supreme court of the United States under the law as it now stands, that where a person in the employ of the company holds some superior position and directs the work to be done, that liability follows as against the company, because it is held that they are not fellow-servants and do not stand upon an equal footing.

Those people who favor the idea of making railroad companies responsible for the negligence of a fellow-servant, use this argument, as a rule, that it imposes a greater care upon the company in the selection of its servants and employes, and accidents are less liable to occur, whereas, on the other hand railroad companies or individuals say that they have performed their whole duty when they are careful in the selection of their employes; that if liability follows where two men are working in the same line of employment, the liability should not fall upon the company, The question Mr. Bowdle puts, as relating to the question of employing competent employes, the company is always liable if it fails to employ competent persons and an injury results by reason of that fact, and that is one of the strong arguments used on the other side. I only say this much for the purpose of showing you what the section means and its results and what people claim for it on both sides. As far as I am concerned, on this question, I will not vote at all, because I feel myself so directly interested, having prosecuted so many companies for injuries to employes, that I do not feel I ought to vote upon that question.

Mr. VARIAN. Mr. President, I submit this is a matter purely of legislation, and that if it goes into this Constitution, there is a matter of expediency that ought to be considered. Every railway company east and west and every corporation in the land will lend its influence to defeat this Constitution.

Mr. JAMES. I want to ask Mr. Varian if it was not as just to compel the farmer to pay for the fellow who got his leg cut off, as it would be to compel the railroad or miner to pay the fellow who got his finger knocked off by the sledge hammer?

Mr. EVANS (Weber). Mr. President, those people who advocate a section similar to this say that railroad companies are public in their nature, and should be restricted to more care than individuals.

The amendment of Mr. James was rejected.

The section offered by Mr. Maloney was rejected.

s 15, 16, 17, 20 and 21 were

DERSON. Mr. President, I strike out section 21. This is lation, and I do not think it incorporated in our Consti-

tion was rejected.

DERSON. Mr. President, I an amendment to this section out the words "employe, at- r agent."

ANS (Weber). Mr. President, e point of order that that has sed upon.

int of order was overruled.

tion was rejected.

mball, of Salt Lake, offered the as section 22:

am railroad corporation shall e franchise on streets of any thout first obtaining consent ajority of the people whose may be damaged thereby.

tion was rejected.

ICHARDS. Mr. President, I strike out the words, "tele- d telephone," in the sub-head.

tion was agreed to.

n 22 was read.

ARIAN. Mr. President, after "others," in line 6, I move to e word "written," It is sug- hat telephone messages are not It has reference to transfer- n one company to another.

ICHARDS. Mr. President, I hink the gentleman realizes the that amendment. In case of a e company, suppose they were d with each other and in order person talk over two lines, uld have to be connected? That ot be a written message.

ARIAN. I did not anticipate it e possible that there would be onnection as that.

CHARDS. Suppose there was hone line extending from here n, and another from there to

Mr. VARIAN. Then, I suppose they ought to write out the message if they want it transmitted.

Mr. RICHARDS. No; they transmit their own messages over the telephone wires.

Mr. VARIAN. That does not authorize, as I understand it, the actual use by one company of another's paraphernalia of office.

Mr. RICKS. I suggest to Mr. Varian, would not the word business in there answer the purpose?

Mr. VARIAN. That would be better than just to leave it messages.

The amendment was rejected.

Mr. RICHARDS. Mr. President, I think that this section either ought to be stricken out or reconstructed. I therefore move to strike it out. I take it, that it does not mean anything more than would exist if this were not in the Constitution. No question about that. It does not pretend to give them any franchise or anything of that sort, but simply gives them the right to enter into this kind of business, and any one would have a right to do that, without any constitutional provision. It was claimed in the committee that this was new matter, that was not provided for, and that is the only thing that there is new about it: "And said companies or individuals shall receive and transmit each other's messages without discrimination or unnecessary delay." The other provision, that the right of eminent domain is hereby extended to all telegraph and telephone companies, would be provided for in the absence of this. So I say that the sec- as it stands ought not to remain, and I do not think anything would suffer by striking it all out.

Mr. MALONEY. Mr. President, I do not see any reason why this should be stricken out. I could not hear all that Mr. Richards said, but it ought not to be stricken out without some reason being given for it. I say that a message transmitted from one line to

the other ought to be transmitted without discrimination or unnecessary delay. There are a great many reasons why we should have such a section as this. It was fully discussed in the committee. It compels the companies to transmit on being paid their charges.

Mr. RICHARDS. Is it not a fact that the Legislature would have authority to provide for that?

Mr. MALONEY. I don't know whether it would or not, but it provides for it here. I will say to Mr. Richards, I have no confidence in the Legislature legislating against corporations, when they are always so represented in the Legislature, as they have been for ten years. This is a more representative body than the Legislature, not because we have more talent, but the people are better represented. Every county is represented here.

The motion to strike out was agreed to.

Mr. EVANS (Weber). Mr. President, I move to insert, after section 22, the following section, to be numbered section 23:

No railroad or other transportation company shall grant free passes, or sell tickets or passes at a discount, other than as sold to the public generally, to any member of the Legislature, or to any person holding any public office under this State.

This matter was so fully argued the other day that I do not intend to reiterate it. I simply want to refresh the minds of the gentlemen of the Convention on what was said the other day. I do think, upon reflection, that that section ought to stand. I believe that it has vitality and force, and will result in much good to the people generally. No man gets much benefit from this except the public officer. The people get none. It will cost the people no more, and the principle is wrong to pass public officers free. Why is it, let me ask again, that the railroad companies always put these passes in the hands where they will do the most good? I venture to say, and I only remark it jocularly, that if every gentleman in this Convention who expects to hold an office and receive the benefits of free passes, would vote in favor of the insertion of this section, it would go in almost unanimously.

Mr. THATCHER. Mr. President, I think I could vote for this section if I was not quite certain that it would be inoperative. I have had something to do with railroads and know how difficult it is to control this pass business. But I take it, there is not a railroad in the United States that would not favor the passage of this section. They are all working to that end. The pass matter is something that they hardly know how to deal with; but I say to my friend on the right here, that when they are disposed to give to any other person, whether official or otherwise, transportation, they can easily manage it, even though you might have a dozen such sections in your fundamental law.

Mr. VARIAN. Mr. President, take the case of a public officer—for instance a judge, if there is a prohibition by positive law against it, you would not expect such officer to violate the law himself, would you? He is there to administer the law. He does not break it.

Mr. THATCHER. At the same time a railroad company could hand him a ticket and he could pay the money for it, just as we all do when we buy a ticket, and I take it, if the railroad company were to remit that money, later on, there would be no very great objection to it.

Mr. EICHNOR. Mr. President, I presume the gentlemen who are anxious to pass this section, have never traveled on passes.

Mr. EVANS (Weber). I would like to pass this section and I have never traveled on passes.

Mr. HOLLIDAY. I will vote for it, and I have traveled on passes.

Mr. EICHNOR. Gentlemen, if you

can enforce it, it would be a good legislative enactment. Just as long as any one proposes anything on this floor that is in line with this, several gentlemen get up and say it is legislation of the purest kind. Now, I say to you it is legislation of the purest kind. Let the Legislature deal with.

Mr. EVANS (Weber). In every Legislature in this Territory all the members have come here on passes, haven't they, since the railroad was built?

Mr. EICHNOR. I don't know.

Mr. EVANS (Weber). That is a fact. That is historic. Could you expect the Legislature to pass such a provision with a pass in the pocket of every member?

Mr. EICHNOR. I will answer that question by saying that if it is purely legislative the Legislature will deal with it. I say that any man that can be bought with a pass is the poorest trash. I will say this, that you can call the yeas and nays on this, and I shall vote against the section, because I do not think that there is any railroad corporation that can buy me with a railroad pass.

Mr. CORAY. Mr. President, I have a substitute I would like to offer for this section:

> Any pass or rebate on transportation granted by any transportation company shall be deemed a bribe and be punished in accordance with law.

The section proposed by Mr. Coray was rejected.

Mr. MALONEY. Mr. President, I am opposed to passes in any way, shape, or form—contributions, or rebates, call it what you please. Railroad companies never grant passes unless they have an object in view. They expect to be compensated. Judges and legislators ride all over this Territory, and into foreign states with passes in their pockets. They naturally feel inclined to repay the railroad companies in some way. It said that if something of this kind is not done, for these State officials, these State officials will unconsciously do something for the railroads; that is not in the interest of the people. I have seen too much of legislating for the benefits of railroad corporations, and I have seen the evil effects of it. Whenever a railroad company puts a pass in the pockets of an officer, it does not do it unless it expects to get the benefit of it.

The roll being called on the section offered by Mr. Evans, of Weber, the result was as follows:

AYES—33.

Adams	Maeser
Call	Maloney
Chidester	Murdock, Wasatch
Coray	Nebeker
Corfman	Partridge
Creer	Preston
Cunningham	Raleigh
Driver	Robison, Wayne
Evans, Weber	Sharp
Evans, Utah	Squires
Halliday	Stover
Hyde	Strevell
Johnson	Thorne
Jolley	Thurman
Larsen, L.	Varian
Lemmon	Wells.
Lowe, Peter	

NOES—43.

Allen	Kimball, Weber
Anderson	Lund
Barnes	McFarland
Bowdle	Morris
Boyer	Murdock, Beaver
Brandley	Murdock, Summit
Button	Page
Clark	Peterson, Grand
Eichnor	Peterson, Sanpete
Emery	Richards
Engberg	Ricks
Farr	Roberts
Green	Robertson
Hammond	Robinson, Kane
Haynes	Shurtliff
Heybourne	Snow
Hill	Spencer
Howard	Symons

Ivins	Thatcher
James	Thompson
Kiesel	Williams
Kimball, Salt Lake	

ABSENT—30.

Buys	Larsen, C. P.
Cannon	Lewis
Christiansen	Lowe, Wm.
Crane	Low, Cache
Cushing	Mackintosh
Eldredge	Maughan
Francis	Miller
Gibbs	Moritz
Goodwin	Peters
Hart	Pierce
Hughes	Ryan
Keith	Thoreson
Kearns	Van Horne
Kerr	Warrum
Lambert	Whitney.

The president declared the substitute lost.

Mr. EVANS (Weber). Mr. President, before we get down to section 32, I desire now to reinsert section 25. It is the section, gentlemen, which makes stockholders of insurance companies individually liable for the payment of losses.

The question being taken on the motion, the Convention divided, and by a vote of 45 ayes to 24 noes, the motion was agreed to.

Mr. IVINS. Mr. President, I move now a reconsideration of the vote by which this section was just reinstated. I voted in the affirmative. Had the question been debated at all, before the motion was put to reinsert it, I do not know that I should have said anything, but I want to ask this body of men why each stockholder of any insurance company shall be individually responsible for all of the liabilities of that corporation, when such a law applies to the individual members of no other corporation?

Mr. EVANS (Weber). Banks.

Mr. IVINS. Well, banks, under certain conditions. It seems to me there are other corporations in which there is just as great an opportunity to defraud creditors as in the insurance business, and I can see no reason why this special legislation should be passed here. And that it is legislation there is no doubt in my mind. The question was fully debated in the committee of the whole and was stricken out. Now, there ought to be some good reason why it should be reinserted, and I want to ask what those reasons were. That was my reason in asking that this vote be reconsidered. There may be some good reasons. I am not specially interested in this section, but I believe the action of the committee of the whole was a wise one, and that whole article on insurance ought to be left to the Legislature to handle and determine. It is not a question that ought to go into the Constitution at all, in my opinion.

Mr. THATCHER. Did you vote on the section on banking, that requires double liability?

Mr. IVINS. No, sir; I did not vote on any of these sections.

Mr. THATCHER. I am engaged somewhat in the banking business and am in favor of the double liability. The reason I am so is to protect depositors. I am not only in favor of a double liability, but I believe that a man should be to the full extent of his ability. And certainly banking is not more hazardous than insurance, and for the protection of the general public I have voted for double liability as restored under the motion of Mr. Evans. We would not require it of corporations in merchandise, because there is not the risk which is found in banking and in conducting the business of insurance for the public, and I vote for this double liability for another reason. There is but one home company of which I have any knowledge whatever, and in the interest of that company, I vote for this section, for if it is once known (and it will become known after this Convention shall have adjourned) that there is no liability other than that of the fully

paid up stock, it will greatly injure the business of the home company. If you want to build up a prosperous business in this country, you must assure the people that the foundation is broad and deep and that the risk is not great, and I think we ought to retain this section in the Constitution. Therefore, I voted for its restoration and I shall now vote against its reconsideration.

Mr. KIMBALL (Salt Lake). Mr. President, when this matter came up in committee of the whole, I took the same position as Mr. Thatcher, at which time I inquired of the management of the home company, and I found that it was through their solicitation to a very great extent that this was placed in there as a protection. On inquiry I found that the company was having a very hard row to hoe. The non-union companies have come in here and cut the prices to such an extent that it is a very hard matter for our home company to stand. It has been a very hard matter to get people to subscribe to stock in the home company, and if this section remains in, they apprehend that they will not be able to get any assistance further to strengthen their hands. I am convinced, since voting to the contrary, that we should strike this out, and I will vote contrary to what I did in committee of the whole, and reconsider this matter.

Mr. WELLS. I wish to ask Mr. Thatcher a question. Is it your understanding that this provision in section 25, if adopted, applies to the insurance company that is now chartered in this State or Territory?

Mr. THATCHER. It could not apply to that, because they have had their charter. We cannot make any law retroactive, of course.

Mr. WELLS. I understood you to say it would.

Mr. EVANS (Weber). Mr. President, it seems to me that this Convention is here legislating in the interests of the people and not in the interests of any particular corporation. You examine the laws and constitutions of other states, gentlemen, and you will find this provision a very common one, and not only that, but they usually go very much further than this, and require large deposits of money. It is not only in the interests of the people to do that, but it is in the interests of the companies themselves, as has been stated by Mr. Thatcher. Who are there among you who would insure in the home company, if it is in the condition, or believed to be in the condition that the gentleman from Salt Lake says, having a hard struggle to get along, with no property at all, except its franchise, and its stock, which amounts to nothing? That is all it has, unless it owns real estate, or if it owns money, it is very easily disposed of, but you once make the stockholder individually liable and it will give stability to the business. Men who desire to insure will go to the company, because they will say that this is a solvent company. The individual stockholders are personally responsible. We have confidence and faith in their ability, even should the company fail; therefore, we will do business with them. Whereas, if you simply permit a wildcat insurance company to exist, do you suppose that it can thrive, and do business at all? Why, certainly not. Besides all that, gentlemen, when we legislate, we ought to legislate not so much in the interest of the particular company which desires to do business, as in the interests of this people, who unsuspectingly are doing business with such companies.

Mr. SQUIRES. Would not this action kill the company that is in existence here?

Mr. EVANS (Weber). That question has been amply answered, and I do not care to go into authorities on it. It is held, and properly, too, that we cannot make a Constitution here that will violate the obligations of an existing contract.

Mr. SQUIRES. That is not my question. If the additional stability which would come to an insurance company by the adoption of this article is what is to be desired, would not the absence of it in the case of the present company be hurtful to this company?

Mr. EVANS (Weber). It may. I do not know, but I am quite sure that the presence of such a liability would assist it. They could come in and secure future legislation and come under the provisions of this Constitution and have the advantages of the stability that I have named. Gentlemen, an insurance company exists for the purpose of making money from the policy holders, for the purpose of extracting the money from people, and it is expected when they do that, that if losses occur, they will return to the persons who have sustained the losses the money which they have contracted to pay. Now, why is it, in this Convention, when we are considering the article on private corporations, that an insurance company is outside the Constitution or the law? Every section relating to insurance has been stricken out, and some people have been rash enough to say that the reason why it has been done is because of the presence upon the floor of this house of men interested in insurance companies. Can we afford to rest under a suspicion of that kind? Let us legislate in the interests of the people, and it will be in the interests of the company that the section remain as it is, and that the motion to reconsider will not prevail.

Mr. JAMES. Mr. President, I deprecate that any gentleman should make remarks upon this floor that partake of the insinuations just made, that it was owing to lobbyists upon this floor. Now, Mr. President, I repudiate any such an insinuation. I moved to strike that proposition out, as I have stated before this Convention, because I found on investigation that it was an injustice. I found that we were trying to tie down and make responsible a company here doing business in this community when it did not do one-hundredth part of the business, and the business was all done by foreign companies that we could not reach. I offered an amendment here that would put all companies on an equal footing, that would compel the Legislature to require of every company doing business in this community that they should secure the policy holder against loss. That was my proposition.

Mr. EVANS (Weber). How long do you suppose people would put their deposits in banks and do business with banks, if the stockholders were not individually liable for those deposits?

Mr. JAMES. If we could not reach the stockholders who lived in foreign countries, legislation of that kind would be absolutely useless, and then we would go to the Legislature and enact laws; because foreign companies are doing all our banking here in this Territory, and we cannot reach them with our legislation—enact laws that would compel them to hold property or put up securities, so that our funds will be secured, and that we cannot be robbed. I understand that Mr. Barnes is a member of the home insurance company. Mr. Barnes do you give any security to the public to protect them against their losses, should you fail to pay your losses in case of fire?

Mr. BARNES. The company has assets amounting to $380,000.

Mr. JAMES. Where do you keep those assets?

Mr. BARNES. They are invested in various companies and in real estate in this city and in other places.

Mr. EVANS (Weber). Do I understand now that this legislation is in the interests of a delegate upon this floor?

Mr. JAMES. No, sir; it is in the interests of the public. I simply asked Mr. Barnes a question for information, that is all. Now, I want to state to you, Mr. President, that there is a pro-

vision in this article that requires corporations to file an acceptance of the provisions of this article in order to benefit by future legislation. Now, you are going to have a company doing business here that is unable to be benefitted by future legislation unless it accepts those provisions. And it is, as Mr. Wells asked Mr. Thatcher, a few moments ago, retroactive; practically under that provision it is. You cannot get away from it. Now, we have heard of gentlemen here on this floor—that you have an insurance company here that holds property in this community that does guarantee the property holder against loss to a reasonable extent. What guaranty have you from foreign companies? Is there any? I would like to know if there is, where it is. Now, why should this style of legislation be had? I say, Mr. President, that we should be just.

Mr. EVANS (Weber). Do you not know that these fire insurance companies that are the most stable and most reliable are required by the laws of the several states, wherever they exist and where they are created, to make large deposits of money, and also that the stockholders are individually liable?

Mr. JAMES. That is true. The stockholders in New York are held responsible, and they are also required to hold property or put up a guaranty fund. But now I want to call the gentleman's attention to a company that I called attention to a few days ago upon this floor, that owns a building in New York that cost three millions of dollars, and they have assets of over three millions more, and still here is one of our best known citizens in this town—for two years, he cannot collect one cent, after paying over five thousand dollars on the policy. Now, can we legislate to reach that company that beat that man and his heirs out of that honest money? Now, I do not want to say much more, but I do regret that a gentleman gets up on this floor and makes reflections upon me for making an effort to do the very best I can in the interest of the people and for the good of our State.

Mr. KIMBALL (Salt Lake). Do you understand that the merchants of Salt Lake scarcely get enough fire insurance to-day?

Mr. JAMES. That is the information that comes to me.

Mr. KIMBALL (Salt Lake). You have gone to work and struck out everything here in committee of the whole which protects the people against the foreign companies, and we want to leave that section in that will crush the home company. I do not think it is fair, is the reason I have changed my vote. I ask Mr. Evans, are you willing to reinstate section 26 or something similar, to protect the people against the foreign companies?

Mr. THURMAN. Yes, sir.

Mr. EVANS (Weber). I certainly am, but I do not know whether the chairman is or not. He is the proper person. I think, to appeal to.

Mr. KIMBALL (Salt Lake). I ask, do you make the proposition to reinsert section 25?

Mr. EVANS (Weber). My record is that way all through this Convention, to do anything that will protect the people.

Mr. KIMBALL (Salt Lake). That will include my vote. After seeing section 26 stricken out, discrimination against the home company, I changed my vote.

Mr. ROBERTS. I wanted to ask Mr. James a question, as the chairman of the committee on corporations other than municipal, and also in view of his remarks a few moments ago. Mr. James, I wanted to know if you were in favor of section 32 and voted to retain it?

Mr. JAMES. I was in favor of the bankers being responsible for the amount of the stock, but on consulta-

tion with banking men, they suggested that we ought to make them responsible for double the amount, and I said all right, gentlemen, I have no objection; I want to protect the people wherever I can. I supported the section and voted for it all the way through.

Mr. ROBERTS. I would say, Mr. President, that since the gentleman announced in his remarks a few moments ago that he was pre-eminently and all the time in favor of justice, why is it that he is not willing to protect the people against insurance companies as well as banking companies? I take it, sir, the gentleman who has voted in favor of section 32 in the interests of the community, as against corporations, ought not to object to the protection of the public against insurance companies as provided for in section 25.

Mr. BARNES. Mr. President, I doubt very much whether I can make myself understood with regard to this matter. I will try, however. My friend, Mr. Evans, asked the question, whether it was fair to legislate in favor of any particular delegate. I will say no, and I am sure that I do not ask any person here to grant me any favors, neither do I, as a representative of the home insurance company, ask any favor for them. All we ask is what is right. We ask that we be treated just the same as any other insurance company. Now, gentlemen, is there anything unfair in that? I submit that there is not. I am interested in banks, as well as I am in the insurance company. I say banks, because I am interested in more than one, and I think the responsibility of a stockholder in a bank is ten times greater than that of a stockholder in an insurance company. That is the view that I take of it. I differ very materially with the honorable Mr. Thatcher, with regard to that, and I think that any stockholder in a bank ought to be held liable, not only for the amount of his stock, but for an amount equal to it, in addition, but I do not hold that it is fair for an insurance company to be held. I think, too, that the honorable Mr. Evans did not understand Mr. Kimball. The Home Fire Insurance company is able to meet its liabilities and never has failed to meet any just liability yet, and I presume never will, while the present company hold the stock. Now, that is the view I take of it.

Mr. KIMBALL (Salt Lake). May I ask a question? The difficulty has been the war in the main?

Mr. BARNES. Most assuredly. They are not bankrupt. You can go to the treasurer, gentlemen, if any of you doubt the assertion I make, and you can examine the stocks. I grant you they would allow the privilege. What makes it hard getting along, as the gentleman has just stated, is the rate war that has been going on. They are not making any money. Stop and think a moment and see what they have made in the past, and then consider the war that is now on and that has been raging here for some time, and the amount that they are making—I doubt if it would pay expenses. But that is not the idea. The idea with me is this, you cannot get that from any other company that is here in this section. Then, why should you demand it of the home company? If you could treat all companies alike—there are seventy-eight insurance companies doing business here in this city.

Mr. JAMES. Excuse me, Mr. Barnes, there are over a hundred, including fire and life.

Mr. BARNES. Now, the one is to be singled out and the rest go without this provision; why should it be? You may say it will not affect them, but should they undertake to reincorporate, won't it affect them? Most assuredly it will. Let us do justice to a home institution as well as those that live at a distance.

Mr. MALONEY. Mr. President, if sections 26 and 27 were adopted, would not that help very materially the home company in increasing their business? In other words would not it run out the side companies and keep only those that are perfectly solvent in the Territory?

Mr. BARNES. Well, as to that, I really could not say. There have been but few losses sustained by the citizens of this Territory from fire insurance but what have been met in a fair and reasonable way. Probably there have been one or two companies that have failed, but I think they have been few; that is my understanding of it, and that there are but little losses sustained on that account.

Mr. EVANS (Weber). Mr. President, I arise to a point of personal privilege. The gentleman has misunderstood me if he thought I meant any reflection on him, respecting the question which Mr. James asked. What I said then was intended to emphasize the fact that in making a Constitution we should keep steadily in mind a principle in regard to an individual or corporation. And I desire yet to emphasize that fact, but not for the purpose of casting any reflection upon the honorable gentleman.

Mr. BARNES. I agree with Mr. Evans exactly.

Mr. THATCHER. May I ask the gentleman a question? Did I understand you to say that the home company was solvent?

Mr. BARNES. Yes, sir.

Mr. THATCHER. That is as I understood you—that there is no danger now to the policy holders?

Mr. BARNES. Not the slightest, no more than there has been from the day of its commencement.

Mr. THATCHER. Did I understand you correctly in the statement that there would be no danger?

Mr. BARNES. I do not think there will, sir.

Mr. THATCHER. Then, why fear this double liability?

Mr. BARNES. I do not fear it, only upon the principle that it is unjust.

Mr. THATCHER. But let me call attention to this fact. If Mr. Barnes' statements are correct, then we ought not to attach double liability to the banks, for the reason that there are millions of dollars in this city to-day that render no help whatever to the territorial government, on the ground that it is foreign capital, and is not therefore taxed, so that in that respect I do differ with my friend on the right in this, that while being engaged in three banks, one here in Salt Lake, one at Ogden, and one at Logan, organized under the laws of the Territory, the difference between himself and myself is this: Notwithstanding my interest in those institutions, I stand up and vote for a double liability for the protection of the people, and my friend on the right, because we have a little company here, stands up and votes against it—quite a difference.

Mr. BARNES. I yielded to Mr. Thatcher's questions and he proceeded to make a speech, and I thought I would wait. I do not understand that there are millions of dollars invested in this city of outside capital in banks.

Mr. IVINS. Mr. President, I wish to ask the gentleman from Weber a question. I want to know who it is that says that the members of this committee were influenced by lobbyists when they struck out this section? Can Mr. Evans answer that?

Mr. EVANS (Weber). The records will not show that I said that. I said that there were members interested in this home insurance company who were upon the floor of this house, and asked the question whether that had influenced any one upon this question. That is substantially what I stated. I never have become very personal yet.

Mr. IVINS. The gentleman stated it had been said. I want to know if the

gentleman says this was done by the lobbyists?

Mr. EVANS (Weber). I do not know. They have used no influence so far as I am concerned. They know me too well.

Mr. IVINS. I want to say no one has mentioned this to me who is connected with insurance companies, and I am not connected with them at all. It has been said that section 26 should be retained. I should be just as much opposed to retaining section 26 as I am to retaining section 25, because I can tell you if the restrictions there provided for are placed upon insurance companies, it is my opinion that it will result in a withdrawal of companies from this State, and it is a fact that insurance cannot be secured here to-day—there are firms here that want insurance and cannot place it, so that there is no superabundance of opportunities. On the other hand, if you leave this as it was left by the committee of the whole, insurance companies will bring their moneys here. Their by-laws prevent them from investing moneys in territories, but the moment Utah is admitted as a State, those restrictions will be withdrawn and insurance money will come here for investment. You will find that to be the case, and buildings will be erected. There are millions of dollars of insurance money waiting now for investment at low rates of interest, and I know that negotiations are on foot for its investment, much of it in this Territory when Utah shall be admitted; but you place such restrictions as this upon those companies and they will do just as they have in Arizona, where the same law has been made operative; they will withdraw, until to-day, in that territory, you cannot find companies that will write the insurance that is demanded. Now, these are facts, and, therefore, one of these sections, if reinstated, requires that this whole insurance article shall be taken up and debated and discussed again, and every section of it will probably occupy an hour or two of time, and Mr. Ricks will be calling me to order more than once if this thing is undertaken, because I shall have something to say about it. I believe it ought all to be left to the Legislature. Let them determine what these conditions are. They will be better acquainted with the facts. I submit there are very few members upon this floor who know anything about insurance or insurance companies, unless they are wiser than I am. I know very little about it, and I feel reluctant to vote either in favor of the section or striking of it out. I believe it is safer to leave it just as it is left in committee of the whole. Gentlemen stand here and argue that if banks are to be made responsible, insurance companies ought to be made responsible, too. That is no argument to me at all. I do not say that banks ought not to be made responsible. If they ought, that might not be a reason why insurance companies should, and if it is an injustice to insurance companies, this section, as it stands, because there is a similar section which applies to banks, that is no reason why this should be left out. It is not logic. It is not argument. I hope the vote will be reconsidered and that it will be left as it was left in committee of the whole.

Mr. KIMBALL (Salt Lake). Mr. Ivins, who will be affected in this Territory if the home company is crushed out?

Mr. IVINS. I do not know who will be affected. I do not know whether this will affect the home company or whether it will not.

The previous question was ordered.

The PRESIDENT. The question now is the reconsideration of section 25.

The question being taken, the Convention divided, and by a vote of 36 ayes to 29 noes, the motion was agreed to.

The PRESIDENT. The question before the house is the section.

Mr. EVANS (Weber). Mr. President, on that question, I desire to speak.

Mr. SNOW. I raise the point of order that this section was reinstated and a motion to reconsider leaves it just where it was before, stricken out.

The PRESIDENT. Yes, it is stricken out.

Mr. EVANS (Utah). Mr. President, while that is a fact, there is a motion here to insert it, and we are considering that.

Mr. CHIDESTER. Mr. President, I arise to a point of order. The point of order is, it stands in the same condition it was before, and those who spoke on it before cannot speak on it now.

The PRESIDENT. The point of order is well taken.

Mr. EVANS (Weber). Mr. President, may I state my point of order?

The PRESIDENT. You may.

Mr. EVANS (Weber). The first vote reinstated that section. Mr. Ivins then moved to reconsider the vote by which the section was reinstated, and that motion to reconsider was passed upon favorably, Now, the section remains there, because we voted it in on the first vote. It stands there, and now the vote by which it was inserted was reconsidered.

The PRESIDENT. The reconsideration casts the section out. That would be the judgment of the chair.

Mr. EVANS (Weber). I dislike very much to do it, but I will appeal from the decision of the chair on that question.

The PRESIDENT. Those in favor of sustaining the chair will say aye——

Mr. EVANS (Weber). Mr. President, is not it debatable?

The PRESIDENT. ——those opposed no. The ayes have it. The chair is sustained.

Mr. EVANS (Utah). Mr. President, I submit to you——

Mr. EVANS (Weber). I challenge the vote. Certainly let us vote understandingly, anyway, even if we cannot speak.

Mr. JAMES. I arise to the point of order, the chair has announced the vote.

Mr. ROBERTS. Mr. President, I arise to a point of order for once, and that is that this matter of appeal from the chair was voted upon without giving gentlemen an opportunity to discuss that question, and I hold that it is debatable.

The PRESIDENT. The house has voted upon it. They can reconsider if they want to.

Mr. ROBERTS. Yes, sir; but they voted upon it without having an opportunity to discuss it.

Mr. EVANS (Utah). Mr. President, I make this point of order. While I think the decision of the chair is proper, it has been passed upon by the house as being sustained, it simply puts this question back where it was before, and we have a right to debate it. There is a motion before this house, to insert this. It was carried. That vote was reconsidered, and that placed this thing back before this Convention, with a motion here to reinsert that, and I take the ground that we have a right to speak upon it—every man who has not spoken upon the question.

The PRESIDENT. The decision of the chair is that there is no question before the house.

Mr. EVANS (Utah). I appeal from the decision of the chair upon that question.

Mr. RICKS. I raise a point of order, that we have just settled that appeal.

The PRESIDENT. That is what the chair understood.

Sections 32, 37, and 38 were read.

Mr. BUTTON. Mr. President, I offer a new section, as follows:

All corporations, partnerships, or individuals, shall be liable for all damages sustained by any person, including employes of such corporations, partner-

ships, or individuals, in consequence of their negligence, or of any of their agents, servants, or employes.

Mr. VARIAN. When was that section voted upon? I arise for information. I make a point of order that the Convention by a vote has disposed of this very section.

The PRESIDENT. The point of order is well taken.

Mr. EVANS (Weber). Mr. President, I desire to move to reinsert section 33. I want to state that when that went out, I do not believe the Convention understood the real effect of it. A bank bill is that which passes from hand to hand, as the money of the bank. It goes out among people everywhere, and it should be first redeemed when the bank fails, because a man holding a bill in his pocket as money—circulating medium—has no means of ascertaining the solvency of the bank. The depositor has. He knows something about the bank. He keeps track of its statement. Now, gentlemen may say that we have no state bank bills at present. That is true, on account of the state tax of ten per cent. on state banks, but if that tax should be repealed (and you know, all of you, that it is a national question which is agitating the minds of the people a great deal), then there will be a large volume of bank bills circulating as money. Now, when a bank fails, gentlemen, I will leave it to you if those men who hold the money in their pockets should not be the first to go to the bank and have it redeemed before depositors or anybody else. The act of Congress is exactly similar to this section. It is in almost the same words, making the bill holders preferred. I think we voted it out when we were not thinking what we were doing. At that time I tried to speak and the motion was called upon me like it was a little while ago.

The question being taken the Convention divided, and by a vote of 29 ayes to 41 noes, the motion was rejected.

Mr. MURDOCK (Wasatch). Mr. President, I move to strike out section 38. I think it is striking at the interests of the farmers and of associations that are organized in the Territory in different parts for the protection of the price of the products of the soil, and I think when we get to legislating against that class of people, we are making a mistake.

Mr. ROBERTS. Mr. President, among the few virtues that this article on corporations possesses I think that this is the choicest and best of all. The one redeeming feature out of the few that remain in this article on corporations is this section 38. It prevents combination between individuals, corporations, associations, or either, having for its object the effect of controlling the price of any product of the soil or of any article of manufacture or commerce, or of the cost or charge of transportation. Now, sir, I submit that if there is one thing more important than another to the industrial welfare of this Territory, it is to prevent the combination of corporations and associations looking to the control of prices in this Territory. In other words, it is a prohibition of the formation of trusts and combines to check the industrial interests of this Territory; and I sincerely hope that the Convention is not in a temper to destroy this provision. The matter was discussed perhaps incidentally the other day, and yet sufficiently, I take it, to point out the virtues of this section, and certainly it is not my purpose to go over the ground of discussion, but simply call the attention of the Convention to the importance of retaining this article.

Mr. ANDERSON. I would like to ask Mr. Roberts, if this section is retained, would not it prevent the farmers combining as a farmers' union to regulate the price of wheat or any other of their products?

Mr. ROBERTS. It is possible it may do so.

Mr. ALLEN. Mr. President, this will not accomplish what the gentleman intended who made the motion. Take the poor farmer, he is not able to hold his grain and wait for prices, or to regulate prices, but on the contrary. I know that in the southern country, in one section of the country where the merchants got together and agreed that they would only pay so much for grain, they knew that nine-tenths of the farmers of that country were obliged to sell their grain to get shoes and clothes for their children, and to get money to pay their taxes. They knew they would get the grain. There was no other show. Now, you take throughout the Territory, these men that are trying to govern flour mills and different organizations, it is the moneyed men that are able to hold prices in this way and work an injury to the poor man.

Mr. JAMES. Mr. President, I hope this section will not be stricken out, and I think the gentleman from Wasatch misunderstands it. I would like to ask him if he ever knew of farmers combining to hold to their prices, and if they did, when and where?

Mr. MURDOCK (Wasatch). I know there is a similar association in Provo City to-day, existing there as to prices of grain and vegetables.

Mr. ROBERTS. I would like to ask Mr. James if it has ever been found possible for farmers to do that thing?

Mr. JAMES. Why, it seems improbable to me. Now, gentlemen, this provision was put in to protect the farmer. It was put in to operate against such institutions as the big trusts—the elevator trusts that sell millions of bushels of wheat and speculate on it when they never had a pound in their elevator. The beef trust, as you observed to-day, has raised the price of beef to an enormous price, but what does it say to the producer? Why, you find recently, they turned around, and just arbitrarily, in opposition to all that Mr. Morton, secretary of agriculture could do, and out of pure cussedness, lowered the price to the producer, a cent a pound, as much as to say to him, "we will show you you cannot manipulate our affairs and we will manipulate them to suit ourselves." Now, that is an actual fact, gentlemen, and that is what this provision is put in here for, and if you take the whole of the article that is left now—my friend, Mr. Roberts says, there is not much left, but I am proud of the article, with the exception of one section. If section 7 was regulated so that it would not be misconstrued, we would have a splendid, good article, and this one, in combination with the others, is what hinges the whole business together, and if you strike it out, you are going to weaken the article.

Mr. SNOW. I would like to ask Mr. Roberts if this would affect the farmers' exchange?

Mr. ROBERTS. My answer is that if it does not affect the individuals, it will affect, and does affect, corporations who could combine unless you had some such provision prohibiting it.

Mr. NEBEKER. Mr. President, I think that the appeal that the gentleman from Wasatch has made to the farmers on this question is not well taken, because it is certainly a fact that farmers have never been able to combine to hold up the price of their products, and one reason for that is because there are too many of us. Now, the question is, as farmers, when we are not able to combine and control the price of our products are we going to stand here and support a proposition that will enable other people to combine and hold up the price of their products? If there is no other section retained in this article, but the first and the last, it is worthy of our consideration.

Mr. BOWDLE. Mr. President, if the farmers could do that thing, I would be

perfectly in favor of them doing it, and perhaps you all remember the great effort that was made all through the eastern states, and in fact through the western states, by what was called the grangers, to accomplish that very object, and they could not do it because of the very fact that they were men that were compelled, as soon as they had the products ready for market, to sell them; their interests were such that they could not hold, and the consequence is that the whole organization has nearly or quite gone to pieces, because they could not accomplish the very object that they they were trying to accomplish; and I do not think that it would help the farmers a particle if we were to leave that in, but it might, as Mr. Nebeker says, work exactly against it.

Mr. CANNON. I would like to ask if this section can be enforced by any action of the courts, where two men or more than that number desire to work together and combine—whether they can enforce it—so that farmers could not get together and regulate the price if they want to?

Mr. BOWDLE. I suppose, Mr. Cannon, that if you and I and any other man were running farms together we could say that we won't sell until we get such a price, and they could not prevent us from doing that.

Mr. CANNON. Then, what is the use of the section?

Mr. BOWDLE. I don't know that it would be effectual. I am not prepared to say that it would, but it aims at an evil, that if we can by any legislation reach, I am in favor of reaching it.

The motion was rejected.

Mr. VARIAN. Mr. President, I want to call attention to line 4 of section 37; in accordance with the suggestion the other day, the word maliciously ought to be inserted in there.

Mr. BOYER. Mr. President, I desire to offer as an amendment to the amendment to section 37 the following: Strike out all of lines 1 and 2, and strike out the words in six and seven, "or obtained from any other corporation or person." Now, I find that the citizen is sufficiently protected under the article of labor for the securing of his labor, and he is sufficiently protected therein; and striking out the words in lines 6 and 7 will obviate the difficulty that I apprehend might arise.

Mr. VARIAN. Let me suggest that that is not germane to this amendment. This could be disposed of, and then Mr. Boyer's motion, which relates to other parts of the section, might be considered.

The amendment of Mr. Varian was agreed to.

The amendment of Mr. Boyer was rejected.

Mr. THURMAN. Mr. President, before roll call, I desire to say, I have not said one word this afternoon on this article, but I am going to vote against it. There is no virtue left in it. It is completely emasculated of everything that gave it vitality and usefulness; there is not one thing in it that the Legislature cannot do—not one. There is not a single limitation on the power of the Legislature. I shall vote no, and I take this occasion to say that, because I do not believe that men have a right to get up after a roll call has commenced and vote no, and give their reasons for it.

Mr. PRESTON. Mr. President, I wish to say the same. There is nothing to this article now.

Mr. EVANS (Weber). Mr. President and gentlemen, I want to say that I will vote against the article as heartily as anything I ever did in my life. It is, as has been stated, completely emasculated; all the vitality has been taken from it. Every move that has been made in regard to this article on private corporations, one of the most important things we have had to deal with, has been in the interests of corporate power, and I will never cast my vote in favor of such a skeleton as that,

without a single limitation or restriction upon the powers of corporations.

Mr. FARR. Mr. President and gentlemen, I presume you will all recollect several days ago, when this subject was brought up, I had a very important amendment to introduce to this article, and I gave my reasons for it, and I was satisfied when I had read the whole article that the whole business of it could be provided for in that amendment. Now, we have spent two or three days on it, and cut the bill up, and taken from it, so that we can hardly tell what it is. My amendment was to strike out the enacting clause, because there is no enacting clause. I presume when they come to a vote on the ayes and noes that the word no means to strike out the enacting clause. Consequently I shall vote no.

Mr. EMERY. Mr. President, I would like to ask a question in relation to section 10. Will that section prevent any foreign corporation coming to Utah and selling merchandise or any other article, without first filing the articles of incorporation with the secretary of state?

The PRESIDENT. I presume it would affect all companies and corporations.

Mr. EMERY. Then, if this prevails, an agent could not be sent to Utah to sell merchandise without being confined by that provision?

Mr. CANNON. The latter construction is evidently not that that would be placed upon it. This provides that no corporation shall do business in this State. In other words, they shall not come in here and have an office or something of that kind and pretend to do business, and yet have no place where you might serve process upon them. It is customary in all states to have a similar provision to this.

Mr. EMERY. If that is as far as it goes, I have no objection to it, but if it would prevent a gentleman coming and selling merchandise for another corporation I think it goes too far.

Mr. MALONEY. Mr. President, I will say the gentleman need have no fears on that score. It is not intended to prevent anything of that kind. I trust the Convention will adopt this article. The first section is certainly worth voting for. The conclusion of my friend over there and colleague from Weber County is too hasty that he will vote against the article. I think there are some things in the article that should be sustained, and therefore I will vote for it.

Mr. EVANS (Weber). Is not it a fact that it will require a majority of all the members elected to this Convention to pass this article now?

The PRESIDENT. I believe under the rule that would be the case.

Mr. IVINS. Now, gentlemen, I wish to call attention to this condition that confronts us. I think there is a great deal of good left in this article yet. I know that there has been an effort made all over the floor of this house to prevent its passing, and I want to get up here and say publicly what has been said privately, and I hope that men will stand by their previous vote and that this measure will be passed. [Applause.]

Mr. VARIAN. Mr. President, I move we adjourn.

The motion was rejected.

Mr. JAMES. Mr. President, I want to say a word. I am not pandering to the favor of any individual living. I care but very little whether gentlemen on this floor attempt to do a thing that will reflect an injury on the public and the people or not, but I do rise here, Mr. President, to say a word of encouragement to the manly position of the gentleman from Washington County. I knew this thing was going on around this room this evening before he rose from his seat and made the announcement. It came to me, that if we cannot carry our point we will put our

foot on this business and destroy the whole thing. Now, Mr. President, that is all I wish to say, but I do not wish to be misunderstood.

Mr. ROBERTS. Mr. President, I take the position that this article has been mutilated in some of its most important parts, much of that that is left, or so that that which is left is of but little or no use for the purposes for which it was designed. I not only take exceptions to some of the mutilations of this article, but I also take exceptions to the arbitrary manner in which discussions of some parts of it have been enforced, and that there ought to have been opportunity afforded for discussion of some of the measures, which by parliamentary railroading was excluded, and I say frankly, that until an opportunity is granted to consider some parts of this article, that we were prohibited from properly considering, I shall vote against what parts are left of it.

Mr. BUTTON. Mr. President, I move we adjourn.

Mr. EVANS (Utah). I arise to a point of order. There has no business been done since the motion to adjourn was killed.

The PRESIDENT. The gentleman's point of order is well taken.

The roll was then called on the article, with the following result:

AYES—49.

Allen	Larsen, L.
Anderson	Lemmon
Barnes	Lowe, Peter
Bowdle	Lund
Brandley	Maloney
Button	McFarland
Cannon	Murdock, Beaver
Chidester	Murdock, Summit
Christiansen	Nebeker
Clark	Page
Coray	Partridge
Crane	Peterson, Grand
Driver	Peterson, Sanpete
Eichnor	Robertson
Emery	Robinson, Kane
Green	Robison, Wayne
Heybourne	Snow
Hill	Squires
Howard	Stover
Hyde	Symons
Ivins	Thompson
James	Varian
Jolley	Wells
Kimball, Weber	Williams.
Lambert	

NOES—26.

Boyer	Kimball, Salt Lake
Call	Maeser
Corfman	Morris
Creer	Murdock, Wasatch
Cunningham	Preston
Engberg	Ricks
Evans, Weber	Roberts
Evans, Utah	Sharp
Farr	Thatcher
Hammond	Thoreson
Haynes	Thorne
Halliday	Thurman
Johnson	Whitney.

ABSENT—31.

Adams	Low, Cache
Buys	Mackintosh
Cushing	Maughan
Eldredge	Miller
Francis	Moritz
Gibbs	Peters
Goodwin	Pierce
Hart	Raleigh
Hughes	Richards
Kiesel	Ryan
Keith	Shurtliff
Kearns	Spencer
Kerr	Strevell
Larsen, C. P.	Van Horne
Lewis	Warrum.
Lowe, Wm.	

During the roll call, the following statements were made:

Mr. RICKS. Mr. President, I wish to change my vote from aye to no, with notice that I will move a reconsideration if this article is lost.

Mr. KIMBALL (Salt Lake). Mr. President, with prospects of reconsideration, I will vote no.

Mr. ROBERTS. Mr. President, I

arise to a point of order on these gentlemen changing their votes. I hold, sir, that we are now on the final passage of this.

The PRESIDENT. A man can change his vote at any time before the declaration of the result.

Mr. ROBERTS. My point of order is, that it would be out of order to reconsider this matter and ask for a ruling on that question.

The PRESIDENT. The chair would rule that the gentleman is out of order.

Mr. ROBERTS. I appeal from the decision of the chair.

Mr. THATCHER. Mr. President, he did not understand you. There is no gentleman on this floor that does not understand that a person voting in the affirmative on ordinary questions, may do so for the purpose of reconsideration, but the point of order is whether an article on its final passage can be reconsidered.

Mr. ROBERTS. That is it.

The secretary then announced the result of the roll call.

Mr. THURMAN. Mr. President, I arise to a point of order. There is no motion before the house to reconsider. There is nothing for the chair to rule upon. The gentlemen simply gave notice, or stated that they changed their votes for that purpose. There is no motion before the house.

The PRESIDENT. The result of the vote is 49 ayes to 26 noes. The gentleman gave notice he would call for a reconsideration to-morrow.

Mr. VARIAN. Mr. President, I move we adjourn.

The motion was agreed to, and the Convention then, at 5:50 p. m., adjourned.

FIFTY-EIGHTH DAY.

TUESDAY, April 30, 1895.

The Convention was called to order at 9 a. m., President Smith in the chair.

Roll call showed a quorum present.

Prayer was offered by Delegate Murdock, of Beaver.

Journal of 57th day's session was read and approved.

Mr. RICHARDS. Mr. President, I desire to present a communication from J. G. Sutherland and others.

The PRESIDENT. The secretary will read.

Mr. KIMBALL (Weber). Mr. President, I move to lay that communication on the table. We have not sent to those gentlemen for any communication or advice as to what we should do. It was read yesterday as a part of Mr. Richards' remarks.

Mr. RICHARDS. Mr. President, I think this communication is entitled to respectful consideration by this Convention.

The motion was agreed to.

The committee on schedule, future amendments, and micellaneous, reported an article for insertion in the Constitution, which was ordered printed and referred to the committee of the whole.

Mr. MURDOCK (Beaver). Mr. President and gentlemen of the Convention, I know it is a very delicate matter to occupy the time of this august body, but there is a matter that I want to get the sense of the body about to see whether there is any sympathy here for the purpose of the interest of water and irrigation and agriculture. The agricultural portion has not been reported, and I think——

The PRESIDENT. The gentleman is out of order.

Mr. CHIDESTER. Mr. President, there was a communication or an invitation presented to the Convention yesterday that was laid on the table. I desire to make a motion to take that from the table, inasmuch as the time is drawing nigh when they expect to hear from us. We should either decline that or accept it, one of the two.

Mr. SQUIRES. Has the gentleman

from Garfield any information as to who tenders this invitation, so that we can make any response?

Mr. CHIDESTER. The invitation is genuine, from the ladies of Salt Lake City.

Mr. SQUIRES. You have information to that effect?

Mr. CHIDESTER. Yes, sir.

Mr. PRESTON. Mr. President, I asked yesterday to lay it on the table, hoping to get some name of somebody who was giving the invitation. It is rather singular an invitation in blank of that sort should come to this honorable body. Unless someone knows it is someone who is responsible——

The PRESIDENT. The gentleman assures us that he does.

Mr. ROBERTS. Mr. President, I am not satisfied even with the assurance of the gentleman. If the ladies of Salt Lake wish to tender a reception to the Constitutional Convention, I think they owe it to themselves and they owe it to the Convention to send a communication here that is properly signed. I think it would be perfectly improper to reconsider the action of yesterday on this question. If a mistake has been made by the ladies sending this communication, if they had seen it, it is an easy matter for them to correct it by sending an invitation here that is signed by responsible parties. They owe it to this Convention and to themselves to do that. Therefore, I am opposed to reconsidering this matter.

The motion was agreed to.

Mr. HART. Mr. President, I move that it be accepted.

Mr. EICHNOR. Mr. President, I should expect that the ladies who may have sent that communication—but I think it is due to this body that some name should be attached to that document. If we are going to be treated as school boys, why, let us act as school boys, and not act honorably at all and go up there.

Mr. CRANE. Mr. President, the ladies, I have been informed by two or three yesterday, were afraid to attach their names to it, thinking that some of the members here who were opposed to woman's suffrage would think it was a scheme to revivify some other article that has been acted on in the past.

Mr. EVANS (Weber). Mr. President, I move an amendment to the amendment, that the communication be referred back to the person who sent it here, for the purpose of attaching proper signatures.

Mr. CHIDESTER. Mr. President, I think they are more particular with this matter than others that have come before the Convention—a great deal. I think it is all technicality, and the ladies desire to know whether we would accept it. They have been to some expense, and if not accepted, why, let us lay it by and stop further discussion. It will take some time.

Mr. FARR. Mr. President, as we have taken this up from the table, the next question is, whom we should address. I move that we write to all the ladies of Salt Lake, accepting the invitation.

Mr. EVANS (Weber). Mr. President, I cannot vote to accept this invitation without any signatures. I will not. I don't think it is right in principle. We referred two or three communications back—one I know at least that wasn't signed, and I think that precedent ought to be followed. Certainly the petitioners I believe sent it here in good faith; it ought to be accepted, but we ought to have some record of the fact as to who it is that invites us to this festivity.

Mr. SQUIRES. Mr. President, in order that we may get some light on this subject, I wish Mr. Richards of Salt Lake would tell us if he knows anything about it. His wife, I understand it, is connected with one of these suffragist societies, and he would be likely to have information on that subject,

whether this invitation is genuine or not.

Mr. RICHARDS. Mr. President, I hope it will not be presumed that because my wife is connected with the suffrage association, that I know all about all anonymous communications sent here. I will say that I know nothing of this communication. My wife does not send out anonymous communications. I do know, however, that there is a movement on foot by a number of the leading ladies of this city to prepare a reception and entertainment for the members of this Convention and its officers. I do not understand how this communication came here or by whom it was sent. It was, I am sure, inadvertence, and I am also sure, or feel confident, that before this day is past, you gentlemen will receive an invitation signed by some persons who will be responsible for it, on this subject.

Mr. HART. Mr. President, with that explanation from the gentleman, I move we postpone the consideration of this matter until this afternoon.

Mr. RICHARDS. I second the motion for postponement.

The PRESIDENT. The question really is on Mr. Evans' motion.

Mr. HART, I understand the motion is on the postponement now. Here is a motion and an amendment to it, and now comes the motion to postpone both.

Mr. VARIAN. Until after the final adjournment.

Mr. HART. I mean until this afternoon.

The motion was agreed to.

Mr. MURDOCK (Beaver). Mr. President and gentlemen of the Convention, it has been thought by myself, and perhaps some of the committee, that we disposed of the water interest that was presented here some time ago rather hastily. And I thought if there be sympathy enough upon this floor in the members, that it could be reproduced again through the committee, or by some other means, that you were willing to admit, which I presume is a little out of the general order, I should be pleased so do so, if not, why, I want to find out whether there is any sympathy or not. If there is not, why, we want to, of course, dismiss the case. There is one portion of the labors of that committee that has not been reported, that is on agriculture, and I presume it might be brought in under miscellaneous, perhaps, and if you felt that we might reproduce the water interest again, I should be very pleased to do it. Several of the members of this body have spoken in this way, that they thought, perhaps, it was disposed of rather hastily. I will move that through the committee, or otherwise, as we may provide, the interest of water and irrigation and agriculture be reproduced again.

Mr. RICKS. I would suggest to the gentlemen, if they wish to introduce a new article on irrigation, that they submit it as an amendment, or as a separate section, when the miscellaneous article comes before the assemblage. To save time, it can be done in that way. When the article that was submitted here this morning on miscellaneous comes up for consideration, any section you may wish to introduce on irrigation can then be introduced, and save taking up the time of the Convention now. It can be done just as well in that way, and, in fact, much better.

Mr. JAMES. Will Mr. Murdock include in his provision, mining?

Mr. MURDOCK (Beaver). Yes, sir.

Mr. HART. Mr. President, I am opposed to passing a motion of this kind. It may involve us in the situation of reconsidering both of these articles. I am not opposed to a motion to reconsider, if it is made in that way, because it will then require a two-thirds vote. If we pass this motion, we may be in a situation of being compelled to consider both those articles again.

The motion was rejected.

The Convention then proceeded with the third reading of the article entitled public lands.

Section 1 was read.

Mr. THORESON. Mr. President, I have an amendment to section 1, if it is in order. I move to insert, after the word "off" in line 15 of said section, the following: "Except sections 16 and 36, school lands, which may be sold to the occupants thereof at the value of such lands prior to their occupancy and without regard to improvements upon or adjacent thereto." My reason for asking that this amendment be made to said section is to protect settlers upon these sections, many of them having settled upon those lands prior to their knowledge of their being school lands, and after the same had been surveyed. Before the year 1869, the establishment of the land office in this Territory, the settlers of the Territory had little knowledge, if any, of the surveys of the United States, and in good faith they entered upon those lands, and many of them have built homes and cultivated the lands and improved them. After the establish- of the land office, and some surveys, and a knowledge of surveys becoming general, they ascertained that they were in a condition that they could not purchase these lands from the general government, and they have retained possession of them up to date. Our Legislature, I believe in 1890, passed a law authorizing counties to lease these lands to settlers upon them. In our county, the occupants of these lands leased them and have continually paid lease money upon them from that day up to the present time. This lease money has gone into the public treasury, and was intended for the benfit of the common schools of the Territory.

Mr. EVANS (Utah). Don't you think that section 4 of this same article will cover your objection? Perhaps you haven't it in your book. It was put in as a separate section here when we passed this in committee of the whole.

Mr. THORESON. That covers part of the objection, but not entirely.

Mr. SNOW. I would suggest to the gentleman from Cache that this amendment is not germane to this section. If he wants it to apply to the school lands, it should apply to section 3.

Mr. THORESON. I will agree with the gentleman; I was not present at the time this article was passed by the committee, and I didn't know of this amendment. I will withdraw it for the time being.

Mr. ROBERTS. Mr. President, I wish to call attention to the amendment made in committee of the whole. I thought perhaps that in my marked copy I was mistaken, but conferring with other gentlemen, and especially the chairman of the committee on public lands, I discover that there is quite a material difference in lines 14 and 15 as read by the secretary and as we have it in our marked copies.

The PRESIDENT. Do you move to amend?

Mr. CANNON. Mr. President, I have an amendment to offer. In line 14, after the word "value," I move to strike out the word "of," and insert the word "on."

Mr. MALONEY. Mr. President, I have an amendment, after the word State, in line 17, insert the following: "sections 16 and 36 to be valued as of the date of settlement thereon."

Mr. KIMBALL (Weber). Mr. President, I move to amend that by adding "where settlement was made before survey of the lands."

Mr. MALONEY. I will accept that amendment. I think I will leave it just as it is.

Mr. KIMBALL (Weber). Mr. President, I move to amend by adding "provided, settlement was made before government survey of the land."

Mr. EVANS (Utah). Mr. President, I would suggest that those amendments

would come more properly on section 4, when we reach it.

Mr. THORESON. Mr. President, I hope the amendment to the amendment will not prevail, because most of this land that is now settled—the knowledge of the surveys did not exist in the Territory. If settlement was made prior to survey, they could have obtained patents from the United States, and we have no such lands, because they would get patents if they could prove up settlement prior to survey; but it is lands settled on after the survey, without the knowledge of such surveys by the occupants or the settlers.

Mr. CREER. Mr. President, I shall be obliged to vote against this amendment, unless it should be considered in connection with section 4, which deals, as I understand it, with the subject of school lands. It seems to me it ought not to be interjected here, but it would come properly in section 4.

Mr. CANNON. I would like to ask the gentleman from Cache if there are many such cases, of settlers upon school lands, among your acquaintances?

Mr. THORESON. Yes, sir.

Mr. CANNON. I would like to ask also how those lands have been sold for the last ten years or longer compared with other lands which are not school lands? What would be the price relatively where they are sold?

Mr. THORESON. Mr. President, while I am not connected with many sales of that kind of lands—by simply passing possession.

Mr. CANNON. I understand that, but about the price——

Mr. THORESON. The price in our part of the Territory has been very low—about one-third of the real value of the land. I wish to say in connection with that, that prior to the year 1870, and some time after, these lands have been taxed for these people and they have paid taxes on them.

Mr. IVINS. Mr. President, in our country, to my certain knowledge, school lands have been sold and taxed just as high as any lands that adjoin them. Within the last year I have paid fifty dollars an acre for school lands—the lands that were occupied long before they were surveyed by the government, and have been handed down by quit claim deeds ever since, and the price is just as high as adjoining land, which has been patented, and they have been taxed just as high.

Mr. CANNON. Mr. President, I am opposed to this amendment, for the same reason stated by the last gentleman. Many speculaters bought these lands, who were not the original occupants, knowing full well they were school lands, and whatever price they paid for them was with the understanding that the title was not a perfect one. I do not think we should divert from this school fund as large an amount as would be taken by this motion. I have in my mind now one section, on the brow of this hill, which is one of the finest tracts of land in this county. It is a tract of land that would sell for in the neighborhood of a hundred thousand dollars, and which, under this rule, would go for a song. That has been bought by speculators. I used to own a piece of it myself. I know exactly how the land was always held. I know how the title was always considered. There is not a house upon it. The people there understand and have understood ever since the land office was established here that that was school land and wasn't a class of land upon which perfect title could be obtained, and it was sold for about one-tenth of its value in the case to which I refer. Now, to say to those people who have been in possession of that land, who came in after all these years, and they have been using it, cultivating it, etc., and not paying taxes upon it—which they have not been doing, except upon improvements where they have had any, and to allow them

to come in now and pay the original price, I say would be an injustice to the school fund. Now, there may be cases where actual settlers have located upon lands, and where injustice will be done to a certain extent, but it must be a general rule which should be applied. We cannot take isolated cases. We cannot apply it so that it will be perfect in its workings. I would be glad myself if we could so fix it that people who are in the condition referred to by one of the gentlemen, who settled upon lands prior to their survey, and who in good faith believed they were settling upon land open to entry, if they could be protected in their rights, but I believe it is not a good thing to lay down this rule in this form. I think section 4, prepared by the committee on school lands, covers the question with sufficient clearness.

Mr. SQUIRES. Would Mr. Cannon be willing to vote for an amendment of this character: Provided that only those who have been constant residents upon those lands from the date they were settled on should be excluded?

Mr. CANNON. I would, provided it were modified in the manner proposed by the gentleman from Weber (Mr. Kimball), and then the amendment proposed by Mr. Squires.

Mr. SQUIRES. That is the kind of an amendment that would suit me, and that would take the speculators out of the proposition.

Mr. CANNON. Section 4, I think it is numbered as it now is, places this matter in such a way that people who were actual settlers will get the benefit of it. In case of university lands the same condition exists all over this county, and those lands were sold at a pretty fair price, and they have brought a good fund to the university, and I say it is only right for the people to get the benefit, and the schools, of the money which those lands are worth. The officers mentioned in section 4 are elected by the people. It is natural that they would select men of character who would look after the interests of the people, and protect them as far as lies in their power. I am opposed to the amendment.

Mr. CHIDESTER. Mr. President, I am opposed to the amendment offered by Mr. Kimball, for the reason that it does not amount to anything to people that settled upon lands that were surveyed, and that make an entry now, but it is for the benefit of those who have been settlers upon school lands and made it what it is—taking out water ditches, and help to develop the country, and make it possible to realize something out of school lands. I know of many poor people that are now settlers upon them, and these people have been taxed ten dollars an acre on the school lands, while the others have been taxed fifteen. It has been found necessary to tax them in this way, in order to have a revenue in some of the small counties. There is only a small portion of the land that is surveyed, and they, of course, have not made as many improvements as they would have done, if they would have known how this matter was going to terminate. That is true, but I do not think that we should now pass a measure that would hurt the poor people, because I know that it will; I know that there are poor men that have settled upon school lands, have been almost compelled to settle upon school lands, and have made a scanty living upon it, and now, if they were compelled to pay the high price for that land, would be turned out of house and home.

Mr. ELDREDGE. Those parties that you speak of, were they the original locators on those school lands, or have they acquired them by purchase?

Mr. CHIDESTER. No, sir; in the first place they were—the original settlers were driven away by the Indians, and other settlers came back and scattered around over the country and reclaimed

it a second time, and some of them have starved out and other men have come in and taken up the land, and have been in that condition from that day to this.

Mr. THORESON. Mr. President, I am opposed to this amendment and the amendment to the amendment, for the reason that this places the value upon the land which is not occupied at the same rate as upon that which is occupied. My intention was only as was stated by the gentleman from Garfield, to protect the people that have settled in good faith upon these lands and have improved them, and not make a price upon all these lands and sell them to anybody, and for that reason I am opposed to the amendment and the amendment to the amendment, because that does not touch the subject. It is not only to apply to lands that were settled prior to survey—because any one having settled upon those lands prior to the survey can make entry upon them at any time.

Mr. RICHARDS. Have you an amendment prepared covering the point that you suggest?

Mr. THORESON. I withdraw it until section 4. I do not think it is germane here, anyway.

The amendment offered by Mr. Kimball, of Weber, was rejected.

Mr. MALONEY. Mr. President, the amendment proposed by me is intended to cover only those who have actually made their homes. I wanted to make it as brief as I could, but that is the intention of it—actual locators.

Mr. RICHARDS. I desire to ask the gentleman what is the effect of it.

Mr. MALONEY. To protect those who have made their homes and have been there since the time when the memory of man runneth not to the contrary.

Mr. RICHARDS. It seems to me it may reach further than the gentleman intends.

The amendment offered by Mr. Maloney was rejected.

Sections 2 and 3 were read.

Mr. HART. Mr. President, I desire to call attention to the wording of the last part of that section, as to value and quality. It seems to me that there is no difference between those two terms. I think it should be quantity and value. I move to strike out the word quality and insert quantity.

Mr. CANNON. Mr. President, I hardly think that would apply, because the quantity that is given for different funds is entirely different and, as I understand it, it would have an improper application in this case. You could not give the same amount to the university, for instance, as to the agricultural college, nor for the common schools as for the school of mines, or any of these other institutions.

Mr. HART. Mr. President, I think the amendment would be all right. Snpposing there is not sufficient lands in the Territory of which to make the allotment to all these institutions if there should be some shortage then the shortage should be proportionately deducted from all the land grants, and the word value certainly covers the word that is now in there, "quality." Mr. President, I think the word value covers both ideas there, and I think the word quantity should be inserted. That would be taken in connection with the word proportion, used in the previous part of the section.

Mr. CREER. Mr. Chairman, I do not agree with the gentleman that the word quality should be stricken out, because it seems to me that that is very important, because the exact amount of acreage is described in the Enabling Act, where the grant is made for each of the purposes mentioned. Now, it seems to me there ought to be a proportion of the quality of lands given to various classes for which grants are made, and it seems to me to simply leave the word value in there, it does not cover it; that each of these pur-

poses should have a pro rata of the quality of the lands.

The amendment was rejected.

Section 4 was read.

Mr. EVANS (Weber). Mr. President, I desire to offer an amendment to be added to the section just read, as follows:

Provided, the bona fide occupants on such lands prior to the year A. D. 1870, may be disposed of to such occupants or their grantees at the sum of one dollar and fifty cents per acre, together with interest added thereto at the rate of three per cent. per annum from said date.

Mr. THORESON. Mr. President, I now offer my amendment to be added to the section, "Provided that sections 16 and 36 of school lands may be sold to actual occupants thereof, at the value of such lands prior to their occupancy."

Mr. CANNON. Mr. President, I would like to ask the gentleman from Weber a question. The amendment proposed provides that bona fide occupants of such lands prior to the year 1870 may be disposed of.

Mr. EVANS (Weber). To their occupants or grantees.

Mr. CANNON. You would not dispose of the occupants, would you?

Mr. EVANS (Weber). I would dispose of the lands.

Mr. JOLLEY. I trust, Mr. President and gentlemen of the committee, that we will not judge this whole matter in relation to school lands by the section referred to by the gentleman from Salt Lake awhile ago. We have in the north and in the south actual settlers upon school lands that have been there for forty years and that have irrigated, have made miles of ditches, until to-day if the land was to be sold at what it is worth, with all the improvements taken off, even at the present date, there would be widows, orphans, and poor people by the score that would be driven out from under their roof, and would lose all that they possessed. This should not be, and the gentleman on my left here (Mr. Squires), from Salt Lake referred to an amendment to be added that those that actually live thereon. Well, this would not cover all the emergencies, for the simple reason that the people of Utah Territory have settled in towns and villages and cities—

Mr. CREER. I think the gentleman must misapprehend the section. The section as introduced does not contemplate selling them at their value now, but simply at their value at the time of settlement.

Mr. JOLLEY. I am agreeable to these amendments. Either will answer, I think, or at least lighten the hardship that will be brought upon these people, and as I was going to say, those that own lands don't always live right upon them. They live in the town or village, on land or property adjacent thereto, but they have cultivated them and until to day, if the water was taken away from them and all the improvements taken from them, the land would be very valuable in the future, for the simple reason that the soil is saturated with water and age has made it very useful, and they cannot afford to pay the price that it is worth to-day, and I appeal to the committee upon the floor to consider these things for the benefit of the poor people that own the homes. For some of these sections lie in the very heart of our fields, that they have cultivated for the last forty years, and a great deal of it to-day is owned by widows and orphans that are not able to pay such prices. I therefore trust and hope that one of those amendments will prevail.

Mr. SQUIRES. Which one?

Mr. JOLLEY. Either one will do me.

Mr. ANDERSON. Mr. President, I am opposed to both of these amendments. I think the section is all right the way it is. The settler is amply protected. If these amendments pass, why, it will make a great inroad into

our school fund. The United States law provides that if a settler settles upon land before it is surveyed—that is, if he actually resides there—if he builds a house and makes his home there, other lands will have to be selected for school lands. I know this, because I have been in the government survey business for several years. The man that surveys the land is instructed, if the man is actually a resident on that land, if he has a house upon it, and lives there at the time of the survey, to select other lands for school lands. In all such settlers that were on the land at the time the survey was made—other lands were selected. Of course, if they did not live on the lands and were not occupying them, they were not actual settlers; they were not complying with the land laws of the government.

Mr. HART. Will the gentleman permit me a question? How about a situation similar to that that exists in Cache, where the survey was made at quite an early date, but when the settlers located there, they did not know anything about the surveys, and they settled upon these lands without any knowledge of being on school sections, and it was some ten years or more afterwards before they knew of the surveys? What about the justice to a class of people like that, under your provision?

Mr. ANDERSON. I think it was their duty to have found out, and I think that the majority of the people who settled upon school lands knew that they were school lands, and to-day there are but few occupying the school lands that settled upon them originally. They have been sold, and resold, time and time again, and I think that if these amendments pass, it will seriously affect our school fund. Therefore, I approve the section as it now stands.

Mr. JOLLEY. You do not think it would be right to rob the orphans and the widows for the benefit of public schools, do you?

Mr. ANDERSON. I do not think that it will rob them. I think that they knew the lands were school lands when they settled upon them, and they accepted those conditions.

Mr. JOLLEY. How could they know that they were school lands when they settled upon them, before there was any survey—forty years ago?

Mr. ANDERSON. If they lived upon them at that time, if they complied with the land laws, other lands would have been selected, but the consequence is they did not live on them, they were using the lands without settling on them.

Mr. HUGHES. Mr. President, I am acquainted with the school sections where I live. It has cost in the neighborhood of fourteen thousand dollars to get water on them, and to-day the land adjoining it can be bought for seven dollars an acre, and I endorse the remark of Mr. Jolley, in relation to that, that I do not consider that it would be right to rob the poor people and to swell our school fund.

Mr. LEMMON. Mr. President, as I understand it, there are two classes of settlers on these school lands, some who have settled upon school lands before it was known whether they were school lands or not. Now, I think Mr. Evans' motion is the proper one. It secures them in the right on that land at a nominal price. There is another class of people in this country that have, in the last few years, under the territorial law, taken up a lease of land, and I have in my mind one party that leased three quarter sections, right in the heart of our country. Now, if that man is allowed to buy that at $1.50 an acre, I think it would be an injustice, while I think that the people who have settled upon them in an early day—it would be the right thing to do, and there ought to be some plan to dis-

tinguish and separate the classes of people who settled upon those lands. People could not find out in early days where the lines were. The surveys were not known anything about until about 1859, consequently it would not be right to deprive them of their rights.

Mr. THORESON. Will the gentleman allow me a question? These lands that have been taken possession of within the last few years, in fixing the price, it would average much more than $1.25 per acre, would it not? That is, when they entered upon these lands, in the last few years, they were worth much more than that?

Mr. LEMMON. Yes, sir.

Mr. THORESON. My substitute—the amendment to this section provides that they shall provide for every section full value at the time they went on these lands.

Mr. LEMMON. I think that class of people ought to pay more, but I believe those who settled upon them years ago, I do not know about them—ought not to.

Mr. MAUGHAN. Mr. President and gentlemen of the Convention, I hope that none of these amendments will prevail. I think it would be an injustice to those that do not occupy those school sections, and I stand here as one of the pioneers of Cache County, that went into that county in the fall of 1856. I know that our people located upon 16 and 36, in township 11, 1 west; we did not know it was school lands, but at the same time there is a dwelling upon either 36 or 16 in township 11, there is not a dwelling upon 36 nor 16 in township 10, 1 west, and it would be unjust for these amendments to prevail. It would be not only unjust to the school fund and the interests of education, but it would be unjust to these men that did not occupy these lands. Why, we have had to pay the government price; we have had to exhaust our homestead right; we have had to pay the railroad here, that you know got alternate sections, as high as $16 an acre—one of the most unjust things that ever was permitted, but still these are the difficulties of men and these are the sacrifices that we have had to make in order to obtain legal titles to our lands, wherein we could build our homes permanently. I was not aware, until I heard Mr. Jolley and some others, of this one fact, that all the orphans and widows of this Territory were on school sections. [Laughter.]

Mr. JOLLEY. Mr. Chairman, I resent the accusation. I did not say that.

Mr. MAUGHAN. I withdraw those remarks.

Mr. THORESON. Do you know of a number of people right in your country that are in that situation that Mr. Jolley referred to?

Mr. MAUGHAN. No; I do not.

Mr. THORESON. Well, I do; I do, gentlemen.

Mr. MAUGHAN. I claim that the citizens of Wellsville precinct, occupying to-day 36, township 11—if there are two widows or two orphan children——

Mr. THORESON. Is it not a matter of fact that you once occupied some school land and disposed of it?

Mr. MAUGHAN. I got rid of it very quickly because I knew there was no title to it.

Mr. CANNON. Did not the man to whom you sold know that the title was not perfect?

Mr. MAUGHAN. He did, sir.

Mr. CANNON. And that it was school land?

Mr. MAUGHAN. And he paid me a price accordingly.

Mr. JOLLEY. I want to ask Mr. Maughan if you know of all the men that settled upon lands forty years ago to be living. [Laughter.]

Mr. MAUGHAN. No, sir; and I do not think you do, either. I say that the interests of the schools, and irrigation, and reservoirs, and everything else, can just as well be left to this commission, and to future legislation.

Mr. CUNNINGHAM. Mr. President, I am opposed to all these extravagant prices of school lands. I had rather that the school fund would suffer than many of the poor people that have settled upon these lands, considering the circumstances surrounding them. For instance, a great many of those school lands were settled on by people thirty or forty years ago in the southern part of the country here; they were driven off of these lands by Indian raids. The people were driven into settlements, and it was impossible for them to reside on those lands; also you are all aware of the state of the country, that in many of those districts there is no water to be found for actual residents to settle on to live there continually. Probably in the school section the water would go there once or twice in a month, and it is impossible in some cases for the people to have resided on those lands. The Legislature of 1892, in making regulations for the sale of the university lands, took these circumstances into consideration. They provided that those who had improved those university lands should have a first claim on those lands, as well as those who had resided on them. I think this would be nothing but justice.

Mr. ANDERSON. Mr. President, I would like to ask the gentleman a question. Could a man secure a homestead entry without living on it?

Mr. CUNNINGHAM. No; he could not.

Mr. ANDERSON. Would it be any more just that he secure the school land?

Mr. IVINS. The gentleman from Utah has called attention to a fact that I thought ought to be understood by this Convention. It is very true, as Mr. Anderson has said, that actual residents upon school lands at the time of their survey had a right to secure a government title for them; but every one that is acquainted with conditions that existed thirty years ago in this Territory, knows that it was impossible for people to go out and live upon those lands. Indian depredations in Sanpete County prevented it; they prevented it in Washington County; they prevented it in nearly every other county in this Territory; and I know, gentlemen, that in 1862, lands were surveyed upon the Santa Clara in Washington County, by the county surveyor; they were laid off in five acre lots; they were properly platted; surveyor's certificates were given to the original settlers upon those lands, and those titles have been handed down successively until to-day. Later, when they were surveyed by the government, of course, it was discovered that many of the pieces of those lands were in school sections. They have been continuously occupied. Now, it does not seem to me that it would be proper that those occupants should be required to pay an extravagant or exorbitant price for those lands. I think they ought to pay a reasonable price; they ought to pay whatever it would have cost them to have secured a title from the government at the time the lands were surveyed, and they ought to pay the interest on the money, I think, from that time until now.

Mr. MAUGHAN. I would like to ask the gentleman a question. Will not our future Legislatures through this land commission have the right to adjust these matters to the satisfaction of the owners?

Mr. IVINS. Yes; and they would have a right to adjust it so that they would have to pay fifteen dollars an acre if they wished to; that is the difference. Now, I want to say another thing for the benefit of the gentleman from Cache, that I have in mind now, on one of those school sections on the Santa Clara bottom, three widows own farms; their husbands have worn themselves out on the same land and died, and their estates own them, and they

have been farmed every year from 1862 until the present, and I want to tell you another thing, that they have been taxed just as high as land adjoining them, because I have assessed them myself year after year, and the lands have all been taxed just alike. The people have borne an equal burden with their neighbors, and they ought to pay an equal price with their neighbors, for the land, and no more—that is, the land occupied under such conditions. Now, gentlemen, I don't wish to be understood that I believe it proper to enact anything here which will give an opportunity to speculators who have bought up in recent years school lands that were valuable, and known to be valuable, and reap a profit at the expense of the school fund; but these settlers and their successors ought to be protected, and I will certainly vote for something here which will protect them.

Mr. EVANS (Weber). Mr. President, I want to say something about this amendment that I offered. I should like to offer something more favorable to those settlers than I have done, but if nothing better can be secured——

Mr. ALLEN. I would like to ask Mr. Ivins a question. Do you think it was legal for you to tax those poor widows you speak of on that land?

Mr. IVINS. Yes, sir; I do; we taxed improvements on the lands; they were raising just as good crops off of that land as other people were, getting just as much benefit, and our courts ruled that it was proper that they should pay a tax.

Mr. ALLEN. You have not answered my question. I ask you if you think it was legal to tax that land?

Mr. IVINS. Why, yes; or else I wouldn't have done it. We have taxed it and collected the tax. We taxed the improvements on the other land and we tax the land. That was just the difference. The law gave me a right to tax the improvements and to tax the land, and I taxed the improvements twenty dollars an acre in the school sections and the land at twenty dollars an acre outside. That is the way we did it.

Mr. ALLEN. Then you taxed the improvements higher on that person's land than you did on the neighbors that own the land?

Mr. IVINS. We did not tax the improvements on the other fellow's land. If you want to get at the actual facts in the case, we construed the law in the manner that we did, because, in the the first place, we needed the revenue, and in the second place, we thought we had a right to get it that way.

Mr. EVANS (Weber). Mr. President and gentlemen, as I started to explain before the interruption of the gentleman, I want to explain this amendment which I offered, and I say again that I am willing to go further in the interests of these bona fide settlers than this amendment proposed, but believing that we cannot go any further I propose this and shall urge it.

In 1869 the land offices were opened in Utah. Up to that time there were no plats of any of the surveys which had been made; people never knew when they settled upon those lands whether they were upon school lands or whether they were upon government domain. They settled upon them in good faith, honestly and bona, fide and made their homes upon them—hundreds and thousands of such cases exist everywhere in Utah, and no gentleman can dispute that. Now, I believe in fixing a nominal price for that land. I would rather say a dollar and a half per acre and leave out the interest altogether, and leave all these people, who have settled prior to 1870, their lands at that price. If this amendment goes through, with the interest, it will amount to four cents and a half interest per annum, for twenty-five years, it would amount to $1.12½ per acre, making the total that the school fund would receiveof $2.62½. If a man gets

title to a quarter section of land, he will have to pay four hundred and twenty dollars for it—a considerable sum.

Now, gentlemen, remember that these people who have these lands are generally poor people. They are farmers and they ought not to be oppressed, and it will not do for gentlemen to stand upon this floor and say, "we want to replenish the school fund," when the replenishment of that fund will be to the injury and robbery of those people who have honestly settled upon these lands. I would rather the school fund would have nothing out of them than to rob any honest individual who had settled upon this land, believing it to be government domain. Let us do it right. Let us be fair with these settlers. It is due them, that we should be fair and I shall urge this amendment.

Mr. HAMMOND. Mr. President, there are two sides to this question. I am in favor of this amendment of Mr. Evans, of Weber, so far as it goes. I would let those people have their lands at government price—at whatever they were worth at the time of their settling upon them, and we want to take care of these widows of Brother Jolley's, and the orphans. I would not, for the life of me, put anything in the way to injure them. But there is another gentleman, not a widow, that I would like to take care of also, and that is the speculator. I know that they jumped onto these school lands and farmed them and skinned them for years and got nice ranches—their home ranches. They are well to do. That is the gentleman we want to look after, that we may not have him in his abundance rob the school fund. Now, that is where I stand. I want to take care of the widows and the orphans, but at the same time look after the speculator. Now, men talk about being conversant with the land business. I claim that I was one of the first settlers here, and I never had one grant of land from Uncle Sam in my life, except a lot out here in the Eighth ward. I never took up and completed a title to a quarter section in my life except—no, I did not complete that. I filed on a quarter section over in Colorado, but it lapsed, but I bought and bought and bought every time I have entered upon land or improved it. Now, this is a serious question, and it has had already various propositions and questions submitted in regard to it, but I am in favor of looking after that speculator. I am after him every time, whether it is in Salt Lake County or Weber. My experience in Huntsville, where I labored for twenty years—the bishop generally looked after the widows and orphans there and saw that they got onto claims that were stable and could be sustained in law. I do not think much of the bishop that would let his widows and orphans sit down upon land that they had no titles to.

Mr. MAUGHAN. Do you place all widows and orphans on school sections?

Mr. HAMMOND. No, sir; never placed one on the land in the world.

Mr. CREER. Mr. President, I wish to say that I have been acquainted with the condition of the entry of school lands in the south end of Utah County from the first, and I know up to the present time that the advantage has been in favor of the man that has settled upon the school lands. Now, there was a survey of that country—what was called the survey of 1856, and it was generally known where the school lands were—that is sections 16 and 36 were located. The Indian farm there, comprising about five or six thousand acres, was resurveyed some few years ago, the time that Mr. Cannon was delegate to Congress, and then gentlemen went and settled upon those school lands, knowing that they were such, and obtained an advantage over the balance of the settlers. Now,

we have school lands located between our city and the D. & R. G., where those right around them have been assessed at the rate of twenty dollars an acre for a number of years, and these lands are occupied, if you allow me that term or appellation—that is, they do not live upon those lands, but they have them enclosed, and those men are money lenders to-day. They are not widows and orphans; they are people who lend money and receive a percentage on it. Now, under the estimate of the gentleman who has made an amendment here, 160 acres would simply cost three hundred and thirty-six dollars, besides having the use of that quarter section of land for twenty years. Now, it seems to me that that would be entirely unjust, not only to the school fund but to the balance of the settlers around there, and as to the matter of whether it is the general rule throughout the Territory, now that water is owned as personal property, so that the great loss in taking out the water would not amount to much. It is worth so much money to the owner anyway, and I know it to be a disappointment, really, were we to adopt these amendments, and put them down at that minimum figure—it would be an actual disappointment to the settlers themselves, because they anticipate and expect to pay a reasonable sum for those lands. They have had the advantage of the cultivation of them, and without taxation.

I submit, Mr. President, that this is not upon the rule that the gentleman has referred you to from Washington County, and has not been the general rule; it has not been the rule in our county. The lands have not been taxed at all, but the land owners around about them have been taxed all the way from twenty up to seventy-five dollars an acre. I maintain that this would not be fair and just to the rest of the men; and furthermore, if they settled upon the lands in 1870, why, there has been ample time from then until now to enter them in the land office. Every lawyer on this floor knows that, therefore, it would be wrong to give them this advantage, and I am in favor of the section as it stands in the article.

Mr. HART. Mr. President, this amendment of Mr. Evans is the fairest proposition that has been presented yet on this question. I am not altogether satisfied with it, as it now stands, but it is by far the best plan we have had of solving this difficult question. I do not believe, Mr. President, that any rule can be adopted here which will work complete justice in all cases and in all parts of the country. In Cache, as I before referred to, there was an early survey, but it was for many years after before the people knew where those lands were. They settled upon the school lands, not knowing they were school lands. Now, the gentleman from Beaver County suggests it was their business to find out where those surveys were. Some fourteen or sixteen years after the government survey, a competent surveyor went over that same ground and ran certain lines, and even the surveyor, learned in those matters, could not discover and did not discover the government lines, and people located with reference to the later survey, and many years after they found there was a quite a difference between the two surveys. Now, the year 1870 may not be exactly right. We might have to put it a little later than that. It was as late as 1880 before some of those people in Cache County knew that they were upon the school lands—and perhaps the year 1875 would be better for the people of that part of the country than an earlier date.

Mr. EVANS (Weber). I am perfectly agreeable and would like to extend that time later than 1870, if I thought the Convention would stand it.

Mr. HART. These people that settled upon these school lands paid taxes and have for years, and the public got

the benefit of the revenue, and it cost them, so far as the taxes and the improvements and other things were concerned, as much to secure and hold those lands as if they had a government title.

Mr. ANDERSON. Were those settlers on school lands in Cache Valley, residing on the lands?

Mr. HART. Some of them did; many of them did; many of them are living there to-day, and have their homes upon them. There are some ten or eleven thousand acres in Cache County in this condition, and the greater part of it was settled at a time when they did not know and could not find out that it was school lands, and it would be an injustice—the greatest kind of an injustice, to compel those people to pay the actual value of that land at the present time. They devoted all these years—thirty or forty years—to securing their title to that land.

Mr. MAUGHAN. Is it not a fact that the survey in Cache Valley was made in 1855?

Mr. HART. I think the first survey was made in 1855 or 1856.

Mr. MAUGHAN. Is it not a fact that where they located on school lands, as late as 1875 or 1880, it was because the township had not been fully surveyed, and they were completed by deputy United States surveyors?

Mr. HART. The second survey of that, Mr. President, was made in the year 1870, that is, some rough lines were drawn through there at that time, but even then, they could not tell just where the townships were; and they were still —up until 1875, and some as late as 1880, that did not know they were upon school lands. If people had known where those surveys were, I would then be in favor of the rule requiring those who settled after the survey to pay a reasonable value for them.

It seems to me that to fix any rate upon those lands would in certain instances work injustice both to the school fund and to individuals, because there is some of that land up there that is worth five dollars an acre, and the people, I think, would be willing to pay that and perhaps a little more for some of the best lands. There is some land there that is not worth a dollar and a half an acre, but to those individuals, it would be an injustice; but I would rather in disposing of this question, work an injustice to the school fund in two instances, by favoring some of these second purchasers, than I would do a wrong to one of those poor locators that has been on that land and depending upon it to get title. I believe that would be better.

Mr. VARIAN. There are two reasons, Mr. President, in my judgment here, why this matter ought not to be further continued. It is a matter that properly and appropriately ought to be left to the Legislature, and the second reason is that, as far as the article is now constituted, you have intermingled and so blended matters within the power of this Constitution with those that are not, that it would be impossible apparently to segregate them. I want to call attention to the Enabling Act, premising what I have to say with the statement that it appears therefrom that this Constitutional Convention only has jurisdiction over the school lands—that is, as to their disposition. As to all other grants of land provided for in this act, it appears by the express language of the Enabling Act that the location and disposition is to be left to the Legislature. I want to call attention to section 1, the provision upon page 2—all seem to relate to the disposition of all the lands granted the State generally. Now, there are, I believe, sixteen or seventeen hundred thousand acres. Section 6 of the Enabling Act provides that upon the admission of the State certain sections or other lands equivalent thereto are granted the State for the support of common schools, such in-

demnity lands to be selected in the State in such manner as the Legislature may provide, with the approval of the secretary of the interior. Now, that may leave the question open, on that particular point, as to the school lands. Section 7 provides that upon admission of the State into the Union, one hundred sections of the unappropriated lands within the State shall be located and selected in legal subdivisions, as provided in section 6. Section 8 provides for, in addition to the above, 110,000 acres to be selected and located as provided in the foregoing sections of this act. Now, when you come to section 12, which provides for the granting of 1,150,000 acres of land, different language is used. It says that the land granted by this section shall be held, appropriated, and disposed of exclusively for the purposes herein mentioned, in such manner as the Legislature of the State may provide. Now, granting that you may put in your organic law whatever you choose about the school land, and very possibly one or two other grants, why it would seem by the expressed language of section 12, that at least as to 1,150,000 acres of land granted, the disposition of which is apparently contemplated in section 1 of this proposed article—it is to be left to the Legislature to be held, appropriated, and disposed of exclusively for the purposes herein mentioned, in such manner as the Legislature of the State may provide. Now, I think all these amendments ought to be disposed of, and this article ought either to be remodeled entirely or nearly all of it stricken out. There are reasons for that, too, without reference to the act of Congress. If you tie up the Legislature in the disposition of these public lands, sooner or later, the point will be reached in the business of the State, when it will be found to its disadvantage. It ought to be left, it seems to me, as a business proposition, to be controlled by the Legislature through the medium of proper laws.

Mr. EVANS (Weber). Your idea is that the Legislature has the right to prescribe the manner in which these lands shall be sold?

Mr. VARIAN. That as to the larger grants, 1,150,000 acres, the provision is expressed that they shall be held, appropriated, and disposed of exclusively, for the purposes herein mentioned—in such manner—I hold that "in such manner" includes the time and price to the persons.

Mr. EVANS (Weber). You don't hold that this Convention has not the power to fix the price, do you?

Mr. VARIAN. That is the construction I put upon it, but passing that, as a question of doubt, I hold it is a matter which ought to be left to the Legislature. I am not speaking of the school lands.

Mr. PIERCE. I would like to ask a question. Mr. Varian, do you see that there is any necessity of having any article at all in the Constitution?

Mr. VARIAN. I do not expect the first——

Mr. PIERCE. I have prepared a section that I intend to offer—"Public lands and school lands may be disposed of in the manner provided by law." Would not that satisfy the whole thing?

Mr. KERR. Mr. President, I should not take up any of the time of this Convention discussing this question, if I was satisfied both of these amendments would be voted down. I am not in favor of it. It certainly seems to me there are two sides to this question, and, as stated by one of the supporters of these amendments, no provision in the Constitution can do entire justice to all the settlers on these lands. Section 4 of the article reported by the committee provides that these lands shall be under the supervision and control of land commissioners elected by the people; that is, land commissioners shall

locate and dispose of lands under such regulations as the Legislature may prescribe. It seems that some of the people who have been occupying these lands have been paying taxes; others have not. Now, it seems to me, that while we should not do an injustice to any man or person occupying these lands, yet we should not do an injustice to others. For example, one person settles upon a quarter section—160 acres of school land. He pays absolutely nothing for it. He cultivates it, gets the use of it for thirty or forty years, without paying a dollar's taxes upon that land. Another person settles upon an adjoining 160 acres of land, pays the government price for the lands; pays the taxes upon the land, is deprived of the use of that money that he paid for the land for these thirty years. Now, it is an injustice to the people who have paid for their land, when they obtained the land, to allow their neighbor, merely because they settled upon school lands, to pay now the government price for those lands, irrespective of the value of the lands. The person who paid $1.25 an acre for the land, say thirty years ago, has been deprived of the use of that money since then, and I do not know of a time in the history of Utah when money was worth but three per cent. Now, it is proposed in one of these amendments to let those who have settled upon school lands obtain title to those lands at $1.25 per acre or $1.50 per acre, with three per cent. per annum, while the man who obtained title to his land twenty-five or thirty years ago, has been deprived of the money he paid for the use of the land, which was worth ten, twelve, fifteen, and eighteen per cent. per annum. Now, it does seem to me, that if this disposition of the school lands is left to the Legislature, a law then can be passed which will enable these people who have settled upon school lands to receive justice. In Cache County, one condition of affairs exists with respect to the settlement of these lands. In Washington County, an entirely different condition exists with respect to the same lands; in Sanpete and Salt Lake County, other conditions. Now, it seems to me, that if this is left so that the Legislature can pass a law in pursuance of which a board of commissioners can dispose of these lands, then absolute justice can be done to all the people who have settled upon these lands; but I do not believe it is possible for this Convention to adopt a section or an article to this Constitution, which will do justice to all who have settled upon the lands. I would not knowingly do anything that would work an injustice to any man, but I do not believe it possible for us to provide in a Constitution for the disposition of these lands in such a way as to do absolute justice to all, and therefore I would favor the section as it is in preference to the amendments.

Mr. EVANS (Utah). Mr. President, I presume that each locality and their conditions perhaps vary. While taking some particular localities, I would be in favor of these amendments. I think the section provides all that it ought to provide for the regulating of this school land. The question that was raised by the gentleman from Salt Lake (Mr. Varian), is a very good point, and I am forced to the conclusion that it will be necessary, in order to comply with the Enabling Act, for us to strike out all the latter part of section 1, but it does not reach the question as to school lands. I believe we have a right to fix the price and the mode by which the school lands may be disposed of. Now, it is presumed that we will place before the people as these school commissioners, men of good judgment, men that understand the values of land and property, who understand what is right and just between the people and the State, and I think that so far as putting a restriction upon the Legislature, which will be compulsory upon the land commissioners—that section 4

will provide for all we ought to pass. That will compel them to regard and respect the improvements of those who have located, or who are now living upon those lands. They will be compelled to give them an opportunity, not that they might bid upon the land against their neighbor, but that they will fix a just and fair price, being governed by the conditions, and the circumstances of that particular locality, and then they will be obliged to give the opportunity to those who occupy these lands, of refusing that purchase price. Now, in the locality where I live, we have two sections of school land, and I have been thinking the matter over since listening to the remarks of the gentlemen upon this floor, and I can only call to mind one house that is now on either of those parcels of land. It has been regarded by the people that those lands were unsafe, that when we were admitted into the Union, those lands would have to be repurchased. Our city provided and operated under a law of Congress, and they have entered one-half section, as an additional townsite entry, which has taken in all the land adjacent to the town, and on which people had built their homes. This opportunity has been presented to every town in this Territory. It was also provided by enactment of the Congress of the United States that there should be a specified time given whereby people might enter the lands that they were occupying, provided it was found to be school lands, after the survey, and I say that nine cases out of ten—I presume ninety-nine out of a hundred of that class of cases, that they have availed themselves of the opportunity that they have proceeded upon those lines and secured patents for their homes.

And I am in favor that this matter stand just as it was passed in the committee of the whole, that these amendments ought not to prevail, because whenever you fix a specific sum, which is proposed to be done in this amendment, there will be lands that are worth perhaps fifty dollars an acre in fair value, while other lands are not worth more than two dollars, or five, or as suggested by the gentleman from Cache County. I know that this is the case. Now, in our county, I have reason to know that there has been no assessment made upon the school lands, other than for improvements thereon. It has been asked if it was not a fact that we did not assess the improvements upon those lands, so that it would bring the whole valuation equal with those of the neighbor. I want to say, gentlemen, that that has not been the fact in Utah County. We have assessed those improvements separately, and the neighbor occupying a like position, so far as his improvements were concerned, has been assessed the same, and then, in addition to that, he that held the title for his land has been assessed for that land, and has paid the taxes thereon. Therefore, I am in favor of leaving this thing just as it came from the committee, that no harm might be done.

Mr. BOYER. I would like to ask the gentleman whether the school lands or any other in the county of Utah were assessed previous to the obtaining of title, the establishment of the land office in the Territory of Utah—any of our farming land?

Mr. EVANS (Utah). I presume they were. But when the titles were obtained, then the distinction came.

Mr. ROBERTSON. Mr. President, I realize that this is a difficult matter with this Convention or the Legislature that may succeed this Convention, to set a price that will give satisfaction to all parties in the school land matter. While in one place there is one condition exists, in another there is entirely a different one existing. In the county that I came from, Emery County, there is a peculiar condition existing there. The town of Merritt, located somewhat in the center of our county, was built

right abutting against the school section, and by a special act of Congress, they were granted that school section for townsite purposes, and they had it given to them, as I understand it, at the government price, $1.25 per acre, with of course the expense, pro rata, attached to that, but that was the price. Now, in Carbon County, of which Price is the county seat, it is also built abutting on a school section. Of course, the townsite does not lap over, but the people have claimed school land there, or at least have occupied it, and built upon it the whole length of that town, and if that land now shall be charged to them at a high price, they will be unable to obtain the title to it, and consequently will have to abandon it, because they are poor people. And in other parts of the county, school sections are occupied for farming and agricultural purposes. Now, the question arises in my mind and in this wise, that the water in this Territory and the counties thereof, is pretty much, if not all, already occupied, or taken or claimed. Now, if these people should be compelled to pay what would be termed an exorbitant price for the school land, and would have to move away, that would of necessity and actually take away the water they have applied to that land, and that would deteriorate the value of the land back, almost to its original price, before they ever touched it. Therefore, I am in favor that the parties that are occupying the school lands—that it shall be made just as easy to them, as it is possible for it, under the circumstances, to be done.

Mr. THURMAN. Mr. President, I cannot say that I am not in sympathy with the principle contained in these amendments, but it is quite evident to me since the gentleman from Salt Lake (Mr. Varian) raised the point on the Enabling Act, that either this whole matter should be left to the Legislature, or at least, if we want to reach the school question at all, recommit it to the committee for that purpose. We certainly cannot fix it at this time in this committee. Now, we find in line with what he said, that pretty nearly all of the article, or down to the point where this amendment is proposed, is beyond the power of this Convention. You see in section 1 it undertakes to deal with the public lands in their entirety, not school lands alone, but all lands of the State, or that may hereafter be granted to the State by Congress, and all lands acquired by gift, grant, or devise, from any person or corporation, or that may otherwise be acquired, are accepted and shall be the public lands of the State, and shall be held in trust for the people, to be disposed of as hereinafter provided. Now, as he has called our attention to section 12 of the Enabling Act, the last paragraph of that section, which distinctly said that the lands granted by this section (which are a very large body of land), shall be held, appropriated and disposed of exclusively for the purposes herein mentioned, in such manner as the Legislature of the State may provide—not as this Convention may provide. Now, as we have undertaken in this article to deal with all the lands and we have made no exceptions whatever, it is evident that we have mixed up that which we have perhaps the power to do with that which we have no power to do, and consequently we have got, it seems to me, to strike the whole article out, or at least all except the following:

All lands of the State that have been or that may hereafter be granted to the State, by Congress, and all lands acquired by gift, grant, or devise, from any person or corporation, or that may otherwise be acquired, are hereby accepted, and shall be the public lands of the State, and shall be held in trust for the people, to be disposed of as may be provided by law.

Or, if we want to retain a few lines further, strike out after the words "disposed of as hereinafter provided," and

read "to be disposed of for the respective purposes for which they have or may be granted, donated, devised, or otherwise acquired, as may be provided by law."

I favor the first suggestion that I made, that we add after the words, "disposed of," in line 8, the words, "as may be provided by law," for the reason that the Enabling Act in the same language that I read provides that the Legislature—"which will be held, appropriated, and disposed of exclusively for the purposes herein mentioned in such manner as the Legislature of the State may provide." But, however, that is immaterial.

Mr. MALONEY. What section are you reading from in the Enabling Act?

Mr. THURMAN. Section 12.

Mr. MALONEY. Section 6 is what deals with the school question.

Mr. THURMAN. I understand, but I am calling the attention of the Convention to the fact that so far as we have proceeded in this article, we are undertaking to deal with all the lands, and the Enabling Act says we cannot in this Convention provide for disposing of at least a part of the lands, so that we have got to do this work all over or else leave the whole thing to the Legislature, after simply accepting the grants which they have made or may make, and for that reason, I will, if it is not in order now, at the proper time, move that either this matter be recommitted or I will move to strike out all of the article after——

The PRESIDENT. It seems to me, from the statement of the gentleman, the consideration of these propositions any further is simply a waste of our time.

Mr. THURMAN. Mr. President, I wish to say I shall move at the proper time to strike out all after the word acquire, in line 10, and add "as may be provided by law," and strike out the words "as may hereafter be provided," in line 8.

Mr. THORESON. Mr. President, being as this is prospective, I think that it would be safe to do something for the present. I agree with the gentleman that this whole matter should be left to the Legislature. We might get along without it, but we have now provided by this section that all these lands should be disposed of for full market value, and gentlemen, to go to the people that way in the condition that we talk of here, and tell them that they are to pay a full market value for these homes, and this land, would merely be to tell them that we are going to injure them, and they would look upon it as being greatly injured, and they would vote against the Constitution. I am opposed to the price, because the price of the land, at the time it was settled upon, varied. Some was worth a dollar and a half, and some perhaps ten dollars, and occupants would not object to paying the full value at the time, but I also object to the time as proposed in the substitute here, because it does not cover all the circumstances and the conditions. Now, I believe that the conditions are very similar. I have not heard any disagreement. These sections where they have become parts of cities or towns, or in the valleys, have been subdivided into five and ten acre lots. Some of the smarter men, as soon as they ascertained that these were school lands, sold them to the more innocent, and perhaps ignorant, in the communities, and they have retained them and cultivated them and built upon them, in a great many instances.

Now, these people should be defended in these rights, and we should tell them in this Convention that we have protected them. I say that they are the poor in the majority of cases, in our county. Their lots were principally in five and ten acre lots, and I back the gentleman that in a great number of cases were widows and the poor, very little in the hands of the wealthy and

the rich, because, as I say, they have sold out these lands, and have taken advantage of getting lands they could obtain better titles to. I am opposed to letting this go over at this time, that the Legislature might provide that these lands must be sold at the full market value. Let us provide it. Neither the Legislature nor the commission, provided for in this article, could change that. Hence, I say here, it provides that they should be sold at prices that my substitute or amendment to the section provides; that sections 16 and 36 of school lands may be sold to actual occupants thereof, at the value of such lands prior to their occupancy, whether that be early or late. If they are occupying these lands, let them be sold to them at the value they were or had at the time they entered upon them. If that was in 1870, all right; if it was in 1890, all right. As long as they are occupying those lands in good faith, let them dispose of them at the value at that specified time when they entered upon them, and I think no injustice will be done to the people, and I do not believe that a dollar will be lost to the school fund.

Mr. ANDERSON. Mr. President, I wish to offer an amendment to Mr. Evans's substitute, as follows:

Provided, that bona fide occupants of such lands prior to the year 1870, may acquire title thereto at the sum of $1.50 per acre, together with interest added thereto, at the rate of three per cent. per annum from said date.

Mr. RICKS. Mr. President, I move the previous question.

The previous question was ordered.

The PRESIDENT. The question before the house is on the amendment of Mr. Evans, with an amendment to the amendment, by Mr. Thoreson.

The amendment, and the amendment to the amendment were rejected.

Section 5 was read.

Mr. THURMAN. Mr. President, I move to strike it out. It is in conflict with the Enabling Act.

Mr. Chidester offered the following amendment to the section, to add to the end of the section:

Provided that in the selection or location of school lands, the superintendent of schools of the county in which the land is to be located to be sold is situated, shall be associated as a member of said board.

The amendment was rejected.

The motion to strike out was agreed to.

Section 6 was read.

Mr. THURMAN. Mr. President, if that is the end of the article, I now move to strike out all of this article after the word "acquired," in line 10 of the first section. Strike out the words, "as hereinafter provided," in line 8, adding to that, "as may be provided by law."

The amendment was agreed to.

Mr. JOLLEY. Mr. President, I want to move now that the article on school lands be referred back to the committee to report on.

No second.

Mr. HART. Mr. President, I move that the consideration of this article be postponed until to-morrow.

The motion was rejected.

Mr. VARIAN. Mr. President, I move the previous question on the article.

The previous question was ordered.

The roll was then called on the adoption of the article with the following result:

AYES—87.

Adams	Kimball, Salt Lake
Allen	Kimball, Weber
Anderson	Larsen, L.
Barnes	Lemmon
Bowdle	Lewis
Boyer	Lowe, Wm.
Brandley	Lowe, Peter
Button	Lund
Call	Maeser
Cannon	Mackintosh
Chidester	Maloney

Christiansen	Maughan
Clark	McFarland
Coray	Morris
Corfman	Murdock, Beaver
Creer	Murdock, Wasatch
Cunningham	Murdock, Summit
Cushing	Page
Driver	Partridge
Eichnor	Peterson, Grand
Eldredge	Peterson, Sanpete
Emery	Preston
Engberg	Raleigh
Evans, Weber	Richards
Evans, Utah	Ricks
Farr	Roberts
Francis	Robinson, Kane
Gibbs	Robison, Wayne
Green	Sharp
Hammond	Shurtliff
Hart	Snow
Haynes	Spencer
Halliday	Squires
Heybourne	Strevell
Hill	Symons
Howard	Thompson
Hughes	Thoreson
Hyde	Thorne
Ivins	Thurman
James	Varian
Johnson	Warrum
Kiesel	Wells
Kearns	Williams.
Kerr	

NOES—4.

Jolley	Robertson
Pierce	Stover.

ABSENT—15.

Buys	Morits
Crane	Nebeker
Goodwin	Peters
Keith	Ryan
Lambert	Thatcher
Larsen, C. P.	Van Horne
Low, Cache	Whitney.
Miller	

During the roll call, the following statements were made:

Mr. JOLLEY. Mr. President, I feel that the article on school lands—the section should have been considered favorably for the benefit of the early settlers, and I therefore shall vote no.

The article was adopted.

Mr. EVANS (Utah). Mr. President, I want to give notice of a reconsideration.

Mr. RICKS. Mr. President, I move a suspension of the rules and a reconsideration of the vote on the adoption of the article on corporations other than municipal.

Mr. VARIAN. I do not understand that we have to suspend the rules to do that. Notice was given, was it not?

Mr. HART. Mr. President, I move an amendment to it, then, that we reconsider the article and not suspend the rules.

The question being taken on the motion, the Convention divided, and by a vote of 60 ayes to 19 noes, the motion was agreed to.

Mr. SQUIRES. Mr. President, I move the previous question on the article now.

The previous question was ordered.

The roll was then called on the adoption of the article with the following result:

AYES—74.

Adams	Kimball, Salt Lake
Allen	Kimball, Weber
Anderson	Lambert
Barnes	Larsen, L.
Bowdle	Lemmon
Boyer	Lewis
Brandley	Lowe, Wm.
Button	Lowe, Peter
Cannon	Lund
Chidester	Maeser
Christiansen	Mackintosh
Clark	Maloney
Coray	Maughan
Crane	McFarland
Cunningham	Morris
Cushing	Murdock, Beaver
Driver	Murdock, Summit
Eichnor	Page
Eldredge	Partridge
Emery	Peterson, Grand

Evans, Utah	Peterson, Sanpete
Farr	Raleigh
Francis	Ricks
Gibbs	Robertson
Green	Robinson, Kane
Hart	Robison, Wayne
Heybourne	Shurtliff
Hill	Squires
Howard	Stover
Hughes	Strevell
Hyde	Symons
Ivins	Thompson
James	Thorne
Johnson	Varian
Jolley	Warrum
Kearns	Wells
Kerr	Williams.

NOES—19.

Call	Pierce
Corfman	Preston
Creer	Richards
Engberg	Roberts
Evans, Weber	Sharp
Hammond	Spencer
Haynes	Thoreson
Halliday	Thurman
Kiesel	Whitney.
Murdock, Wasatch	

ABSENT—13.

Buys	Nebeker
Goodwin	Peters
Keith	Ryan
Larsen, C. P.	Snow
Low, Cache	Thatcher
Miller	Van Horne.
Moritz	

During the roll call the following statements were made:

Mr. BOYER. Mr. President, I vote aye for the main article, but desire to be noted as no against sections 25 and 26 being stricken out.

Mr. CREER. Mr. President, because of the Convention striking out 23 and also 25, I vote no upon this article.

Mr. WHITNEY. Mr. President, I have not heard the discussion. I would like to be excused.

Mr. ANDERSON. Mr. President, I would like to change my vote from no to aye, but I wish to be recorded as being opposed to section 21.

Mr. WHITNEY. Mr. President, I will vote no, the same as I did yesterday.

The PRESIDENT. The article has been adopted.

The Convention then took a recess until 2 o'clock p. m.

AFTERNOON SESSION.

On motion of Mr. Kimball, of Weber, the consideration of the article entitled public salaries was postponed and the Convention proceeded to the third reading of the article entitled public buildings and State institutions.

Sections 1, 2, and 3 were read.

Mr. CORFMAN. Mr. President, I move to strike out of section 3 the words "Salt Lake City," and insert the words "Provo City." I desire to say a few words on this proposition, as a member of the committee on public buildings and institutions. I was in favor of leaving the location of the capital of the new State to the people. I thought it was fitting and proper after the delegates in this Convention had made and drafted the State Constitution, that the whole people should be permitted a say as to where their seat of government should be. Provo City has presented her claims to past Legislatures, to have the capital locate there, but she did not see fit to come into this Convention and urge upon the floors what might be a sectional matter, and the people there were willing to leave it to a vote of the whole people. As Salt Lake City has seen fit to come into the Convention, not only in the Convention, but in the committee, and present her claim and insist that at this time it should be settled in favor of Salt Lake City, I think it is due to my own town, as long as the people there believe that they have some claims for her, to present it on the floor of this Convention. I do not anticipate from what took place here Saturday that we will have any great support, but I believe it due to

Provo City that her name should be mentioned in connection with this proposition.

The motion was rejected.

Mr. BOYER. Mr. President, if I remember right, the time specified therein for the appropriation of public funds is five years.

The PRESIDENT. Yes, sir.

Mr. BOYER. Mr. President, I move to strike out five and substitute ten, in section 3, making it impossible for the Legislature to make any appropriation for public buildings until after ten years. It appears that the location is permanently and positively established for the capital at Salt Lake. While upon my feet, I will say that as to natural appearances from the present population and the advantages of the Territory, it would appear as though Salt Lake is the proper place for this capital, but in the future it might be different; however, I will not argue that. Now, what we are here for is for the purpose of creating a Constitution that the people may adopt, and I believe that if this question of appropriation for a capitol be put in for ten years, it will be to a greater satisfaction to our whole constituencies, than it will be to make it possible for an appropriation within five years. Now, it is evident that as a new State, we will be assuming great financial responsibility, in order to make the people within the whole State satisfied that there will be no incurring of debt, that there will be no measure adopted for the building of a capitol within our new State for the period of ten years—it will give a greater zest to the Constitution, and people will be more willing to vote for the Constitution than they will if there is a possibility of incurring a debt that otherwise may be incurred by the Legislature. I know that men here will argue upon this floor that the Legislature will do nothing of the kind; that they are men of wisdom, and will be men of wisdom, when elected to that honorable body. Now, I grant you, Mr. President, that this may be true, and no doubt will be true, but judging the future by the past, we have had much of the measure of wisdom in the Legislature, and we find that our Territory to-day is laboring under a debt of nearly eight hundred thousand dollars, and we desire that the great wisdom that may be in that Legislature in the future to say, limit it, then that they will have no possible power to incur this debt, within ten years, and in doing this, we will accord to our constituency a satisfaction that I think will compensate all of Utah County, all south of Salt Lake, for the final locating of the capital here in Salt Lake City. I believe it will be for the advantage of the citizens of the Territory when they know that the Legislature is prohibited from making appropriation for capitol purposes within the period of ten years.

Mr. KIMBALL (Weber). Mr. President, I am in favor of locating the capital at Salt Lake City. I do that for this reason: That it is the center of population in this Territory, and must be the center of population for years to come, and I think that it is wisdom for this Convention to locate it permanently at Salt Lake City, so that the question of capital shall not be a football between Legislatures that may meet hereafter. I am further in favor of locating it at Salt Lake City, without any limitation upon appropriation. Now, I have had the honor to be a member of two Legislatures of this Territory heretofore, and I know that in those two Legislatures, Salt Lake City was not in danger of getting any appropriation. My friend Evans was in the Legislature at that time, and on a conference committee of that Legislature, and I know that he and I both agreed on that thing, that Salt Lake City should not have any appropriation, so I think you can safely leave it.

Mr. BOYER. Was there not in the

last Legislature an appropriation made and expended on Capitol Hill here?

Mr. KIMBALL (Weber). That was two thousand dollars for some specific purpose. It was not for the building of a capitol or anything of the kind.

Mr. BOYER. Well, expended on those grounds?

Mr. KIMBALL (Weber). And if the gentleman will allow me, that was to give unemployed labor that were clamoring here at the doors of Salt Lake City and Ogden City, for labor, men who were starving and had to have something to live upon, and they applied to the Legislature to have an appropriation made, and that appropriation was made in pursuance of it.

Mr. BOYER. Was there not the Legislature previous some five thousand dollars appropriated to be expended on capitol grounds?

Mr. KIMBALL (Weber). I don't remember the amount. There was some appropriation made for expenditure on capitol grounds, but that was a different proposition from building capitol buildings, and I don't think that you ought to restrict the Legislature in the way of capitol buildings.

Mr. BOYER. Would the gentleman vote for an appropriation for the purpose of employing tramp labor that may happen to come into the community; is that the position?

Mr. KIMBALL (Weber). No, sir; I was opposed to it when it was appropriated before. I would be opposed to it all the time and everlastingly, as far as I am concerned. Salt Lake City had to bear all the burdens of the tramp laborers that came in here at that time.

Mr. VARIAN. Mr. President, I submit to the Convention that we ought not to be continually threshing over this straw. No good can be accomplished by it. I do not apprehend for a moment that it is the purpose of this Convention to change the location in any way of the capital city at this time. But there has been a matter overlooked heretofore, or at least not mentioned, which ought to be considered, namely, section 7 of the Enabling Act. 100 sections, or 64,000 acres of land, have been granted to the Territory of Utah for the purpose of erecting public buildings, and the capitol of the State, when permanently located, for legislative, executive, and judicial purposes. Now, ought the purpose of gentlemen to be to restrict the permanent location of this capital and by that means indefinitely or for a long period of years to tie up this grant of land and deprive the people of this coming State of the revenue that may be derived through their sale as occasion may offer? Practically remove them from settlement during all this time—64,000 acres of land subject to selection by the State, which we hope will be imperatively demanded by settlers within the very near future? Why should you have any restrictions upon this matter? It is open to the people at any time by a majority vote to change the capital. You certainly shall desire to avail yourselves of all these grants of public lands, and we have not too much land now in the Territory open to exploration and development. Whenever we find an acre or a number of acres that can be subjected to the uses of man for agricultural or other purposes, we have reason to hope that it will be sought for, and we certainly have reason to expect that it will be permitted to be yielded for those purposes. Now, if this proviso even to the extent of five years shall remain, for five years at least, 64,000 acres of land, which may be selected by this State, or the Legislature thereof, in pursuance of its authority, will remain just in that condition, not open to settlement—that is not settlement in the full sense—simply open to the squatter, perhaps to skin it, as was suggested this morning by my friend from San Juan—for his present temporary purposes, but not open for

the purpose of building up homes and communities.

Mr. EVANS (Weber). You do not contend, do you, that the Legislature would not have the right to make disposition of these capitol lands and procure the money and create a sinking fund, for the purpose of——

Mr. VARIAN. Yes, I do; I contend this, that the moment the capital is permanently located, as it ought to be, in the Constitution of the State, without restriction, except in so far as it is a restriction concerning future amendments of the Constitution, the Legislature can provide for the selection and location of these lands, as provided in the subsequent section, and for the sale of them and the reduction into money of their value, and in the meantime, it is accomplishing its purpose at both ends. It is getting the moneys for the public buildings, and it is opening up these otherwise undeveloped lands to the purpose of the settler, and in that way, building up the community and the State. You have nothing to fear. Every gentleman, if he will stop and reflect a moment, knows that whenever the necessities of the community shall require it, the people will make this change, and will remove the capital. So, what is the use, I submit to you, of arguing this matter day after day, when we ought to be able to decide one way or the other and decide it permanently? We decided the other day it was to remain in Salt Lake City for the present, at least.

Mr. EVANS (Weber). Is it the proposition now to take the capital away from Salt Lake?

The PRESIDENT. No, sir; it is simply to change the date from five to ten years.

Mr. VARIAN. Well, that is a postponement of the sale of these lands.

Mr. HEYBOURNE. Mr. President, I am a little surprised, after the consideration this matter received a few days ago, to hear gentlemen stand upon the floor of this house, and as it were, resurrect it again. I presumed that the matter was then settled. I placed myself on record upon the occasion, as being against any condition, so far as the establishing of the seat of government was concerned in the new State, and I am also of that same mind to-day. Yet, at the same time, to satisfy some of the gentlemen upon the floor of this house, it was thought proper and perhaps wise to restrict this matter and place a limit of five years. I had in mind at that time the section that has been referred to by the gentleman from Salt Lake, with regard to the grants of land that have been so generously given to the State by the national government, and I hold that if this thing is not permanently located and settled at this time, we will not be able to avail ourselves of these privileges, and I trust that we will not go over the same ground again. If I should give expression to my views at this time, I would certainly move to strike out the five year consideration, and I will so move, Mr. President.

Mr. SNOW. Mr. President, I move the previous question.

The motion for the previous question was rejected.

Mr. EVANS (Weber). Mr. President, I wish to call attention for a moment to section 7 of the Enabling Act. I do not believe that this section 7 is so intended that it would defeat the appropriation. I think that that is merely a subterfuge for the purpose of securing the location of the capital here, without any other provision, and I do not say that offensively either. It simply provides that upon the admission of the State into the Union, in accordance with the provisions of this act, one hundred sections of the unappropriated lands within the State are to be located and selected. Now, that is simply a grant of these lands for this particular purpose; it simply does not say when we shall sell these lands—

we shall appropriate the money
e building of the capitol. I hope
mendment will prevail. It will sim-
ut at rest this vexed question.
e roll being called on the amend-
offered by Mr. Heybourne, the re-
was as follows:

AYES—50.

ns	Kimball, Salt Lake
rson	Kimball, Weber
dle	Lambert
dley	Larsen, L.
on	Lewis
ester	Lowe, Peter
stiansen	Mackintosh
k	Maloney
y	McFarland
e	Morris
ing	Murdock, Beaver
er	Page
nor	Preston
edge	Raleigh
	Richards
n	Robinson, Kane
mond	Shurtliff
nes	Spencer
bourne	Squires
	Stover
le	Strevell
es	Symons
sel	Varian
rns	Warrum
r	Williams.

NOES—36.

n	Lowe, Wm.
nes	Lund
ver	Maeser
	Maughan
fman	Murdock, Wasatch
er	Murdock, Summit
ningham	Partridge
gberg	Peterson, Grand
ans, Weber	Peterson, Sanpete
ans, Utah	Roberts
ancis	Robertson
rt	Robison, Wayne
lliday	Sharp
ward	Snow
ghes	Thompson
nson	Thoreson
Jolley	Thorne
Lemmon	Thurman.

ABSENT—20.

Buys	Moritz
Cannon	Nebeker
Emery	Peters
Gibbs	Pierce
Goodwin	Ricks
Ivins	Ryan
Keith	Thatcher
Larsen, C. P.	Van Horne
Low, Cache	Wells
Miller	Whitney.

The PRESIDENT. The amendment of Mr. Heybourne is carried.

Section 6 was read.

Mr. KIMBALL (Weber). Mr. President, I move to amend that section by reinserting subdivision fifth, with these words added, "the institution for the deaf, dumb, and blind, at the city of Ogden, in the county of Weber." I do that for this reason, that I think the city of Ogden is the most central location that you could find in this Territory for that institution. One thing that moves me to make that motion is this, that neither the states of Wyoming, Nevada, or Montana, have an institution for the deaf, dumb, and blind, and they have in their legislative report heretofore recommended Utah as the place to send the pupils of that character.

Mr. MALONEY. And so has Idaho.

Mr. KIMBALL (Weber). And so has Idaho. And I say for that reason that we should locate these universities on the line of the transcontinental communication between all of the states, so that we could have a chance to get the custom of those states. I say it for another reason, that Ogden City is in itself located on all of the great lines of transcontinental communication that run from one part of the United States to another, and this is in accord with the recommendation of the president of that institution, or the man who is superintendent of that institu- at this time. I say it for another reason, that Ogden City to-day has

buildings amply sufficient, belonging to the State, to accommodate all these pupils, and I have no doubt in my own mind that Ogden City, if it became necessary, could secure other buildings for the purpose of accommodating other pupils that are now located at Salt Lake City. And I submit, gentlemen, that my amendment ought to carry here and that institution be permanently located. I will call attention to another fact, that here the other day we passed a resolution, or an article, taking away from the deaf and dumb the building they are now occupying, which cost fifty-five thousand dollars, and transferred it to the university, so that that institution is left to-day without any building. If you are going now to locate the university, and locate it at some place where you have no buildings, you have got to appropriate at least a hundred thousand dollars to erect buildings suitable for the purpose, and I submit, gentlemen, that you ought to carry my amendment.

Mr. LUND. What buildings have you in mind? You said you have buildings ample?

Mr. KIMBALL (Weber). I have the reform school building in mind when I say we have buildings ample for that purpose, and the superintendent or president of the deaf and dumb institute here in Salt Lake has been there and examined those buildings, and he tells me that those buildings will be ample for ten to twenty years to come for the accommodation of all pupils that may be sent up there.

Mr. L. LARSEN. Mr. President, I make a motion to amend Mr. Kimball's motion by inserting "in the county of Sanpete, the site to be located by the Legislature." Sanpete County is the central part of Utah Territory; it is a county that contains toward fifteen thousand people. We have no State institution in that county of any kind, and as I understand that the county of Weber has now one State institution, namely, the reform school, which the gentleman from Ogden seems to think that it would be more proper to use for the deaf and dumb and blind institute. I do not know what he expects to do with the pupils of the reform school, if he intends to bring them to Sanpete or turn them out in the street at large. Now, I do not know that we have any particular inducements to offer to this Convention, because we have not consulted our people in Sanpete County in regard to this; but we have no doubt if this Convention should say that it should be located in Sanpete County, but what the place, whenever it may be designated by the Legislature, will do something in regard to the building up and encouragement, etc., and give inducements to this institution, if it so shall be desired by this Convention to locate it in Sanpete. We think that Sanpete is entitled to some consideration in this matter, and we hope that this Convention will cautiously weigh this matter before they decide, and if it should seem proper or better for this Convention to leave it entirely to the Legislature in the future, I do not know that I should object to this move, but I certainly should oppose establishing another institution in one county where they already have one, before Sanpete should be recognized. And I do hope that there are others that will look at it in that way, on the floor of this Convention. We think that we ought to have some public institution there, and we desire not only to see a few towns in Utah built up—these large cities are able to take care of themselves, as a rule. They are able to draw towards their center the money, which no doubt they are all at this time willing to concede the members of this Convention—the thirty thousand dollars that has come from Uncle Sam will all stay in Salt Lake, and most every dollar else that we got. They all roll into Salt Lake and to these great centers. And I suppose Ogden is one in the northern

part of this Territory the same way. Now, we want the outside counties, as it were, who have not the facilities—we think that it is statesman-like and that men of this Convention will show themselves to be statesmen if they will properly guard against monopolizing everything in a few places, and would give encouragement to other parts of the Territory which need encouragement. We want to build up and to add to, etc., to other places besides these central points.

Mr. MAESER. Mr. President, I fully acknowledge the justice of the claim of Sanpete County for some consideration in the location of one of our public institutions, but I hold that the mere location or the mere claim of a county, or any particular locality, in being favored with the location of one of our public institutions, is not the first consideration. We have to consider the welfare of the respective institutions that are under consideration. Now, we are talking here of the deaf, dumb and blind—these unfortunates. Their well, being has to be considered. Here we have the blind. Their strongest connection with life is music; they should be located in a neighborhood where they have the advantages of musical entertainments, operas, concerts, and once in a while the opportunity to hear good musicians coming around. That is to be considered. They would not have that privilege in Sanpete. Then the deaf and dumb, their connection with life is by sight. They ought to be located in such a way, in such a locality, where they can see something once in a while. To locate them in a locality where things are moving rather in a monotonous way from one year's end to another is an injustice to them. I could not, as far as I am familiar with the life of the deaf and dumb, and with the life of the blind—I would consider it a cruelty to locate such unfortunates in localities where the life passes away in a monotonous way all the year round. They ought to be placed in such a way where their particular propensities are taken care of, and can be supplied with. Therefore, I could not conscientiously vote for a location for the deaf and dumb and blind in a locality like Sanpete.

Mr. LUND. Mr. President and gentlemen of the Convention, I think there is some right in the request that Sanpete makes to-day for that institution. As has been said, if we are going to put the blind man where he could have the greatest pleasure of his ears for music, why Salt Lake is the only place then for that institution. If it is so necessary that they who are deaf and dumb must see a great deal of the works of man, Salt Lake is the only place for the institution; but I submit that we cannot afford to centralize everything within this county, nor can we afford to give two institutions to a county when it has already one, and there is a county as large as the one and as populous as the one that has a State institution on the north, which has no State institution. I think this distribution is a matter of right. Sanpete has all the railroads of the Territory, if you please, with trains daily passing to and from that county. The climate is good. We are a little higher than Salt Lake, and we have not such hot summers, but it does not seem that our winters are any colder. Perhaps we are a week later in our vegetation, in the springtime; the air is not stirred by wind very often; the breezes are very gentle and pleasant, and the water from the mountains is very clear and it is very pure.

Mr. KIMBALL (Weber). The gentleman says that there is no wind in Sanpete County. I would like to know whether these men here truly represent the county?

Mr. LUND. Well, perhaps we took some of the wind out of the county when we came. I want to say that our market, butter, beef, mutton, flour, and vegetables are very cheap down there—

cheaper than they are perhaps in any other part of the Territory. Our coal costs but half what it costs in Salt Lake City or in Ogden, if I am rightly informed. We can have it laid down at the institution for two dollars and a half a ton, and our building material is very plentiful. You could build a building that would be suited to all of the needs, and the cost would not be a great deal. Now, I want to say for Sanpete that we are not behind the rest of the Territory when it come to music, gentlemen. Our orchestras—several of them, in Sanpete, are equal to any that I have heard outside of Salt Lake City. We have an excellent brass band, and amusement, and concerts are very numerous during the winter season, and these blind people would be able to have all the amusement that they could spare time for, I believe, from their training. Now, that is all. We ought not to establish the rule as outside members to centralize this. You see readily if Sanpete gets the institution that the next county in population will stand a good show to get some other institution when they are given out, because we have adopted the rule of distributing them, but if Sanpete is left without one, those outside members will see that when there is an institution given after this time, we will have a first claim, and perhaps then the rule will be to keep them at all events in the great centers of population, and I think that we ought to break that rule here and now, and Sanpete stands a good show. I have an inducement to offer for Sanpete, but it is for a particular locality, and I would like you to settle the right giving Sanpete an institution before I offer that inducement. However, that is from my town, and as soon as you vote upon this question, however it goes, I shall move an amendment to the motion if we lose it, and I will if we do not lose it, but that will be too selfish perhaps to introduce into this argument, for the county at large.

Mr. HAMMOND. Mr. President, I feel a little awkward in supporting this motion to locate this asylum for the deaf, dumb, and blind, in the north, as I hail from the south, but the gentleman here on my right suggested we take the statesman view of it—that is economy, and locate this institution down in San Juan [laughter]—excuse me—Sanpete County, because they had a beautiful site, not yet determined as our young friend tells us, and that is one of the strongest reasons that I would urge against the proposition to locate it in Sanpete, for they will be buzzing around the Legislature, and as a fight between Ephraim and Manassa, and those other places, and trying to lobby to get it at Ephraim, or Spring City, and this would make confusion among the saints there [laughter]—excuse me, amongst the citizens of Sanpete. Now, there is another view I take of it. The proposition offered by our distinguished democratic friend, Mr. Kiesel, from Ogden, the other day, that he would vouch for the citizens of Ogden offering a suitable site with all the buildings that were necessary, free for the location of this institution in Ogden. Now, that I view as a piece of statesmanship again, to keep the people from hovering around the Legislature for appropriations continually; now Mr. Kiesel is a gentleman that I have had a great deal of acquaintance with for a long time—business relations of different natures, and I believe he is a man of his word; but, sir, the worst thing that I have against him in the world was his introducing me about six years ago to a friend of his by the name of Fred Dubois, when we were in Washington. That gentleman said he did not want to locate alongside of Utah, and represented Utah as being the South where the negroes were, and that is the worst thing that Kiesel ever did to me in the world.

Mr. KERR. Mr. President, ever since the question of locating the public in-

stitutions was before the committee, I have been in favor of locating permanently all of our public institutions. I was in favor of locating the capital. I was in favor of uniting and locating permanently our higher educational institutions. I am in favor, in the Constitution, of providing for the permanent location of the institution for the deaf, dumb, and blind. I think they should be provided for. It has been stated that in the location of our public institutions, certain localities should receive recognition, and the statesmanship of the delegates has been appealed to by the gentleman from Sanpete County upon this subject. It is my opinion that we are here working, not for any particular town or county, but in the interests of the new State, and the question is not as to the benefits to be derived from the location of the particular institutions in a particular town or county, but as to what is in the interests of the State, with respect to the location of these institutions. A year ago, when the question of locating or removing the reform school from its present building, and also the institution for the deaf and dumb from the university, was under discussion, Mr. Metcalf, principal of the deaf and dumb school, visited Ogden, and carefully inspected the buildings there. He informed me personally that those buildings are ample for all the work of the institution for the deaf, dumb, and blind. The present building occupied by that institution is inadequate. I am familiar with the works of that institution, and I know that it is inadequate. The buildings at Ogden, I believe are sufficiently large to accommodate all the students of this institution. There are, in my judgment, many reasons why the institution for the deaf, dumb, and blind, should not be located in Sanpete County—many reasons why it would be in the interests of these unfortunates to have the institution located at Ogden. Some of the reasons have been stated, and I do not care to state them again, but by locating this institution at Ogden, in the first place, you would save to the State at least, in my judgment, a hundred thousand dollars, which otherwise would have to be expended in the direction of buildings. The present building cost about sixty-five thousand dollars. That is entirely inadequate for the deaf and dumb. Now, if the institution also provides facilities for the blind, it would require at least thirty or forty thousand dollars more to erect suitable buildings. The university of Utah at present has not room for the work. If the institution for the deaf, dumb, and blind should be located at Ogden, the present building could be vacated and the university would unite that building, which is worth, as I take it, about sixty-five thousand dollars, a gain, therefore, to the State of that amount. I believe, in the interests of the deaf, dumb, and blind, in the economical interests of the State, that we should locate this institution now and locate it at Ogden.

Mr. FARR. Mr. President, the last speaker just about spoke my mind. The main feature in this discussion, or in the object we have before us at the present time, is what the last speaker has introduced. That is, expediency, on account of the finances. If we locate it on some ground or county where there is no public building, or place to establish that school, why, the Territory has to go to expense to build the buildings, or else the deaf and dumb and the blind cannot get the proper education. It would be some—I do not know how many—years before we would be prepared to build for them. We know that we are very much in debt at the present time and will be very much embarrassed for years to come before we can be prepared to build a suitable building for that institution. Now, I think, if Sanpete be given some public improvement,

I would like to see them have it. I would like to see San Juan have it, and all these other counties, have public improvement, as much as consistent, but the question is now, the matter of expediency. It has been repeated, it is not necessary for me to say it again, that Ogden is a central city; it is the center of all the railroad systems of this intermountain country; the buildings are already built—that is, the military academy is already built; it is a pleasant and nice location, and here is the reform school building, which is a question with me whether that is a success yet. It has been a great expense, and it is one of the most sightly places to be found in the Territory. In case that should be vacated as a reform school, there will be that building and a vast amount of improvements on that, and the deaf and dumb and blind will go there; hence, as we have got those buildings, I do not feel to put the Territory in debt in the future to establish that institution—why, to me, it looks most reasonable that we had better take Ogden, irrespective of counties or wishes of other people, which I would like to respect, all of them, as much as I can.

Mr. EVANS (Weber). Mr. President, as far as I am individually concerned, it will make no difference to me if this institution went to Sanpete or to any other proper locality, if it were not for the question of expense to the new State, but the reform school at present amounts to but very little, and that building is amply sufficient for the purposes of deaf, and dumb, and blind, and sufficient too, for, a great many years in the future, probably for nearly a quarter of a century, if not longer. There is more money appropriated there, I think, than as suggested. The original building and grounds cost seventy-five thousand dollars, which was appropriated by the Legislature, I think, in 1888.

Mr. KIMBALL (Weber). Mr. Evans, I would like to say that the annex building cost twenty-five thousand dollars; that would make a hundred thousand dollars appropriated so far for that reform school, outside of maintenance.

Mr. EVANS (Weber). Those buildings belong to the Territory and of course would belong to the new State, and there would be absolutely no expense for putting up public buildings for this purpose. So far as Ogden is concerned, it is amply able to take care of itself, if it has none of these institutions at all. We are not here begging for it; we are simply asking for it on business principles.

Mr. ANDERSON. What would become of the reform school if that building was occupied——

Mr. EVANS (Weber). The Legislature would have to provide for that if desired. There are only a few children there. They might be provided for in the penitentiary at Salt Lake, or some other place at some separate place from the ordinary criminals. Now, Mr. Kiesel, as has been stated, is a man of his word in business matters. No man disputes that; he controls the military academy; he is willing, he says, to give that building for these purposes. I think, however, it would be better to make the exchange and let the next Legislature do it. Put the reform school boys in the military academy, because that is peculiarly appropriate for that kind of an institution. Put the deaf and dumb and blind in the reform school building. There the Territory would be provided, gentlemen, for years and years to come, without applying to the Legislature for one dollar of public moneys for additional buildings. It seems to me as a matter of business principles, that it ought to go to Ogden, and I will call attention to section 12 of the Enabling Act, which appropriates one hundred thousand dollars for the reform school and one hundred thousand acres of land for the deaf, dumb, and blind. These institutions ought to be located, I think, anyway. I am like Mr. Kerr

about it, locate them now, on the same principle that you located the capital. Now, just one word about the number of institutions in Ogden. It has one, that is all, one which amounts to but very little, and about which we care but little. Salt Lake has four very important public buildings, or public institutions, rather. There is the capitol, university, fair grounds, and the penitentiary. We are only asking for two, and I will tell you, gentlemen, frankly, I would not ask for those if it were not for the fact that we have the buildings, and it will be a saving to the new State.

Mr. BOWDLE. Mr. President, I move the previous question.

The motion for the previous question was rejected.

Mr. THURMAN. I desire to ask for information, if any provision has been passed by the Convention separating the deaf mute school from the university?

Mr. KIMBALL (Weber). I will say that there was in this respect, Mr. President, that they transferred the building now occupied by the deaf mutes to the university, and left the deaf mutes without any accommodation whatever.

Mr. EVANS (Weber). I will call attion to section 10 of the educational article.

Mr. THURMAN. Now, Mr. President, I take no part in this fight at all. It is simply a matter in which I have no personal interest, and I do not know what would be for the best good of the Territory, but by existing law, the deaf mute institute is a part of the university as established at Salt Lake City. The question is, whether we want to go back and remodel our work and make those changes, or whether we want to leave it as a part of the university. I merely raise the point.

Mr. KERR. Is it not true that the deaf and dumb institution has been connected with the university merely because there were accommodations at no other place, and the regents for years have been trying to get it separated from the university, as it is in no way connected with the work of the university?

Mr. THURMAN. I merely make the point that by the existing laws of the Territory, it is a part of the university, and if we want to separate it we must do it distinctly in this article; in fact better go back to that article, and take the deaf mute institute from the university in the article on education, if we are going to establish it elsewhere. As between Sanpete and Ogden, I have no choice.

Mr. HEYBOURNE. Mr. President, I am not clear as to the point that Mr. Thurman raised on this matter, and I would like to receive information or light on this matter before I am prepared to cast my vote. However, I would say this, I am in favor of settling the location of these public buildings right here and permanently. I have had some little experience in regard to the pressure that was brought to bear upon the Legislature of the Territory of Utah from time to time in relation to the claims of the various districts in the Territory, upon these territorial institutions, and I say that it should be settled now and forever. I will state, in this connection, that Iron County has no very great inducement to offer. We are willing to concede any little claims we may have to these more populous districts. There is no labor, gentlemen, that touches my sympathy so much as when we are called upon to provide for the unfortunates in our midst, and I claim that in doing so, we should be reasonably liberal, and in the selections that we may make we should seek to have them in such a way that their surroundings may be as happy and as agreeable to them as it is possible for us to do. I am very favorable so far with the proposition that has been made from the county on the north—Weber, and unless there is some matter presented here that will satisfy

me on the point which Mr. Thurman has raised, I shall certainly vote to sustain the proposition that has been presented from Weber County, as I think the surroundings and situation would add more to the comfort of those who are so unfortunate as to be cared for in these institutions.

The amendment of Mr. L. Larsen was rejected.

The motion of Mr. Kimball, of Weber, was agreed to.

Mr. EVANS (Utah). Mr. President, I desire to offer the following as section 7:

There shall be no appropriation for State capitol building for the term of four years.

Mr. VARIAN. Mr. President, I make a point of order on that. The subject matter of that amendment has been disposed of by a negative vote of this Convention, and that the fact that it is changed from five to four years, makes no difference, because the amendments ought to have been offered at the time that matter was pending.

The PRESIDENT. The chair is of the opinion the point of order is well taken.

Mr. LUND. Mr. President, I desire to offer in the sixth subdivision here the following:

The state normal school shall be established at Ephraim, Sanpete County.

Mr. KERR. Mr. President, I raise the point of order, that question has already been settled. The article on education has made it a part of the university, and to be permanently located in Salt Lake City.

Mr. LUND. Mr. President, I think, by motion of Judge Goodwin, it was expressed by the Convention, that the normal school should not be located at the same place as the university.

Mr. MURDOCK (Beaver). Mr. President, I desire to make an amendment to that motion, that it be established at Beaver—Fort Cameron.

Mr. LUND. Mr. President, I would like to say just a word, and that is this, that if you will give us a state institution, the city council of Ephraim City, by communication this morning, said that for any state institution they offered one block within the city of Ephraim, with city water rights—eight acres—very little smaller than the block occupied by this building, worth in the least, even five thousand dollars.

The amendment of Mr. Murdock, of Beaver, was rejected.

Mr. KIMBALL (Weber). Mr. President, I raise this point of order, that the motion of Mr. Lund is not in order, for this reason, that it is not germane to the subject that we have under consideration. The article that we have under consideration is public buildings and state institutions. They are all defined in the article. In the article on education, the state normal school was taken up and disposed of, and it is not pertinent to this issue to bring up the state normal school in connection with this article.

Mr. JOLLEY. I rise to a point of order, that the gentleman is too late.

Mr. ROBERTS. Mr. President, I arise to a point of order on this question, that in the article on education one of the sections provided that the establishment of state normal schools was left to the Legislature, and in order to get this motion carried it would be necessary, sir, to reconsider that disposition of that question, and that cannot be done, as I understand it, at this stage without a two-thirds vote.

The PRESIDENT. The gentleman's point of order is well taken.

The roll being called on the adoption of the article entitled public buildings and state institutions, the result was as follows:

AYES—84.

Adams	Lemmon
Allen	Lewis
Anderson	Lowe, Wm.
Barnes	Lowe, Peter
Bowdle	Lund

Brandley	Maeser
Button	Mackintosh
Call	Maloney
Chidester	Maughan
Clark	McFarland
Coray	Morris
Crane	Murdock, Beaver
Creer	Murdock, Wasatch
Cunningham	Murdock, Summit
Cushing	Page
Driver	Partridge
Eichnor	Peterson, Grand
Eldredge	Peterson, Sanpete
Engberg	Preston
Evans, Weber	Raleigh
Evans, Utah	Richards
Farr	Roberts
Francis	Robertson
Goodwin	Robinson, Kane
Green	Robison, Wayne
Hammond	Sharp
Hart	Shurtliff
Haynes	Snow
Halliday	Spencer
Heybourne	Squires
Hill	Stover
Howard	Strevell
Hughes	Symons
Hyde	Thompson
James	Thoreson
Johnson	Thorne
Kiesel	Thurman
Kearns	Varian
Kerr	Warrum
Kimball, Salt Lake	Wells
Kimball, Weber	Whitney
Lambert	Williams.

NOES—4.

Boyer	Jolley
Corfman	Larsen, L.

ABSENT—18.

Buys	Miller
Cannon	Moritz
Christiansen	Nebeker
Emery	Peters
Gibbs	Pierce
Ivins	Ricks
Keith	Ryan
Larsen, C. P.	Thatcher
Low, Cache	Van Horne.

During the roll call the following statements were made:

Mr. BOYER. Mr. President, being decidedly opposed to section 3, I vote no on the whole article.

Mr. CREER. Mr. President, I am decidedly opposed to section 3. It will be like the reform school. They asked for twenty-five thousand dollars and got seventy-five thousand dollars, and that will be the way with your capitol building. You will have it all inside of three years, but I vote aye all the same.

The PRESIDENT. The article is adopted.

The article on public salaries is next in order.

Mr. CRANE. Mr. President, I desire to bring to the attention of the Convention the fact that six of the articles are all ready for final passage, if final passage is necessary by the Convention. They are already in the hands of the members of the Convention, and if the clerk would read them, any suggestions or erasures, or such like as that, could be attended to in a few minutes, and these six articles could be placed in the hands of the committee on engrossment, so it would not delay us to exceed twenty-four hours after the close of the Convention. To-morrow we should have some more articles from the hands of the printer, and they also can be reviewed and the committee on engrossment can get to work. It is a long, laborious work that they will have on their hands, engrossing all these articles. It will facilitate business, and every one I know wants to get home as soon as possible. I move that we suspend the rules, if it is necessary to suspend the rules, and take action on these revised articles.

The motion was agreed to.

Mr. KIMBALL (Weber). Mr. President, I now move you that we proceed with the regular order of business on the calendar, and dispose of that, before we begin to read that Constitution.

Mr. SNOW. I raise the point of order; we just voted that down.

The PRESIDENT. The point of order is well taken.

Mr. LUND. Mr. President, may I just say a word? The point of order that was raised by Mr. Roberts does not exist in the article on education, as it passed this house by the ayes and noes on the third reading. It was only in the section that was stricken out of the educational article, as it came before us, that would warrant the assertions that he made to you. He made them honestly, I have no doubt, but I say that they cannot be found here, and I would not like to be turned down on account of a mistake, but to have this house, not on technicalities, but with——

Mr. ANDERSON. Mr. President, I arise to a point of order.

Mr. LUND. ——but to give us right, according to the way that you would like to be dealt with yourselves.

The point of order was sustained.

Mr. ROBERTS. Mr. President, I wish to give notice. then, that I will move the reconsideration of that vote, in order that we may examine that, as I do not wish to take advantage of any technicality.

The Convention then proceeded to the final consideration of the articles reported by the committee on compilation and arrangement.

Mr. ROBERTS. Mr. President, I would move you that the secretary hold in his hand the original copy of one of them from this committee, and as some member of the committee who is altogether familiar and acquainted with this matter, that they have gone over so carefully, reads it, that the secretary check. I move that Mr. Whitney be called upon to read this.

The motion was agreed to.

Mr. VARIAN. Mr. President, permit me to make a suggestion. The secretary is the executive recording officer and reading officer of this Convention. The committee are the eyes and ears and hands of this Convention. We presume that these amendments have been incorporated properly; I suggest that the secretary proceed with the regular order and read the report of the committee.

Mr. GOODWIN. Mr. President, I move we reconsider the vote.

The motion to reconsider was agreed to.

The secretary then read from the declaration of rights sections 1, 2, 3, and 4.

Mr. WELLS. I would like to ask the committee why the sentence "perfect toleration of religious sentiment" is guaranteed is left out? I do not recollect it was stricken out by the Convention.

Mr. WHITNEY. Mr. President, I can answer, if Mr. Crane does not wish to. The reason is, gentlemen, that almost this identical sentence occurs in the article entitled ordinance, and we simply struck it out here, as it could well be spared here to avoid repetition in the other article.

Mr. EVANS (Weber). Mr. President, it does seem to me that that ought to be in this section, as it passed; that is the very place for that guaranty of right—in the bill of rights. It is where it would be looked for by any one who is examining the Constitution.

Mr. VARIAN. Does not the act of Congress require that is to be done by ordinance?

Mr. RICHARDS. Yes, sir.

Mr. VARIAN. Then it is proper in the ordinance.

Mr. CRANE. If the gentleman will look at the article on ordinance, "first, perfect toleration of religious sentiment is guaranteed," the sentences are almost identical.

Sections 5, 6, 7, 8, 9, 10, 11, and 12 were read.

Mr. WHITNEY. Mr. President, there is one suggestion, that the latter part of section 12 be changed to read, "a wife shall not be compelled to testify against

her husband, nor a husband against his wife, nor shall any person be twice put in jeopardy for the same offense." I throw it out as a suggestion, if the Convention feel like making the change. I think it is a little better language.

Mr. VARIAN. Mr. President, I move that it be changed in accordance with the gentleman's suggestion.

The motion was agreed to.

Mr. HART. I desire to call the attention of the committee on revision to the position in which the word "twice" is placed here, and ask them if it would not be better to be placed either after the word "put" or after the word "jeopardy," in section 12, next to the last line? I move that those words be transposed.

The motion was agreed to.

Mr. THORESON. Mr. President, I move we reconsider that, and place the word twice after jeopardy.

The motion of Mr. Thoreson was agreed to.

The PRESIDENT. Then it stands now as printed in the article.

Section 13 was read.

Mr. EVANS (Weber). I move that we insert the word "or" instead of the word "and."

The motion was agreed to.

Mr. THURMAN. I move we change the word "one," the last word in section 13, to the word "it."

The motion was agreed to.

Sections 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, and 27 were read.

Mr. KERR. Mr. President, I move that in section 20 the word "shall" be inserted after "soldier," instead of after "peace," leaving that section as it was in the printed copy. My reason is this, my attention was called to the following section. If we interpret "shall," in section 21, after "servitude," the phrases which come between it and the other part of the verb "exist" would render it rather cumbersome, but in section 20, it will certainly read better and stronger. I think "shall" should come in before the phrase "in time of peace."

Mr. ROBERTS. Mr. President, I think, with all due respect to the Professor, that he is not right in that statement of his case. I believe, sir, that the rule requires that "shall be," being a perfect verb, one taken together, part of it ought not to be separated, and as to its being stronger, it is altogether how you accustom yourself to read it. I confess that the latter reading to me is by long odds the stronger, and it requires the parts of the verb not to be separated, whenever it can be avoided.

Mr. KERR. Mr. President, I will just state that when I first arose I stated that as changed by the committee it is not ungrammatical; it is correct; I have my authorities here, but I warranted to you that in sentences of this kind, the auxiliary is very frequently separated from the principal word "shall." I can quote you authorities by the score in support of that.

Mr. EICHNOR. Mr. President, I do not know whether the Constitution of the United States is any authority for this Convention or not, but it is a good deal of authority with me. The third amendment to the Constitution of the United States reads, "no soldier shall, in time of peace, be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law."

Mr. CRANE. Mr. President, we have followed out this line in the articles we have revised, where "shall" occurs; in the beginning of the sentence, we have always placed it as we have here. If we change "shall" the way the professor desires it, we shall have to change the word in almost all the articles we have revised to make it harmonious.

Mr. KERR. Does the gentleman argue that the arrangement of these words must be exactly the same in all the sections of an article?

Mr. CRANE. Not necessarily so, of course.

The motion of Mr. Kerr was agreed to.

Mr. SQUIRES. Mr. President, I move that the last five words in section 21 be inserted after the word "servitude." I think, Mr. President, the exception should follow and not be mixed in.

The PRESIDENT. Is this in the Constitution of the United States?

Mr. EICHNOR. It is the same as in the Constitution of the United States, the thirteenth amendment.

Mr. ROBERTS. Mr. President, I can scarcely think, sir, that the Constitution of the United States, so far as its grammatical and rhetorical construction is concerned, is like the multiplication table, and cannot be improved upon. I believe, sir, that as to its phraseology it can be improved upon, and I believe that this is one of the instances in which it can be improved, just as I believed in the other case that the putting together of the auxiliary and the verb is a better construction of the language than what we have followed. I like the amendment that is proposed and I hope it will prevail.

Mr. KERR. Mr. President, I differed with the gentleman on the other question. I agree with him on this. I certainly think that the exception here would prove the statement.

Mr. EVANS (Weber). Mr. President, I am no criterion, but I like the section as it is now, because I am familiar with the language, having been used in the Constitution of the United States. We will have to commit to memory this sentence as it is reconstructed, and then we will get mixed up on what the same sentence is in the Constitution of the United States.

The amendment of Mr. Squires was rejected.

Mr. GOODWIN. Mr. President, I move that section 24 come last, so that it will be numbered 27.

The motion was agreed to.

Mr. THORESON. Mr. President, in section 20, in the third line, I move that the phrase "in time of peace" be set off by a comma.

The motion was agreed to.

Mr. WHITNEY. Mr. President, before we leave this, I wish to make a motion, and I do make it, that the last two sections of article 1, as now amended, be transposed so as to leave the section reading, "frequent recurrence to fundamental principles," etc., as the last one.

The motion was agreed to.

The Convention then proceeded to the final consideration of Article II.

The same was read and passed without amendment.

Article III—Ordinance.

Section 1 was read.

Mr. RICHARDS. Mr. President, I move the word "hereof," at the end of line 14, be changed to "thereof."

Mr. SQUIRES. Mr. President, I add to that the word, "therein," in the 16th line.

Mr. THURMAN. Mr. President, I do not understand that "hereof" means "thereof." I think it ought to be "of this State." I think the amendment proposed would make this section ambiguous. There are two things represented here, there is the United States, as a whole, in the one place, and this State in another. Now, the language in the place of the word "hereof" should expressly refer to either one or the other, and not leave it so that it might refer to both or either. I think we ought to insert "of this State."

Mr. RICHARDS. I second that motion.

The motion was agreed to.

Mr. SQUIRES. Mr. President, I move that the word "herein," in the second line following that, be changed to "therein."

Mr. CRANE. Mr. President, that will give it an exact contrary meaning to what is intended for it. We are talking about the State right out here. When we are talking to a man out there he is "therein"—out yonder, but when he is here, he is "herein." We

are talking about the lands in the State.

Mr. SQUIRES. I am informed by the constitutional authority at the table on my left that "therein" is the word used in the Wyoming constitution, and I believe it is the correct word to go in there.

The amendment was rejected.

Mr. CRANE. Mr. President, I move to strike out the "t" in the fourth line, second paragraph, and make it read "within the boundaries hereof," instead of "thereof;" we are speaking of the land within the boundaries hereof. We are speaking within the lands immediately surrounding us.

Mr. WHITNEY. Mr. President, I trust this amendment will not prevail; I think if we get to changing that and using "hereof" and "herein," it refers to the document itself.

Mr. RICHARDS. That is it exactly.

Mr. CRANE. I will withdraw the amendment.

Mr. EVANS (Weber). Mr. Whitney's language is of more force, and that applies also to the word "therein," in line 14. I move to reconsider that now.

The motion was agreed to.

Mr. EVANS (Weber). Now, I move to insert the letter "t" before "h," in the 16th line, making it read "therein" instead of "herein."

The motion was agreed to.

Mr. RICHARDS. Mr. President, I desire to ask if the transposition of the word "be," in the 16th line, was made by a vote?

The PRESIDENT. It was done by the committee.

Mr. RICHARDS. Then I move that it be restored as it is in the printed article.

The motion was agreed to.

The third subdivision was read.

Mr. RICHARDS. I ask for information whether this section is complete? It seems to me there is some word lacking there. I move that the word "incurred" be inserted after "Utah."

Mr. EVANS (Weber). Would not it be better to say "incurred by authority of the legislative assembly?"

The PRESIDENT. And strike out the word "under?"

Mr. EVANS (Weber). Yes.

The amendment was agreed to.

The fourth subdivision was read.

Article 4 was then taken up for consideration.

Section 1 was read.

Mr. EVANS (Weber). Mr. President, I move we strike out the words "right of," so that the sub-head will read "elections and suffrage."

The motion was rejected.

Mr. KERR. Mr. President, I move that the word "right," in the title, be made plural.

The motion was rejected.

Sections 2, 3, 4, 5, 6, 7, 8, and 9 were read.

Mr. WHITNEY. I move that the comma after the word January, in the eighth line, be stricken out.

The motion was agreed to.

Section 10 was read.

Mr. ELDREDGE. Mr. President, I move to suspend the rules of the Convention in order to strike out the word "judicial," in section 9.

The motion was agreed to.

Mr. ELDREDGE. Mr. President, I now move to strike out, in section 9, the word "judicial," in the third line and in the ninth line.

Mr. SQUIRES. I amend that motion by transposing the word "and," in the second line before "school."

Mr. ELDREDGE. I will accept the amendment.

Mr. WHITNEY. What will be the effect of this?

The PRESIDENT. To make the election occur, I suppose, on the day that the other officers are elected.

Mr. THURMAN. Mr. President, if it is in order, I desire to move to strike out the second line, commencing with

the word "except," down to and including the word "officers," in the third line. I just simply want to suggest that while I am very sorry that we have started a precedent of suspending rules to resume debates on matters that have been passed, and for fear that it may lead us to things that some of us will be sorry for, before we get through, yet I take it the only object for striking out "judicial" is as has been contended here, for the sake of economy, and reducing the number of elections. Now, if that be true, I am in favor of placing it beyond all question and providing that all general elections of the State, saying nothing about for what, and as the Legislature may declare general elections——

Mr. VARIAN. Mr. President, I would like to state a point of order. The standing rule of the Convention prohibits offering of substantial amendments upon this reading. That standing rule can be suspended by a two-thirds vote. Presumably a two-thirds vote was just taken for a specific purpose, not for the purpose of opening up this question for amendment. It was distinctly stated, as the purpose of the mover for the suspension of the rule, that it was directed solely to the word judicial—to strike that out of this section. That is the reason, so far as I understand it, that induced this vote. I, for one, should not have voted to suspend the rule, had I understood that it contemplated the opening up of the entire section for amendment, and I think that if my brother Thurman desires to sense this Convention upon the question he presents, he must take a distinct vote upon the suspension of the rule for that purpose, otherwise we would never accomplish anything.

The PRESIDENT. I think the point of order is well taken.

The amendment of Mr. Eldredge was agreed to.

Mr. THURMAN. Mr. President, I will test the sense of this Convention on the proposition that the gentleman shut me off on the point of order, and I move that the rules be suspended with a view to reconsidering to permit of a motion to strike out of the section the words "except for municipal and school officers."

Mr. CANNON. Mr. President, I second that motion, with the understanding that we then strike out the last three lines at the end of the section.

Mr. THURMAN. Yes; I would like to make the amendment eventually all the way through, while we are at it.

Mr. PRESTON. Do I understand that municipal elections of the cities are general elections and school elections?

Mr. THURMAN. Permit me to say that I do not believe that the motion that I now make will interfere with the Legislature fixing another day for a municipal election if they want one, but at the same time, as it now stands, it compels them to fix a different day.

Mr. PRESTON. I have no objection if the Legislature can fix it.

Mr. JOLLEY. I wish to ask the gentleman from Utah a question. Would you leave "school" in there? I think that would satisfy better than to leave it open.

Mr. THURMAN. I have this point in mind, Mr. Jolley, that the Legislature can make the school election a general election or not, as it may please. I want to leave this with the Legislature, so if they want to make it on the same day, all right, and if they want to have a different day, they have the right to do it.

The motion to reconsider was agreed to.

Mr. THURMAN. Mr. President, I move to amend this section by striking out all after the word "elections," in the second line, down to and including "officers," in the third line.

The amendment was agreed to.

Mr. RICHARDS. Mr. President, I move that the words, "after the adoption of this Constitution," be stricken out, in the first line, because they mean

nothing. Of course, this cannot apply to any elections held before the adoption.

Mr. THURMAN. Mr. President, I will second the motion. Those words were put in there after the committee on elections had determined to except municipal, judicial, and school officers, because we could not except them at the election for the adoption or rejection of the Constitution, but after the adoption, then that was to be done.

The motion of Mr. Richards was agreed to.

Mr. KERR. Mr. President, I move that the semi-colon before the word "provided" be changed to a colon, and the word "that," after the word "provided," begin with a capital letter.

The motion was agreed to.

Mr. CORAY. Mr. President, I move that section 9 begin with a capital letter also.

The motion was agreed to.

Section 10 was read.

Mr. SQUIRES. Mr. President, I make the point of order that the hour and a half set apart for this work is now more than past. I move we adjourn until to-morrow morning.

The secretary then read a communication from ladies of Salt Lake City, inviting the members and officers of the Convention to a reception.

On motion, the invitation was accepted.

On motion, the Convention then adjourned.

FIFTY-NINTH DAY.

WEDNESDAY, May, 1, 1895.

The Convention was called to order at 9 a. m., President Smith in the chair.

Roll call showed a quorum present.

Prayer was offered by Delegate Thompson, of Millard.

The journal of the 58th day's session was read and approved.

UNFINISHED BUSINESS.

Mr. ROBERTS. Mr. President, I think that this would be the appropriate time to move the reconsideration of the matter that was decided yesterday upon a point of order raised by myself in regard to locating the state normal school in Sanpete County. I raised the point of order yesterday that the action of the Convention in regard to locating the state normal school in Sanpete County was out of order, because the Convention at the previous sitting had provided that state normal schools and agricultural experiment stations might be established at other places than at Salt Lake City, and the chair sustained that point of order. I was subsequently informed that the point of order was not well founded, for the reason that section 5 in the article on education, upon which I based my point of order, was stricken out. Now, my recollection is still that that provision was in the section, but I discover that it is not in the article as it has passed through the hands of the committee on compilation and arrangement, and, therefore, I ask the chair to reconsider the ruling upon the point of order raised by myself.

Mr. VARIAN. I would like to suggest to my friend that he would have to move to reconsider the vote by which the article passed.

Mr. ROBERTS. The situation is this: The Convention voted for Mr. Lund's proposition to establish the state normal school in Sanpete County. That motion carried. Then, after it carried, I rose to a point of order, and now, it seems to me, that if the chair should reconsider his ruling on that question it would stand as adopted by the Convention.

Mr VARIAN. The chair cannot, I submit, go back of the final reading and vote of the Convention, and change a ruling in that way.

Mr. ROBERTS. Well, then, Mr. Pres-

ident, I move the reconsideration of the vote by which the state normal school was located at Sanpete County.

The PRESIDENT. That is, the article as adopted?

Mr. ROBERTS. That is, the article as adopted.

Mr. KERR. Mr. President, it occurs to me that the only way that subject can possibly be brought before the Convention is to move a suspension of the rules for the purpose of reconsidering the article on education. My reasons are these: among other committees that were appointed was one on education and school lands, one on public buildings and state institutions not educational. The committee on public buildings and state institutions not educational asked the Convention as to whether they should or should not consider educational institutions. They desired to know what work was expected of them, and it was decided by the Convention that the committee on education and school lands should consider everything pertaining to the educational institutions of the coming State, and that the committee on public buildings and state institutions should consider only public buildings and state institutions not educational. The normal school is certainly an educational institution, and any question pertaining to the normal school, therefore, must be considered in the article on education, and cannot, under that provision, be considered in connection with the article on public buildings and state institutions. It seems to me, therefore, that if the gentlemen desire to reconsider the action taken yesterday, with respect to the normal schools, it would be necessary to suspend the rules and reconsider the article on education. The whole proceedings yesterday with respect to the normal school were out of order.

Mr. ROBERTS. Mr. President, the only thing necessary, as I understand it, would be to reconsider that article, in connection with which this motion was made to locate the state normal school in Sanpete County. That, as I understand it, was in connection with the article on public buildings and state institutions. It was in connection with that article that this motion was made to locate the state normal school in Sanpete County. My friend from Sanpete succeeded in persuading the Convention to vote for the establishment of the state normal school at Sanpete, and we reversed the decision of the house on that question by claiming that one of the sections in the article on education left that matter with the Legislature, and the chair so ruled; and hence the action of the house in voting the normal school at Sanpete was overruled. Now, sir, I think it does not involve the bringing back to the floor of this Convention the article on education at all, but merely the article on public buildings and state institutions, and now, Mr. President, I wish to remark further, that if it shall require a two-thirds vote to suspend the rules of this house and bring back this article for consideration, I hope that the two-thirds vote necessary will not be lacking, for the reason that the decision of the house in locating the state normal school in Sanpete County was clearly in order, and the reversal of that action of the house, by raising the point of order, since it was not founded in a fact, all fairness requires that this Convention shall bring back this action for reconsideration.

Mr. LUND. One word as to the point raised by the gentleman from Cache. He says that because the normal school is an educational institution, it cannot be considered in that article on state institutions and public buildings. I would ask the gentleman if the university and the agricultural college are not educational institutions?

Mr. KERR. Yes, sir; and those were not considered in the article on public buildings and state institutions. I will

cite the gentleman to this point, that if the ruling yesterday should be reversed, I could precipitate, or any other gentleman on this floor could precipitate the fight as to the university and agricultural college, because they are state institutions. It is impossible to bring up that subject again without reconsidering the article on education.

Mr. LUND. Mr. President, I would like to go back to the Enabling Act, and show you that that is a state institution.

Mr. KERR. They are all state institutions.

Mr. LUND. And that it was a separate grant, and while the Congress has prescribed that the school of mines shall be in connection with the university, it has made this separate.

Mr. CREER. I would like to ask the gentleman from Cache, is not the deaf and dumb an educational institution?

Mr. KERR. It is so regarded by the committee on education, but the committee on public buildings and state institutions say it is a charitable institution. I did not raise the point of order.

Mr. VARIAN. Mr. President, I do not know as I have any objection to settling that matter in accordance with the suggestions of the gentleman from Davis, and at the request of the gentleman from Sanpete, but I think that the reopening of the question ought to be confined to that particular question. I will offer as an amendment to Mr. Roberts's motion, that the vote by which the article on public buildings was adopted on third reading yesterday be reconsidered, for the single purpose of passing upon the question relating to the normal school.

Mr. ROBERTS. I accept the amendment.

Mr. EVANS (Utah). Mr. President, that is the very thing the gentleman from Salt Lake himself objected to, as I remember it, yesterday—to reconsider the vote on one section of an article, and it was sustained by this Convention.

Mr. VARIAN. Mr. President, the gentleman is mistaken. What I objected to—and which was sustained by the Convention, was a motion to reconsider a vote by which a single section was passed. It was attempted then to bring back a single section. I contended then, and contend now, that it is impossible to do that according to parliamentary law, but here is a matter of grace to be extended by this Convention. There was a difference of opinion, or a misunderstanding between gentlemen, and advantage was taken of it. One gentleman finds that, through inadvertence, there appears to have been an advantage taken. Now, whether we reconsider or not, is not a matter of right. I say that we can reconsider for a special purpose, not the single section, but the whole article, and when we get the whole article back, that we pass upon the particular question for which we reconsidered.

The motion to reconsider was agreed to.

Mr. KERR. Mr. President, is the motion of Mr. Lund to erect the normal school now before the Convention?

The PRESIDENT. That is the question before the Convention now for consideration.

Mr. LUND. Mr. President, the amendment I offered yesterday was "sixth, that the state normal school be located at Ephraim, Sanpete County."

Mr. JOLLEY. Mr. President, I want to amend that motion, and strike out the word "Ephraim," and let it be left to the voters of said county. I believe all the delegates are united with this, from Sanpete County, except Mr. Lund.

Mr. KERR. I will state, Mr. President, that I did not desire yesterday to take up the time of the Convention considering this question, because I have not any idea but that the motion will be voted down by an overwhelming majority. I admit that I was as-

tounded when the result of the vote was announced, and I can attribute it to no other cause than a misapprehension on the part of some of the delegates of the importance of this question. Now, the question is simply this, The normal school is at present a department of the university of Utah; by action of the Convention yesterday, the building heretofore occupied by the institution of the deaf and dumb will be vacated, the deaf, dumb, and blind going to Ogden. There is ample room in the present university, the deaf mute building and the Deseret museum, now used by the university, for all the departments of the university. The physical, mechanical, and other laboratories, required for the work of elementary science in the normal school, are all equipped, and the work in these departments, or the facilities for the work in these departments, do not cost the Territory a single dollar, because they would have to be provided for the other departments of the university anyway. Again, the university library, the university museum, are used by the normal students as well as other students of the university. Another point, the students in the classes in general work in the normal school enter the same classes in the university courses, and the work therefore, does not cost the Territory but a very little in addition to that which would be required for the same work in other departments of the university. In other words, the normal school where it is can do all the work of that department with two or three instructors, and with no additional expense for libraries, museum and laboratory facilities. But, if we establish the normal school at Ephraim, or any other place than that where the university is, it will be necessary to expend at least one hundred thousand dollars. I will state, gentlemen, that I have figured this out carefully since the action yesterday, and if the view I have taken be true, it will cost at least one hundred thousand dollars to erect buildings, provide laboratory facilities, purchase a library and museum, with which even to begin the work of the normal school at any other place than with the university.

Now, I submit, gentlemen, that we have not the means to throw away for this work, because in the university here there are ample facilities for all the work of the normal school, and if we remove the normal department from that institution, we simply throw away at least one hundred thousand dollars in the erection of buildings and furnishing facilities for the normal school work. Another point: At present, as connected with the university, the normal school has the use of two or three grades of the public schools of Salt Lake City, for a normal training school, and the Salt Lake City board of education pays the instructors in this training school, so that, by having the normal department connected with the university in Salt Lake City, the Territory saves the salaries of these special normal training schools, in the normal training school of the university. Now, gentlemen, I submit that all the argument in favor of the union, or nearly all the argument in favor of the union of the agricultural college and the university of Utah, will apply here, with the additional argument that, whereas the agricultural college is already provided for, the college at Logan and the university here, if we remove the normal school from the university, we have to provide all the buildings and other facilities for the work of the normal school. The argument again—the removal of the normal school from the university is even far greater than that against the separation of the agricultural college and the university of Utah; and I do trust, gentlemen of the Convention, that we shall not so far lose sight of the interests of education in Utah as to perpetrate another outrage upon the people by the separation of

those institutions from the university, and thereby render them impracticable for years to come, for us to have even a normal school in the State of Utah.

Mr. JOLLEY. In your able argument the other day, in favor of blending the university and college, did you not admit to a question of Judge Goodwin, that the normal school should be apart from the university?

Mr. KERR. No, sir; my statement was this, in reply to a question asked by Judge Goodwin, that if Utah had plenty of money, one of the objections to separating the normal school from the university would be removed; that is, the economical objection; that was all.

Mr. JOLLEY. Did you not concede to Mr. Goodwin the other day that it would be better apart from the university?

Mr. KERR. No, sir; neither by statement nor implication did I make such a statement. I admitted, in reply to a question of Judge Goodwin, that the time may come in fifteen or twenty years from now, that more than one normal school might be needed in the State, and hence I accepted his amendment that the Legislature may provide for the establishment of normal schools at other places than at that where the university is located, but not admitting even then that the present normal school should be separated from the university; my position being that it may come in ten, or fifteen, or twenty years, when we not only would want the normal school as connected now with the university, but we may want another at Ephraim, or Sanpete, or some other part of the State; but at no time have I conceded that the normal school under existing conditions should be separated from the university.

Mr. MAESER. Mr. President, as I on a former occasion stated, on principle, I would be opposed to having the normal school situated in any of our large cities, for various reasons—on moral grounds, which I have stated before, but I am utterly opposed to a separation of the normal school or normal college from our university, for financial reasons. We cannot afford it.

As Professor Kerr has already stated, it would incur an expenditure of over one hundred thousand dollars, no matter where the normal school would be located, in order to get the school again upon a footing as it is now; and then Professor Kerr already stated some advantages which did not occur to me then, but which are very plain to me now. Our normal school here has the advantage of all the schools of Salt Lake City, high school as well as district schools, as training schools, and there is no locality in the whole Territory of Utah that offers such facilities as these. Therefore, I earnestly desire that this Convention would vote down anything which would separate the normal college from our university.

Mr. ANDERSON. Mr. President, I move the previous question.

Mr. ROBERTS. Mr. President, as the mover of the resolution, I ask the privilege of closing the debate.

The previous question was ordered.

Mr. ROBERTS. Mr. President, the mover of a resolution even after the previous question is ordered, has the right to close the debate.

The PRESIDENT. If he has given notice before that he desires to close the debate.

Mr. CANNON. I call for a division on that vote.

Mr. CHIDESTER. I arise to a point of order.

Mr. BUTTON. Mr. President, this is out of order. The chair decided the previous question carried.

The PRESIDENT. That is the decision of the chair.

Mr. CHIDESTER. My point of order is this, that even after the motion has carried, the mover of the question has the right to speak upon it.

Mr. CANNON. Do you rule that I have not the right to call for a division?

The PRESIDENT. The chair had passed upon this matter.

Mr. CANNON. Then, I appeal from the decision of the chair. So far as I am concerned, I do not propose to follow any ruling that a division cannot be called for upon this floor. I think the members have some rights, and one of those rights is that when a question is put, and a vote is taken upon it, if they believe the motion is not carried, they have a right to call for a division. It could not possibly be called for until the chair decides whether or not the question has been carried. That is my reason for appealing from the decision of the chair.

Mr. IVINS. Mr. President, the situation is just this, and it is a situation that has occurred before in this house: The previous question was called for. It requires a two-thirds' vote to maintain it. Now, the very minute that the vote was taken, the chair announced that the previous question had carried. Mr. Cannon arose and asked for a division, and he had a right to demand a division before that declaration was made, and, therefore, I shall sustain him in his appeal from the chair.

The question being taken on the appeal from the decision of the chair, the Convention divided, and by a vote of 22 ayes to 51 noes, the decision of the chair was overruled.

Mr. CANNON. Mr. President, I now call for a division on the motion for the previous question.

The question being taken on division, the vote stood 41 ayes to 38 noes.

The PRESIDENT. It is not carried, gentlemen.

Mr. ROBERTS. Mr. President, I wish to give notice that I desire to close this debate.

Mr. CANNON. Mr. President, I would like to speak a moment or two, if I have the floor. I desire to say a word upon the subject of the removal of the normal school from its present location. Professor Kerr has explained to you many of the reasons why this should not be done, and I fully concur with him in his statements. There are at present in the university about three hundred normal students, I am informed, out of an attendance of 465. You, gentlemen, can plainly see what would be the effect to remove those students from the university. If the purpose is to kill the university, I say vote for removal. If you want to build that institution up and to give the people the greatest good for the least expenditure of money, we must retain at this time our state normal school with our university. Arrangements have been made with the school board at Salt Lake City, by which the large building known as the 14th ward school has been tendered, free of charge, for the coming year to the university as a training school. They have this absolutely, and in addition to that, they have the services of nine teachers, who are experts in their particular line in the different grades, whose services are tendered free to the university in assisting it in its normal training school, by the school board of Salt Lake City. This, gentlemen, is an advantage I think we should not overlook.

I think that we are not in a condition at the present time to expend the necessary money to make the normal school what it should be, removing it to any part of the Territory outside of Salt Lake City. When the time does come that the State has plenty of money, I they see fit to establish normal schools in other parts of the Territory, well and good, but at the present time, I claim that fifty per cent. of the cost of educating and training your normal teachers would be saved by allowing them to remain with the university as at present.

Mr. GOODWIN. Mr. President, there seems to be a misunderstanding as to

what was done at the last session. It was moved that experimental stations be established, and that normal schools should be included, and I gave my reasons why it would not be at all proper at this time, in my judgment, to separate that school from the university; that the time would come when there ought to be one or more normal schools established; that the time would come when it would not be best to have the normal school with the university. I think I was right at that time, and I am very sure the resolution passed. There seems to be a misunderstanding here, but my recollection is very clear that it passed, but not as it has been construed that I want to separate now the normal school from the university, but simply to provide that it could be done in the future, when both institutions were able to stand on their own feet.

Mr. KERR. I would like to state that the entire section, judge, with that provision to which you refer, was stricken out.

Mr. LUND. Mr. President, I would like to say a few words. Of course, I feel a little timid after listening to the opinion of professors, but I, too, have had the chance of having a normal training, and I have been acquainted with educational institutions for about ten years; and I must say, that while I was in Germany I took great delight in reviewing their institutions as well, and I can tell you that in that country the normal training schools and the normal schools are apart from the universities. I would refer you to the able argument that was made the other day on the moral phase of that question, by Doctor Maeser, and will then give you some of the other reasons why I think that this institution might be located in Sanpete County. The reason that has been stated that this move would kill the university, I take it, is not very well founded. The university comes into possession of a school of mines that must be established in connection with it, according to the Enabling Act. That will provide a revenue to it, that will come from one hundred thousand acres, a revenue which it has never enjoyed before, and consequently that would make up the loss which it would now sustain. In Sanpete County we could almost maintain a normal school to-day. Our people are very much interested in education. We have in the city of Ephraim graded schools, with an enrollment of over six hundred up to the eighth grade. We have an academy that is providing material every year from these pupils that come from the district schools, which would be ample in making up a whole school for the normal school, if it were located there. Undoubtedly when our county has a high school, Ephraim being the central location, the high school will be located there. Now, this grant for the establishment and maintenance of a state normal school is one hundred thousand acres, and I think it would be self-supporting. If the revenue from that would kill the university, I am certain that it is not going to live on that alone. The normal school, I believe, if it is placed in Sanpete County, and suitable buildings built, will be able to maintain itself, in the course of a year or two years, upon those grants of land.

Mr. KERR. I would like to ask the gentleman two questions. If these State lands can be located and sold, the money is invested so as to realize anything from the fund, within a year or two, or even five years?

Mr. LUND. How would it affect the university, then? It seems to me it would be self-supporting in a county where provisions and fuel and all are so very cheaper than here, that it would be much sooner a self-supporting institution.

Mr. KERR. Does the Territory have to pay anything for fuel—that is, for heating and other purposes now, for the normal school?

Mr. LUND. I suppose it does.

Mr. KERR. Not a dollar. All the pupils of the normal school simply enter the classes in the other departments of the university, in connection with the university work. It does not cost them a single dollar for fuel.

Mr. LUND. How long can we depend upon the generosity of whoever is doing that, to continue it?

Mr. KERR. It is not a generous act at all. That is one of the departments of the university. Fuel is provided for the entire institution, and facilities which are required in other departments also are used in this one department, without additional expense to the State.

Mr. LUND. I maintain, gentlemen of the Convention, that we have a very fine location for that school. I would call your attention, if you will bear with me, to the location of Ephraim. I would have you bear in mind the railroad systems of our Territory, and if you can point a more central location than that, I would like to know where it is upon the map of Utah, and I would ask you also if the students, who are preparing themselves for teachers, do not come largely from the south and from places outside of Salt Lake City? I know they do, those who are being educated in Salt Lake City and can afford that education, are generally striving for something much higher; while it is often—I may say, in most cases, the ambition of those who come from outlying districts to be contented to get a normal training and be able to teach school. Now, inasmuch as this is the case, and I do not think that any one can successfully contradict it, I would like to ask why we should not place it in the center of the Territory? As to the location that was offered yesterday, it is a block in the city of Ephraim, and within one mile and a half of that, we have quarries from which hundreds of tons of rock are being shipped into Salt Lake every year, and you can see that the cost of building there, as labor is, will be very slight to the Territory. You can think favorably of this question of locating it there or not. I want you to do what will be for the best interests of the State. I believe from its moral phase that a little town of thirty-five hundred or three thousand inhabitants is a better place for a normal school than a city. I believe that you would save a great deal to the students themselves by placing it where everything is cheap. There is this about it, you cannot say that the normal students need to see a great deal and need to hear a great deal. While I do not countenance the statement that they could see nothing only once in a while in our country or hear nothing only once in a while, still it is not so necessary for them, and if there is a little less to divert them from their studies, I think it would only be a better thing for the students themselves.

Mr. KIMBALL (Salt Lake). May I ask Mr. Kerr a question? Is it not a fact that pupils attending the normal school receive training through the other classes than the normal proper?

Mr. KERR. I believe I stated that a very small part of the work done by normal students is normal work. Most of their work is done in the general courses right in with the regular university classes, at little additional expense to the Territory, but if the school were separated from the university, then for all this work teachers would have to be employed.

Mr. EVANS (Weber). Mr. President, I move the previous question, except as to Mr. Roberts.

The motion was rejected.

Mr. L. LARSEN. Mr. President and gentlemen, I would like to say a few words on this question. I hope that the gentlemen of this Convention will give Sanpete a chance. I shall vote for the amendment to this motion for this reason, that I desire to give the people

of Sanpete a chance to locate, providing that this Convention concede the right of Sanpete to get the normal school. I think it is right that the people of Sanpete should have their choice and select the location. I do not think that it is right for any member of the delegation of Sanpete to alone make the selection. I speak now in behalf of the other delegates. We have not agreed upon any particular location, and I do not expect that we would or could, but we are willing to leave it to the voters of Sanpete County for them to make the location and say where it shall be, and providing this Convention may concede the right to Sanpete for a normal school. This is my position, not that I particularly have any objection to Ephraim, for I have no ax to grind for Spring City or any other place particularly. I might raise objections but I do not think I shall do that, only upon this thing, and I think that the people of Sanpete should say where it should be located, and I hope that the Convention will take this view of it, which I believe would be in the interests of the people, and that they would be better satisfied if the matter is settled in that way, than for us here to-day to say where it shall be located.

Mr. THURMAN. Mr. President, I merely wish to call the attention of the Convention to the fact that we have disposed of this question heretofore, when we had the discussion on the school bill. Section 5 of that bill was first amended so as to make the normal schools separate from the university. Then, upon my motion, afterwards, section 5, with all of its amendments, was stricken out, and section 4 was amended by inserting location before establishment, confirming the location and establishment of the university and agricultural college, as they existed by law at that time. Now, the laws of the Territory in relation to the normal school say that the normal school shall be continued as a department of the university, so that if we should adopt any measure, such as is here proposed now, we will have to go back and undo in part the work that we have done, disrupting the deliberate action of this Convention heretofore. While on my feet, I wish to say, if it was right and proper for us to establish at this time and locate a normal school separate and apart from the university, I would favor the location proposed by the gentlemen from the south, but I think it would be very unwise, even if it did not interfere with what we have done. I was very much impressed with the argument made by Professor Kerr, Professor Maeser and Doctor Talmage upon the question of union, and had it not been that we had already established the agricultural college, I should have favored union in all these branches of learning. Now, we are in a position that we can, without sacrifice, maintain union from now on; and I say let us commence to do that which is right and ought to be done.

Mr. FARR. Mr. President, I did not intend to say anything on this subject. My sympathies very much run in favor of Sanpete. I have been trying to study up something that we could do for Sanpete, because Sanpete is one of the oldest settled counties that we have in the Territory—not the oldest, but one among the early settled, and I would certainly be gratified if we could do something to encourage the people of Sanpete; but I find there are a great many here that are getting in a great hurry. I suppose they want to go home. I have attended a good many conventions—all the conventions that have been held in the Territory. I know how it goes in winding up. I tried to hurry in the start, you are all aware. I tell you gentlemen, I think it would be a great mistake at the present time to put the normal school down there. It would be a great injury to Sanpete. It would be a great injury to every county in this Territory

that has young students, young sons and daughters, to send to a normal school to be trained and qualify them to go into the business of teaching our children, and now we have got all the facilities necessary right here in Salt Lake, with all the great expense of that. But that is not the main thing. If we had a million dollars, there is another thing more important; that is we have got the facilities here of educating students to teach school. It is all right here, and now to go and take it away it would be robbing our students, our young sons and daughters that we wish to qualify for educating and teaching school, to take them off where they cannot get the facilities that they can get here, and post themselves on the branches that they have right here handy, while they are going to the normal school. But I do hope there is something we can give Sanpete in the way of public institutions, and I shall vote with both hands when that time comes, but I cannot vote today to take the normal school away from the university under the present circumstances. I think it would be a great wrong and injury to the Territory and to the people.

Mr. LUND. I want to say, Mr. President, that the Enabling Act provides for the establishment and maintenance of state normal schools.

Mr. ROBERTS. Mr. President, notwithstanding I made the motion this morning to reconsider the action of yesterday, I do not desire to have it understood that I am in favor of moving the state normal school to Sanpete County, or of dislocating it from its present connection with the university. Until conferring with my friend, Mr. Thurman, a few moments ago, I was of the opinion that section 5 in the article on education was passed by this Convention with the amendment that state normal schools might be established in other places than in Salt Lake City, but he calls my attention to a circumstance in connection with that section, that now clearly brings to my remembrance the fact that section 5 was stricken out by the action of the Convention. But with him, sir, I agree that section 4 settles this question, namely, that the location and establishment, by existing laws, of the university of Utah and agricultural college, are hereby confirmed, and all the rights, immunities, franchises, and endowments heretofore granted or conferred, are hereby perpetuated unto said university and agricultural college respectively. He has already read to us the law making the state normal school a part of the university, and now to locate the state normal school in Sanpete County would require a reconsideration of section 4 of the article on education, since this Constitution, by its provision, establishes the university as it now exists by law, including the state normal school with it. In the present status of our educational institutions, sir, the most important part of the university is the state normal school. There can be no question about that, and for this reason I maintain that the Convention, at this stage of the proceedings, is incompetent to make the change contemplated by this vote, to locate this institution down in Sanpete County. I doubt not, sir, that enough of fact has been pointed out here, as to the expense and the inconvenience that would be involved in removing the state normal school from Salt Lake City down into Sanpete County. There is only one other thing that I wish to call attention to in that line, and that is, since this debate has been going on upon the floor of the Convention, the present chancellor of the university has telephoned down to the Convention, that in his opinion the removal at this time of this state normal school from the university would afford good ground for the city authorities to refuse to ratify and complete the agreement by which the present site of the univer-

sity buildings in this city should be given to the university. It involves, I hold, too much of expense, too much of inconvenience, to engage in this removal in the present condition of our educational institutions.

And then, Mr. President, while it is true I voted to establish the agricultural college where it already exists, I would also call attention to the fact that if it were possible to keep centralized our educational institutions—that is, our higher educational institutions, I would be in favor of that policy, and I am not at all converted to the wisdom, and the propriety of thinking that each county must have some State institution to build up within its borders. I take, it, sir, that these State institutions are not for the purpose of increasing the benefits and making advantages in counties, but that it is a consideration for the good and welfare of the whole State. Yesterday, I was tempted to make a speech in a spirit of irony, when there was a clamor from outside counties, demanding part of the State institutions, to call to mind the fact that there are twenty-seven counties in the State, and I wondered for a moment if we were to follow the policy of giving eventually to each county some institution to build up belonging to the State, regardless of the convenience of the whole people of the State, and the mere geographical center is not always an advantage for a State institution. What ought to be more seriously considered, is the center of population and the conveniences of all the inhabitants of the State, and not merely county location. Why, sir, if I was converted to the idea that each county ought to have some State institution, I maintain that my own county of Davis affords facilitfes for some of these institutions that far outstrip those that are urged in favor of other localities, but, sir, I will have nothing to do with that. In locating these State insjitutions, I maintain that the good of the institutions, and as they shall contribute to the welfare of the whole population, is the thing to be considered, and not merely the gratification of local interests and local prejudices. I am not here to stand up for Davis County particularly, but as a representative of the whole people of Utah, and to locate their institutions in the interests of all the people. So, sir, I am not wedded to this idea that seems to prevail in the minds of some members, which causes them to contend for the respective localities from whence they came. Now, sir, for these reasons, I am against the movement to take the state normal school from its present moorings with the university, since it constitutes one of the most important —the most important department of the university, and drift it away off from the center of population in the interests of a county, and I trust it will not be done.

Mr. LUND. Mr. President, by the last gentleman who spoke, I would take it that I am accused of wanting to gratify a locality.

Gentlemen, I must say that I am convinced myself that it would be a good thing for the State to place that institution in a central locality—central to those whose ambitions are to become school teachers, and where they can have the advantages of cheap and good substantial board, where they can enjoy the advantages of cheap fuel, where they can enjoy all the advantages that they really need, because the tuition is but a very little part that a normal has to pay when he attends a normal school. It comes in his board and in his lodging, the great expense. The other is no considerable amount and never has been. Now, if we want to place it within the reach of those who desire to attend such school, and get down to the benefit of those persons themselves who desire these accommodations, then I claim that it has not been the local self-gratification

alone that has prompted me to make the motion or introduce this section, but it has been for the good of those who would attend the institution—not that it would be simply a good thing for a city or for a county. We know that it would be; we know that our county is not an out-of-the-world sort of a place; it is only a hundred miles from Salt Lake City. We have both branches of the railroad there, daily communication, and the traveling to and fro does not amount to much when we take into consideration the cheapness of living in those parts. Now, I have not much more to say, but I think it would be a matter of right for this Convention to extend that courtesy and that privilege to Sanpete, because Sanpete has fifteen thousand people; Sanpete is located in the center of the Territory; Sanpete offers some inducements now and has had a great number of pupils always in normal schools in this Territory, and would have a greater support to offer in that way when the school should come down there. I do not wish to take up any more time, but if it is for the benefit of the State to keep the school elsewhere, or to leave it where it is, leave it there. One word more, the Enabling Act was passed sometime since the normal department of the university was established by the Legislature, and it says, "for the establishment and maintenance of state normal schools, one hundred thousand acres shall be given." It plainly meant for the establishment, after this act, and I think that therefore you would not be doing a wrong to the section in the educational article that we have already passed.

The amendment of Mr. Jolley was rejected.

The motion of Mr. Lund was rejected.

Mr. EVANS (Weber). Mr. President, I desire to offer a sixth subdivision for that article as follows:

A state normal school is hereby established and located at Salt Lake City, in connection with the university of Utah.

Mr. KERR. Mr. President, I arise to a point of order.

Mr. SNOW. I arise to a point of order. This was reconsidered for the sole purpose of considering the location at Sanpete.

The point of order was sustained.

Mr. EVANS (Weber). Mr. President, I just want to make this statement: It seems from the Enabling Act that on the establishment of state normal schools one hundred thousand acres of land are granted. Now, in order to get the benefit of this land, I think it would be a good idea to locate one of the schools. It is not locating any more than one, but just one school at Salt Lake City in connection with the university.

The roll being called on the adoption of the article entitled public buildings and state institutions, the result was as follows:

AYES—79.

Allen	Lemmon
Anderson	Lowe, Wm.
Barnes	Lowe, Peter
Bowdle	Low, Cache
Brandley	Maeser
Button	Macklntosh
Call	Maloney
Cannon	Maughan
Chidester	McFarland
Christiansen	Morris
Clark	Murdock, Beaver
Coray	Murdock, Wasatch
Creer	Murdock, Summit
Cunningham	Nebeker
Cushing	Page
Driver	Partridge
Eichnor	Peterson, Grand
Eldredge	Peterson, Sanpete
Emery	Pierce
Engberg	Preston
Evans, Weber	Raleigh
Evans, Utah	Richards
Farr	Robertson

Francis
Green
Hammond
Hart
Haynes
Halliday
Heybourne
Hill
Howard
Hughes
Ivins
Johnson
Kiesel
Kearns
Kerr
Kimball, Salt Lake
Larsen, L.
Robinson, Kane
Robison, Wayne
Sharp
Shurtliff
Snow
Squires
Stover
Strevell
Symons
Thompson
Thorne
Thurman
Van Horne
Varian
Warrum
Williams.

NOES—4.

Boyer
Corfman
Jolley
Lund

ABSENT—23.

Adams
Buys
Crane
Gibbs
Goodwin
Hyde
James
Keith
Kimball, Weber
Lambert
Larsen, C. P.
Lewis
Miller
Moritz
Peters
Ricks
Roberts
Ryan
Spencer
Thatcher
Thoreson
Wells
Whitney.

The president declared the article adopted and referred to the committee on compilation and arrangement.

Mr. CREER. I vote aye, with the same qualifications I had yesterday as to the capitol building.

Mr. SNOW. Mr. President, I move that the rules be suspended and that the standing rule be amended by striking out the word "fifteen" and inserting the word "five."

The motion was agreed to.

The Convention then proceeded to the third reading of the article entitled salaries of public officers.

Sections 1 and 2 were read.

Mr. HART. Mr. President. I move to strike out the word "salaries," in line 7, and insert the word "other," so that it will read as it was formerly reported by the committee.

The amendment was agreed to.

The roll being called on the adoption of the article entitled salaries of public officers, the result was as follows:

AYES—83.

Allen
Anderson
Barnes
Bowdle
Boyer
Brandley
Button
Call
Cannon
Chidester
Christiansen
Clark
Coray
Corfman
Creer
Cunningham
Cushing
Driver
Eichnor
Eldredge
Emery
Engberg
Evans, Weber
Evans, Utah
Farr
Francis
Green
Hammond
Hart
Haynes
Halliday
Heybourne
Hill
Howard
Hughes
Ivins
James
Johnson
Jolley
Kiesel
Kearns
Kerr
Kimball, Salt Lake
Larsen, L.
Lemmon
Lowe, Wm.
Lowe, Peter
Low, Cache
Maeser
Mackintosh
Maloney
Maughan
McFarland
Morris
Murdock, Beaver
Murdock, Wasatch
Murdock, Summit
Nebeker
Page
Partridge
Peterson, Grand
Peterson, Sanpete
Pierce
Preston
Raleigh
Richards
Robertson
Robinson, Kane
Robison, Wayne
Sharp
Shurtliff
Snow
Squires
Stover
Strevell
Symons
Thompson
Thorne
Thurman
Van Horne
Varian
Warrum
Williams.

NOES—0.

ABSENT—23.

Adams	Miller
Buys	Moritz
Crane	Peters
Gibbs	Ricks
Goodwin	Roberts
Hyde	Ryan
Keith	Spencer
Kimball, Weber	Thatcher
Lambert	Thoreson
Larsen, C. P.	Wells
Lewis	Whitney.
Lund	

The president declared the article adopted and referred to the committee on compilation and arrangement.

The Convention then proceeded to the third reading of the article entitled schedule.

Sections 1 and 2 were read.

Mr. RICHARDS. Mr. President, I desire to offer a section to be known as section 3, as follows:

Section 3. Persons who, at the time of the admission of the State into the Union, may be confined under lawful commitments or otherwise lawfully held to answer for alleged violations of any of the criminal laws of the Territory of Utah, shall continue to be so confined or held until discharged therefrom by the proper courts of the State.

The section was adopted.

Mr. VARIAN. Mr. President, I offer an amendment to section 2, to insert at the end of section 2 the following:

The act of the governor and legislative assembly of the Territory of Utah, entitled "an act to punish polygamy and other kindred offenses, approved February 4th, A. D. 1892," in so far as the same defines and imposes penalties for polygamy, is hereby declared to be in force in the State of Utah.

I desire to give a reason for this amendment, which I am impressed is a strong one. The Enabling Act requires the Convention to provide by irrevocable ordinance that polygamous or plural marriages are forever prohibited. In the ordinance adopted by this Convention that declaration is made: "The following ordinance will be irrevocable without the consent of the United States and the people of this State." First, among other things, polygamous or plural marriages are forever prohibited. Now, while this is strictly in accord with the letter of the act of Congress, it is not in accord fully with the spirit of that act, because it must be confessed, I think, that it was the intention of the people of the United States assembled in Congress that a prohibition in fact, as well as by words, should be evidenced by the organic law of this State. Of course the declaration that we have already adopted in the ordinance is not self executing. It amounts to nothing except like one of the ten commandments. It might have the effect of a moral law upon the minds and consciences of those who look upon the Constitution as a guiding instrument for their lives. Nor have we accomplished the purpose, as I view it, by our declaration in the schedule, sought to be amended, that all laws of the Territory of Utah now in force shall be continued in force. The moment this State enters into the Union all congressional acts of this kind fall, so far as their operation is concerned, within this State. There was passed in 1892 by the Legislature of the Territory, an act substantially—indeed, I may say, literally in accord with, or following the act of Congress upon the subject. That act defines and provides penalties for the specific offenses, polygamy, unlawful cohabitation, adultery, incest, and fornication. Now, that law I apprehend is not in force in Utah to-day, and the reason is that Congress entered upon that field of legislation and covered the whole subject matter. There was nothing left for the territorial Legislature to act upon. That being so, it is not included within this provision of section 2, and if it is desired that there shall be a compliance with the intent of the act of Congress, and

with the understanding everywhere, in spirit, as well as in letter, it would be necessary for this Convention to make some positive declaration adding the force of law, which would be self-executing; that is, that the courts would undertake to execute it without further legislation upon the subject. This act of the territorial Legislature entered a field that was already occupied, and as long as the Congress had occupied that field, of course nothing was left for the territorial Legislature to act upon, and as I desire that there shall be nothing thrown in the way of the approval of this Constitution by those in authority at Washington, I make this suggestion to this Convention for their consideration, whether or not it will not be wise, having in mind the general conditions and circumstances attendant upon the passage of this Enabling Act, and the difficulties that theretofore had existed in bringing to a conclusion a long and laborious struggle, to in terms adopt and enact this first section relating to this particular offense already enacted by the Territorial Legislature.

Mr. MALONEY. You say the Legislature in 1892 invaded the field already occupied by Congress. On the approval of this Constitution by the President, would not that act of the Legislature be in just as full force and effect as any act of the Legislature which is continued in full force by section 2 of this act?

Mr. VARIAN. No.

Mr. MALONEY. Why not?

Mr. VARIAN. Because you can only continue in force a law. If there is anything in the form of an act that is not a law—for instance, we will say it were unconstitutional; simply by a declaration continuing a dead act in force, when it never was in force, does not accomplish what you purpose doing. It is clear what this Convention intended to do—all laws now in force. It did not intend to revivify laws or acts purporting to be laws which were never in force or which were unconstitutional. We take the territorial legislation as we find it, and every law that is in force at the time of the adoption of the Constitution will be continued. I personally care nothing about it.

Mr. RICHARDS. The purpose of this, as I understand, is to make this act irrepealable, so far as polygamy is concerned; is that not so?

Mr. VARIAN. No, I was not thinking of that so much as I was of the positive declaration——

Mr. RICHARDS. Would not that be the effect of the amendment?

Mr. VARIAN. No, I flo not think——

Mr. RICHARDS. I asked you to look at it and think——

Mr. VARIAN. Well, I have said no. I say no again. It would not be the effect of it, and I was going to say, Mr. President, that there is no power on earth, in the Congress of the United States, that can force from this people an irrevocable law. That is the merest illusion in the world. This people can next year amend this Constitution, and strike out everything concerning polygamy if they want to. Every lawyer knows that. It is just a question of their own good sense and judgment whether they shall do it or not.

Mr. RICHARDS. It seems to me that my question was not apprehended. When I spoke about a law being irrepealable, of course I did not refer to the amendment to the Constitution. That could not be repealed by the Legislature, I take it.

Mr. VARIAN. I don't know why the gentleman should ask me a question like that. Of course, if it is in the Constitution it cannot be repealed by the Legislature. I care nothing about it myself; I am firmly convinced that it will add very materially in aid of the adoption of the Constitution.

Mr. THURMAN. I desire to ask Mr. Varian, if the amendment you propose would not enact a great deal more than

congress requires of us in the Enabling Act.

Mr. VARIAN. In what way?

Mr. THURMAN. Well, if I remember that act, it goes into detail.

Mr. VARIAN. Well, but the amendment confines it to that particular matter. It does not touch the other offenses mentioned in this act at all. It does not touch cohabitation, nor adultery, nor incest, nor fornication.

Mr. RALEIGH. Mr. Varian, will this be in the hands of the Legislature?

Mr. VARIAN. Yes; perhaps I did not make myself clear. The Legislature can of course enter upon this field; but here we are in this situation: When this Constitution goes back, after it has been adopted by this people, if there is any opposition to it, it will be concentrated at Washington. I presume there are a number of things, possibly, that may be brought up by those who are opposed to the admission of Utah as a State, numbering a large number of classes of people, in the United States. Then, it will be said, I apprehend—the Congress of the United States, as a condition of giving this Enabling Act to the people of Utah, exacted, or attempted to exact from them an impossible condition; that is, that they should make the enactment of a penal prohibition irrevocable; but it was the intention of the act; they will say to the people of the United States, that this people would not only literally but in spirit conform to this Enabling Act, and the wishes of the people of the United States in that particular. They have not done it. They have evaded that question by putting in a mere declaration which is not self-executing, and the moment the President of the United States issues his proclamation, there is not a law in the State of Utah that affects this question; and who will say when the Legislature will act upon it? Who can say whether you can get votes enough in the Legislature to pass affirmatively an act? That is what they will say. At least, that is what I offered this for, upon the theory that some misapprehension of that kind may exist.

Mr. JAMES. Mr. President, of course, I am not able to discuss this question from its legal standpoint, but I do believe that there is a great deal in what the gentleman from Salt Lake has just said. You will remember, Mr. President, when this matter came up in the bill of rights, it was suggested by the gentleman from Cache, that it was not broad enough to cover the requirements of the Enabling Act, and he made some remarks upon it, and so did I at the time, and I believe still that the words used in the bill of rights, that it shall be forever prohibited, are not sufficient to cover the requirements of the Enabling Act. The Enabling Act, to my mind, requires of this Convention that they should do something specific, that it should be understood, that it should not be a general declaration. The language is such that perfect toleration of religious sentiment shall be secured, etc., and ends "provided that polygamous or plural marriages are forever prohibited." Now, you see it is the language of the Enabling Act. It is based upon a condition, and in order to carry out the requirements of that Enabling Act, you must say something specific regarding what this Constitution shall be and how it shall be enforced, and I believe the gentleman from Salt Lake (Mr. Varian) is very correct in his position. I believe that it will raise a question, when this Constitution goes back to Washington, whether we have complied with the Enabling Act strictly regarding this provision.

Mr. EVANS (Weber). Mr. President, I am of opinion, as I stated before, when we had the question of ordinance before the Convention, that we have already strictly complied with the Enabling Act. I do not believe that there is any danger respecting the proclamation of the President on that question.

I do not think any issue will ever be made. We have upon our statute books a law punishing polygamy and kindred offenses, and which, as has been stated by Mr. Varian, is properly ineffectual and void, because Congress had invaded the same field of legislation. There has always been a difference of opinion between lawyers respecting that particular question. I believe that the law upon the statute books would be in force upon the adoption of this Constitution, under section 2 of the article we are now considering. If the view be taken that that law was unconstitutional and ineffectual at the time of its passage, a nice constitutional question arises here upon Mr. Varian's amendment, that is, as to whether a void law can be revived and given life by reference to it in the Constitution which we are framing. It is a generally well understood question that constitutional conventions have no legislative power. Although we say that we are legislating all the time in our Constitution, yet in the broader sense we have no power to legislate in a general way, such as is generally given to a legislature. Now, is not this an attempt to do that very thing? Is not it an attempt here in this Convention to legislate upon the statute books a penal law punishing the offense named. That is to say this Convention is attempting to revive what is termed by the gentleman a void law. It is attempting to revive something upon the statute books which in itself was a nullity. Now, I don't take that view. I believe the law was valid. I have always entertained that view, and I believe that it would be in force upon the adoption of this Constitution, and for one, I cannot support this amendment, because I believe it to be wholly unnecessary and an unusual method of making a Constitution. To revive a law or to make a law out of that which is pretended to be ineffectual and void, by reference to it merely in a Constitution, is certainly a very singular thing.

Mr. SQUIRES. I would like to ask the gentleman, provided this act, approved February 4, 1892, is a valid law, what is to prevent the next Legislature or any succeeding Legislature from repealing it?

Mr. EVANS (Weber). There is nothing at all.

Mr. SQUIRES. Then, we certainly will not be complying with the Enabling Act.

Mr. EVANS (Weber). There is nothing at all. No. The Congress never understood that the people of Utah would not repeal this particular law which punishes the offense named. As has been properly stated by Mr. Varian, as a matter of constitutional law, we have the right at any time, when we secure statehood, to revise and repeal and amend our Constitution and to leave this out altogether. The people in their sovereign capacity would have the right, if they saw fit, to resume the practices which they have practiced heretofore, by proper amendments to the Constitution. This is an inherent power, an inherent right. Judge Cooley lays it down as clearly as can be in his work on constitutional limitations, and I think no lawyer will dispute it. As I understand it, this is simply designed for the purpose of satisfying the authority which will proclaim Utah a State. That is all. Now, that being the only purpose of it, I think we have fully complied with the Enabling Act, when we use its exact language and say that polygamy shall forever be prohibited in the State.

Mr. EICHNOR. Do you mean to say that any constitutional convention in the future could nullify the compact with the United States?

Mr. EVANS (Weber). Oh, no. That is, because of the fact that that would be prohibited by the Constitution of the United States itself, but the Constitu-

tion of the United States does not place any restriction upon the states with respect to the practice of polygamy or kindred offenses. Consequently, we would have a right to reform our government just as we please.

Mr. KERR. I would like to ask Mr. Varian or Mr. Evans a question. In the article on ordinance, is the statement that polygamous or plural marriages shall forever be prohibited. I desire to ask, if, under this provision, the Legislature could repeal the law which defines those offenses and provides punishments for violation?

Mr. VARIAN. Does the gentleman ask me?

Mr. KERR. Either gentleman.

Mr. EVANS (Weber). I think it would have that right.

Mr. VARIAN. I prefer to answer it myself, if the gentleman is asking me. I am quite satisfied that my position is confused and not understood, or at least it seems so from the remarks of Mr. Evans. It is this: First, that there is no territorial law on the statute books (when I say law, I mean valid law) touching upon this question. That may be tested by any canon of common sense. There was a congressional law on the statute book fixing certain penalties. Supposing the Territorial law had fixed other penalties, which would prevail? You cannot occupy the same space with two different lawmaking bodies at the same time. Second, that being so, they will say when this Constitution is adopted there is no law touching this question. There is nothing that will evidence the good faith of this people upon this question. And it will be a makeweight upon the proposition, is my idea, unless something of this kind is done, showing that this Convention intends to carry out the spirit as well as the letter of the Enabling Act.

Mr. EVANS (Weber). If that is your purpose, why not say in the ordinance, it is declared to be a felony?

Mr. VARIAN. Because, I do not agree with you at all in your criticism, that this Convention is not able to legislate in this way. I draw a distinction between legislating in matters now existing in the Territory and legislating in the Constitution for the future State.

Mr. GOODWIN. Mr. President, Mr. Evans says it would be an unusual proceeding, and probably it would, but the circumstances are unusual. This has never confronted any other territory, when applying for statehood, and the point in it is this, when Mr. Thurman, the other day, thought that the article in the ordinance was not sufficient, that it ought to be strengthened, I was in hopes his idea would be carried out by the Convention, solely as an evidence of good faith. It won't make any difference in the future. There is no state where the laws are enforced against the public sentiment of the people. Now, if public sentiment of the people of this Territory is that the ordinance shall be backed by legislation which will make penalties and enforce them, that will be done. If a change should come, and the sentiment should be that it was nobody's business, we will do what we please, that will be the rule. The question that confronts us is just this: We know that almost every church organization outside of Utah in the United States will scan this Constitution; they will study it with a disposition to, if possible, find some fault in it. Now, when they do that, and there is merely a declaration that there will be no more polygamy, they will simply laugh. They will say, "those people have simply made a declaration and have provided no means on earth to enforce it." It is not what is to be after statehood is obtained, but it is how to obtain statehood. For instance, the President of the United States, is, I am told, a member of the Presbyterian church. I think he is a little lax [laughter], but no matter. He may have fixed it all

right with his own soul. He professes to be a Presbyterian. He has a great many Presbyterian friends. He is a lawyer. He construes things exactly as I would construe them, when he has the capacity to. [Laughter.] Now, when this Constitution is carried up to him, we will suppose a case. We will suppose in the same election by which this Constitution is approved, there should be republican officers elected all over this State. He not only will have the Presbyterian church behind him, but he will have every democratic office holder in Washington and all through the country telling him that there is a point where he can afford to delay. It won't make a bit of difference to Utah what is in this Constitution in regard to that particular matter. The idea is to have something to present to the President, which he and his friends can find no flaw in; that is, that the Enabling Act has not only been carried out in the letter, but the means have been provided to enforce its mandate.

I had intended to offer and try to argue an amendment to the ordinance. This amendment this morning covers the case, and what objection is there to passing it? Are we at this time in the Convention going to say it is legislation? It is on a theme that we have no precedent for. We are confronted here with this condition. The Enabling Act tells us that we must (and I presume means in an effective way) declare forever against polygamy and plural marriages. We ought to do it in such good faith that there would be no question about it. If two years hence, or four years hence, the Legislature desires to do anything else, it can do it. If the Constitution is adopted and Utah is admitted as a State, the people can revise or call a convention, and make a new Constitution within a year or two. Let us go as the sovereign states went. Every one of them had statutes. They had provisions in regard to slavery, that there should be no more slavery or involuntary servitude. It was finally enacted in the Constitution of the United States, and other provisions; and while some of them did not intend to keep those provisions, there was nothing in what they presented that there could be any criticism of. As far as the words go, the words were apt. They said, "I care nothing about the future. I am perfectly willing to trust it. I have perfect faith it will be all right." But let us fix it so that the President of the United States, at least, cannot, in his obstinate way, say: "It does not suit me, you had better go back and try it over." You know, Mr. President, he does not want any more silver congressmen. You know he has peculiar ways. Once or twice he has pretty nearly neutralized the law, and when eight or ten of his constituents get around him and tell him he ought to do it, then he takes it upon himself to think that he was raised up by God Almighty to be the savior of the United States, and when a man gets in that frame of mind, there is no telling what he will do. Let us fix it so that neither he nor his friends can criticise one word. It will make no difference to Utah. Let us act in absolute good faith, so far as our words are concerned, and have it fixed so that a penalty, if that is disobeyed, can be inflicted.

Mr. MALONEY. Mr. President, I do not concur in the views of the gentleman from Salt Lake. The Congress of the United States provided that in Utah we should stop these practices and in a great measure have enforced that law. In 1892, through our Legislature, we said we would quit that. Now, the position of the first gentleman from Salt Lake who spoke, is that the act of 1892 is an absolute nullity, that it is null and void, because the Legislature of Utah had invaded a field previously occupied by Congress, and

therefore, it is void. I do not agree with him on that, but, of course, if the two acts were in conflict, the law of Congress must prevail. But they are not in conflict. As I remember, in our act of 1892, we went still farther than the Edmunds-Tucker bill. Now, there is no court that has ever declared the act of 1892 of our Legislature unconstitutional, or null and void, that I ever heard of. I claim it is in force now and has been ever since it was enacted. The reason it has never been enforced is because the prosecuting attorney of the Territory preferred the congressional enactment, and preferred the penalties imposed by the Edmunds bill, and the Tucker-Edmunds bill. If Mr. Varian is right, and that act was void, I say section 2 of this act breathes life into it, and makes it just as valid as any other territorial enactment.

Mr. VARIAN. How can you take that position when it says the laws of the Territory of Utah now in force——

Mr. MALONEY. I say it is in force, but I say, conceding for the sake of the argument, that it is a nullity, it is in force by section 2 of this act. I do not agree with Mr. Varian that it is not in force, and never has been. I do not think the proposition is tenable. Now, if the President is so hard pressed for an excuse that that will be the excuse for not issuing the proclamation, when the Enabling Act makes it obligatory upon him, it is a mighty slim excuse, and other excuses will be provided if he does not have this one. Now, I say we have strictly and literally complied with the Enabling Act, and I think it is wholly unnecessary.

Mr. ANDERSON. Mr. President, I am opposed to this amendment. I think that the Enabling Act is fully complied with at present, and I do not think that it is necessary that we pursue this question with any further special legislation. Therefore, I am opposed to it, and will vote against it.

Mr. THURMAN. Mr. President, at first I was opposed to the amendment proposed by the gentleman from Salt Lake until he stated his reasons for it, and having heard his reasons, I shall now support the amendment. I think it ought to prevail. I agree with him (while not wishing to engage in any discussion on that branch of the question) in believing that the law of 1892, passed by the Legislature, was absolutely void and of no effect, and never has been, for the reason suggested by him. I had occasion to go over that ground, in 1888, in the Legislature, and came to the conclusion that the territorial Legislature had no power whatever to deal with that question, unless it might have been perhaps some ancillary legislation—something that had not been touched upon by the Congress of the United States. When he first proposed his amendment, I did not think that that act, not being in force, could be revivified, and thought it was fully covered by section 2 as it stands. I have some doubts whether the ordinance that we have adopted is a sufficient compliance with the Enabling Act, at least in spirit. It is true, that we use the exact words of the Enabling Act, but if this territorial act is without force, and is void, we will at least find ourselves in this position, that while we have declared in the Constitution that polygamous marriages are forever prohibited, when the Constitution goes into effect, and before the Legislature sits, we must say there will be no effective law upon this subject at all in force in this State. The declaration that we make in the ordinance is not effectual except in a normal sense. The moral effect of the whole State by its representatives in Convention, declaring that a certain thing shall be forever prohibited, of course has great weight, but there is a view that may be taken of that, which is this, that at most it is merely an inhibition upon the Legislature ever sanctioning an establishment of that kind, but it is not a law

against it with penalties. In other words, it is without effect. Now, I think I have taken the position to do everything that I think I can conscientiously and consistently do to present this to the President of the United States, without the instrument containing anything in itself which will afford him a just reason for rejecting it by saying that it does not comply with the Enabling Act. I think, gentlemen, we who have labored here to make this Constitution up to this time, ought now to obtain the fruits of it, to do everything we can upon this or any other occasion, to put this matter before the President of the United States in a way that he will have no excuse in the performance of his duty. For the reason suggested, and by way of showing a more determined disposition upon our part to comply, not only in the letter, but in the spirit, with the demands of the Enabling Act, I shall support it.

Mr. MALONEY. Do you suppose the Congress required us to legislate in the Constitution?

Mr. THURMAN. Well, I wish to say to the gentleman from Weber, that upon this proposition, it has come very near requiring it, If it was anything else, I would agree with you, but they say that we must provide by ordinance, irrevocable without the consent of the United States, that a certain thing shall forever be prohibited.

Mr. MALONEY. Which we have done.

Mr. THURMAN. Have we provided it, or have we merely declared it shall be prohibited?

Mr. MALONEY. We have literally followed the language of the Enabling Act.

Mr. THURMAN. Have we prohibited it?

Mr. EVANS (Weber). Let me ask you a question. Is not it just as much prohibited as slavery is prohibited in the Constitution of the United States?

Mr. THURMAN. It seems to me——

Mr. MALONEY. The language is, "polygamous or plural marriages are forever prohibited." If that is not prohibiting, I don't know what they could do to prohibit. But while on the floor, I will say I will vote for the amendment, but I think it is absolutely unnecessary.

Mr. THURMAN. I want to ask you a question. Suppose a polygamous marriage is contracted after we become a State, is there anything to prevent it?

Mr. MALONEY. There is a constitutional declaration against it.

Mr. THURMAN. Does that prevent it?

Mr. MALONEY. I think it does.

Mr. THURMAN. In what way?

Mr. MALONEY. By the very language.

Mr. THURMAN. It says it shall not be done. Where is your penalty?

Mr. MALONEY. There is an act of the Legislature already in existence.

Mr. THURMAN. I am taking the position that it is not in existence.

Mr. MALONEY. There is where I differ from Mr. Varian.

Mr. THURMAN. You have made your speech on that. I am making one on the other side.

Mr. EVANS (Weber). Then point out the penalty if you can find it, where the penalty is for slavery.

Mr. THURMAN. I believe that when the Constitution of the United States said that slavery should forever be prohibited, every state in the Union had a provision of that kind in force.

Mr. EVANS (Weber). Oh, no.

Mr. THURMAN. Well, they came pretty near it.

Mr. EVANS (Weber). They were compelled to put it in after that.

Mr. THURMAN. They did put it in, but that has nothing to do with the question. The Constitution of the United States, with that provision, did not have to be passed upon by some functionary above the United States. We are talking here now about what this great—his majesty, may do. I be-

lieve we are all in good faith on this question. I do not understand that anybody here impugns the good faith of this Convention, but the question is to show it.

Mr. VARIAN. May I answer that question, as to the Constitution of the United States?

Mr. THURMAN. Yes, sir.

Mr. VARIAN. The thirteenth amendment provides that neither slavery nor involuntary servitude, except as punishment for crime whereof the party shall have been duly convicted, shall exist within the United States. That would be made operative simply by the affirmative action of the federal courts, by releasing men from slavery. It would require no further legislation.

On motion, the Convention then took a recess until 12:30 p. m.

AFTERNOON SESSION.

The Convention met pursuant to adjournment, President Smith in the chair.

The PRESIDENT. Gentlemen, section 2, with the amendment of Mr. Varian, is now before the house.

Mr. ROBERTS. Mr. President, I am in favor of adopting the amendment offered by the gentleman from Salt Lake. I think, sir, that it should prevail. First and principally, that it may appear without any equivocation whatsoever, that in absolute good faith, the people of Utah intend to carry out the condition upon which statehood is to be granted to the Territory, for Congress did require, by its Enabling Act, an express stipulation upon this subject, and I believe its intention was to have a declaration that would be effective and not merely an empty assertion, and I think a provision of this character is absolutely necessary to the document we are drafting in order to establish beyond all question the fact that we intend to carry out to the letter our agreement as expressed in the compact with the United States; but, sir, I do not think that this amendment should be adopted by this Convention in the spirit in which it was discussed by the gentleman from Salt Lake this morning (Mr. Goodwin). One of the reasons urged for having a stenographic report of these debates, as I understand it, was for the purpose of assisting those who will interpret the Constitution, in understanding what the intent of the Convention that framed the Constitution was; and, sir, if we adopt this amendment in the spirit in which that gentleman discussed it, those who shall interpret the Constitution in the light of what was said upon the various propositions would be led to conclude that this amendment was not adopted by the Convention with any real intention to have it put in force, but merely for the purpose of removing from the eyes of the President of the United States, who is to pass upon this instrument, and his counselors, and to silence any opposition that might be raised against it on the part of sectarian peoples throughout the United States, and that it was not a real bona fide determination on the part of this Constitutional Convention to carry out that provision with good intent.

Now, sir, I scorn all such proceedings as that. I believe that what we do here, we do with real intent of heart and without nonsense, and for that reason, and in this spirit, we should adopt this amendment, and then have it carried out just as it is intended to carry it out. I hope, sir, that these remarks and the remarks that other gentlemen have made, and doubtless will make upon this provision of the Constitution, will have the effect of removing from the proceedings of this Convention this seeming insincerity, which ought not to exist in a Convention of this character. Why, sir, we would give little credit to the intelligence of the man who is to pass upon this instrument, before our labors shall be finally completed, in bringing Utah into the Union, if we suppose that he

could not see through this flimsy screen that it is proposed to cast over our conduct here, if we let this provision go in under the spirit of that discussion; and, sir, I hold that we ought to adopt it in a spirit of earnestness and with honest intention to make it effectual.

Mr. VAN HORNE. Mr. President, it seems to me that the discussion of this question raises a question of construction on the intent of the Enabling Act, and if that be so, it occurs to me that the way in which we propose by the amendment to remedy any doubt which might exist is not the proper way of proceeding in this case. The Enabling Act provides that the Convention shall provide by ordinance, irrevocable without consent of the United States and the people of said State, that perfect toleration of religious sentiment shall be secured, and that no inhabitant of the State shall ever be molested in person or property on account of his or her mode of religious worship, provided that polygamous or plural marriages are forever prohibited. In accordance with that and in the strict pursuance of the letter of the requirement, we have by ordinance provided directly what we had to provide under that Enabling Act. The question comes simply on our compliance with the spirit of the Enabling Act. No one doubts but the letter has been complied with. If it be necessary for us to comply with the spirit of the Enabling Act as well as with the letter of that act, would it not have been the proper way for us to have put into the ordinance, irrevocable, without the consent of the United States, and all the people of the State, the necessary legislation to show that we intended to carry out the spirit of that enactment? If so, the article should have been put in directly following the first subdivision of the ordinance. That not having been done, the question comes as to what is the better way to provide for this meeting the spirit or supposed spirit of an enactment by Congress. It seems to me that the kind of amendment contemplated is improper and not the best plan for several reasons. The Constitution is not complete in itself. It refers to something outside of the Constitution, as a means of interpreting the intent of the framers of the Constitution. It leaves to future construction the question of whether that was a law, or whether, by our reference to it in this Constitution, we made it a law that was binding upon the people of this Territory and could be enforced. My idea is that if Congress intended anything by the requirement that we should pass such a provision in an article irrevocable without the consent of Congress—if they intended anything more than is meant by the moral prohibition, that would be included in the strict following of the words of the Enabling Act. It intended that by putting a provision of that sort in the Constitution, Congress might, by legislation, refer the enforcement of that compact to United States courts. If they did so intend, the question before us is, does the amendment, as it is now proposed, meet that objection of the act?

The PRESIDENT. The gentleman's time has expired.

Mr. CHIDESTER. Mr. President, I desire to move the previous question.

The PRESIDENT. With the permission to Mr. Varian to close, as it is Mr. Varian's motion.

Mr. VAN HORNE. Mr. President, I wish to move the insertion of a provision to be called section 3 in this article.

The PRESIDENT. We have just had section 3.

Mr. EVANS (Weber). If the Convention will permit it, I want to make a suggestion or two. I am of opinion, Mr. President and gentlemen of the Convention, that the proposition made by Mr. Van Horne is right. We are now considering what we call a sched-

ule. If we are simply attempting to comply with the Enabling Act—and want to make a prohibition of polygamy effectual, we should put it in the ordinance, as it is required that an ordinance be passed, which would be irrevocable without the consent of the United States. Of course, I do not recede from the position which I took this morning upon this question, and I now simply want to call attention, gentlemen, to one fact, that the amendment proposed by Mr. Varian points out one class of offenses and seeks to revive and bring into life a law which is admitted by the gentleman to have been ineffectual and void, and it only revives that one particular class of offenses. There are kindred offenses in the law of 1892, indeed, all the offenses which were named in the act of 1887. If this amendment prevails, the result will be this, that if that law is ineffectual, or whether it is effectual or not, the one class of offense, only named in the amendment will be continued in force. So far as the other class of offenses, and many of them are more odious than the one aimed at, it will be repealed, and the people of Utah will be permitted to violate those laws or engage in that class of offenses with impunity. Mr. Varian will not dispute this proposition, because this Constitutional Convention is simply pointing out the one class of offenses, that of polygamy; whereas numerous other classes of offenses in the same law are not covered, not only by any law of Congress, but are not covered by any law of the Territory; and it is class legislation of the worst sort, and not only that, it seem to me like impugning the good faith and the integrity of the people of Utah when they renounced this practice. If we are not ready to go into the Union under the present condition of things as we understand them, let us stay out. A law which does not have the moral sentiment of the people can never be enforced in any way. That is a common and well know maxim of law. Why, then, point out a particular offense in the manner in which it is pointed out in the amendment of the gentleman, and why undertake to insert it in the schedule, which the Enabling Act does not provide for at all, upon the shallow pretense that it will be satisfactory to the executive of the nation? Gentlemen, if you want a state, do that which is sensible, and do that which is right, do that which is patriotic, that which is honorable. If we cannot get statehood by going through the front door, let us not sneak around like a burglar through the back door, for the purpose of securing that which we are all desirous of obtaining. If you want to defeat statehood, transcribe from the reporter's notes the remarks from the gentleman this morning, castigating the chief executive of the nation and holding him up in ridicule, and send a transcript of those notes to the President and show him the estimation in which he is held in a Convention sitting, under an Enabling Act, whose actions he must approve, and then see what the result will be, and that, too, by one of the leaders of the majority upon this floor. I do not entirely agree with my friend, Mr. Roberts, on this, but I agree with him upon one point, that such remarks coming from any gentleman respecting the chief executive of the nation are an insult to that officer.

Mr. ANDERSON. I would like to ask if the substitute of Mr. Van Horne is before the house?

Mr. VARIAN. No, sir. Mr. President, I do not propose to attempt to answer the arguments of my friend from Weber County. Driven from position to position he flutters about, and appeals to this sort of prejudice and the other sort of prejudice, when we are dealing with a legal question first, and a question, of expediency next. Whether this shall be admitted into the schedule or the ordinance makes no difference. The

question we are disposing of now is the question as to whether it shall be put in at all or not, and after that shall have been disposed of, we may determine in what part of the Constitution it shall be placed. It is the sheerest pettifogging to distract and disturb the attention of the Convention to a point of that kind.

In 1888, a similar law was introduced into the territorial Legislature of this Territory. My distinguished friend, Mr. Thurman, from Utah County, whose keen and analytical legal mind always adorns and adds to every question he discusses, then was chairman of the committee on judiciary, and he wrote a report to the Legislature right on the line of his speech to-day, in the line of my thought and argument this morning. I do not remember who his associates were upon the committee. I have not been able to get the volume of the journal of that year, but the proposed act was rejected, because it was in conflict with the law of Congress. In 1892, four years later, my distingished friend from Weber County was chairman of the judiciary committee of the council. This present act was presented. It was reported by that committee through its chairman, with Mr. Baskin, now mayor of this city, a lawyer of forty years' standing, presumably acquainted with the jurisprudence of the Territory and of the United States, presenting a minority report at great length upon the same line, resurrecting and adopting with approval the report of my friend, Mr. Thurman, the chairman of the judiciary committee of 1888. It went through, but there was no other lawyer on the committee on judiciary, except my friend, Mr. Evans, as I remember it. It went into the house, there passed without question, a layman being chairman of the judiciary committee. I take it, that the people of this Territory have once decided in the Legislature that this act, which was subsequently passed in 1892, was in conflict with the law of Congress and void. Now, if that be so, what sort of a law have you upon the statute book to indicate to the people of the United States and to the Congress that you are in earnest and in good faith in your manifesto that you all adopted here two or three years ago? Gentlemen say that it ought not to go into this part of the Constitution, and yet in the preceding lines of this very section, you have undertaken to carry into effect in the coming State all laws which are in force in the Territory of Utah. If this act were a law, if it were in force, of course it would be included within the general provision, and there would be no necessity to make special provision for it; but not being in force, it is necessary, in order to comply with the spirit as well as the letter of the act Congress, and the intention of the people of the United States, and as my friend from Davis says, the bona fide intention of the people of Utah, that you should place this declaration upon the statute book. I am tired of quibbling and playing with these questions. I am here in good faith. I gave up two years and a half ago. I want statehood, and I want it the coming January, and I do not desire to play fast and loose with these questions. If you are in good faith, as you say you are, it will be asked, why do you object to placing upon this statute book, the organic law of your commonwealth, the fact you do intend to prevent the crime of polygamy? What does "prohibit" mean? Does it not mean prevent? I ask my friend from Salt Lake, and colleague, more learned in philological lore than myself, whether it is one of the synonyms of prevent, and if the interpretation must not be put upon the use of that language in the act of Congress, that it means to prevent the practice of polygamy and plural marriage? How are you going to prevent it, unless you put some penal enactment into force that the courts and executive officers under

your State government may be able to administer your law well in that behalf? In reply to the gentleman who last spoke, I did not undertake to inject into this organic law legislation on the subject of other offenses; it was not involved in the act of Congress; I care nothing about them, and simply seek to meet the issue which I believe is tendered to these people, and I want to remind you all that in the construction of law, civil law as well as the law of God, and religious law, that it is the letter that killeth, and the spirit giveth life.

Mr. EVANS (Weber). I would like to ask you a question. The gentleman will agree with me that your amendment will repeal the other kindred offenses in that statute?

Mr. VARIAN. No; there is nothing to repeal. If you want the other kindred offenses, my answer is, prohibit them by law under penalties. Your Legislature that meets in March next must enact a law. I do not enter upon that subject, because I am not meeting that issue. I am simply meeting the issue which is tendered here, as I think, to carry out in spirit the act of Congress and the will of the people of the United States, so that no stumbling block may be thrown in the way of this onward march toward statehood; and I agree with my friend from Davis—I do not put it upon the grounds that were stated here this morning, I do not like a sneak. I would not desire anything to be done that was not done in good faith, but I believe that this people intend this in good faith, and therefore I believe that they will ratify this action here to-day.

Mr. EVANS (Weber). I would like to ask a question. Suppose the act of 1892 were valid?

Mr. VARIAN. If the law were valid, I should not then introduce——

Mr. EVANS (Weber). Wouldn't it then repeal everything except the polygamy?

Mr. VARIAN. If the law were valid it might repeal by implication, although repeals by implication are not favored.

The motion for the previous question was agreed to.

Mr. GOODWIN. Mr. President, I arise to a question of personal privilege. I find that the harmless remarks of mine this morning have been construed into very great disrespect to the President of the United States. I wish to say no gentleman has more reverence for the high office of President of the United States than I. I wish to say that the man in that office is entitled to just as much respect as he can inspire, and if the present incumbent is entitled to any more respect now than when he was sheriff of Erie County, it is because of his acts. I ask this Convention to put this thing, that there might be nothing in the way of statehood, and I pointed out that he has before now nullified certain laws of the United States—one, the silver law for four months, one, the Chinese law, for four months. I wish now to point out further that he has thrown every opposition over all the west, kept people poor, from settling the lands——

Mr. THURMAN. Mr. President, I arise to a point of order.

The PRESIDENT. I think the gentleman is overstating the question.

Mr. EVANS (Weber). Let the gentleman proceed if he wants to drive a nail in his coffin.

Mr. GOODWIN. I only want to say this, my friend from Weber can put it in with the balance of the speech to send to his majesty, as the gentleman from Utah called him, to show that the republicans in this Convention do not care one straw for him personally.

Mr. MALONEY. Mr. President, I wish simply to state now for the purpose of explaining my vote, that since speaking I have investigated the question carefully and I have come to the conclusion that the act of February 4,

1892, is still in force, and this is simply unnecessary.

The roll being called on the adoption of Mr. Varian's amendment to section 2, the result was as follows:

AYES—72.

Allen	Larsen, L.
Bowdle	Larsen, C. P.
Brandley	Lemmon
Button	Lowe, Wm.
Cannon	Lowe, Peter
Chidester	Lund
Christiansen	Maeser
Coray	Mackintosh
Corfman	Morris
Crane	Moritz
Creer	Murdock, Beaver
Cunningham	Murdock, Wasatch
Cushing	Murdock, Summit
Driver	Nebeker
Eichnor	Page
Eldredge	Partridge
Emery	Peterson, Sanpete
Engberg	Preston
Farr	Raleigh
Francis	Richards
Goodwin	Roberts
Green	Robertson
Hammond	Ryan
Hart	Sharp
Halliday	Shurtliff
Hill	Snow
Hughes	Squires
Hyde	Stover
Ivins	Strevell
James	Thompson
Johnson	Thurman
Kiesel	Van Horne
Kearns	Varian
Kerr	Wells
Kimball, Salt Lake	Whitney
Lambert	Williams.

NOES—16.

Anderson	Low, Cache
Boyer	Maloney
Call	Maughan
Evans, Weber	McFarland
Evans, Utah	Peterson, Grand
Heybourne	Robison, Wayne
Howard	Thorne
Jolley	Warrum.

ABSENT—16.

Adams	Lewis
Barnes	Miller
Buys	Peters
Clark	Ricks
Gibbs	Robinson, Kane
Haynes	Spencer
Keith	Symons
Kimball, Weber	Thatcher.

PAIRED—2.

Pierce	Thoreson.

The president declared the amendment adopted.

Mr. KERR. Mr. President, Mr. Pierce stated to me just before leaving this morning that he would be unable to be present this afternoon and desired to be paired. I told him I could not pair with him, because I would vote for the amendment, but I would try to get someone else to pair with him. I have not found anyone. I wanted to make that explanation.

Mr. THORESON. Mr. President, I would like to explain my vote. I believe that we are here trying to make an enactment here in this Constitution of a law that is in full force in the State, and will be so after the Constitution is adopted, and I will therefore vote no, but I will pair with Mr. Pierce.

The PRESIDENT. The amendment has been adopted, gentlemen.

Sections 3 and 4 were read.

Mr. RICHARDS. Mr. President, I desire to submit an amendment to section 4, as follows: Add to section 4, after the word "Utah," in line 21, the words "and all fines, taxes, penalties, and forfeitures, due or owing to any county, municipality, or school district therein, at the time the State shall be admitted into the Union, are hereby respectively assigned and transferred, and the same shall be payable to the county, municipality, or school district, as the case may be, and the payment thereof may be enforced under the laws of the State."

The amendment was agreed to.

Sections 5 and 6 were read.

Mr. VARIAN. Mr. President, I move to strike out section 6 and substitute the following:

Section 6. All actions, cases, proceedings and matters pending in the supreme court and district courts of the Territory of Utah, at the time the State shall be admitted into the Union, and all files, records, and indictments, relating thereto, except as otherwise provided herein, shall be appropriately transferred to the supreme and district courts of the State respectively; and thereafter all such actions, matters and cases shall be proceeded with in the proper State courts. All actions, cases, proceedings and matters which shall be pending in the district courts of the Territory of Utah, at the time of the admission of the State into the Union, whereof the United States circuit or district courts might have had jurisdiction had there been a state government at the time of the commencement thereof, respectively; and all files, records, indictments, and proceedings relating thereto, shall be transferred to the United States courts; provided, that no civil actions, other than causes and proceedings of which the United States courts shall have exclusive jurisdiction, shall be transferred to either of said United States courts, except upon motion or petition by one of the parties thereto, made under and in accordance with the act or acts of the Congress of the United States, and such motion and petition not being made, all such cases shall be proceeded with in the proper state courts.

Mr. VARIAN. I will state that section 6, as it now stands, is incongruous, and would be absolutely ineffectual in many particulars, and after considering the removal acts of the United States, and this section itself, and the subject matter that we disposed of, I have, with the advice and consent of other gentlemen, boiled that down in that shape to cover the matters expressed in this section, all except with reference to appeals from the courts, which my friend, Mr. Richards, will supply with additional amendment, and copies of this amendment have been in the hands of members of the bar, who are members of the Convention, for a day or more, and I believe it meets with their approval. If not, we will hear from some of them.

The substitute was adopted.

Mr. RICHARDS. Mr. President, I desire to offer an additional section, to be numbered section 7, as follows:

Upon a change from territorial to state government, the seal in use by the supreme court of the Territory shall pass to and become the seal of the supreme court of the State, until otherwise provided by law; and the several district courts of the State may adopt seals, for their respective courts, till otherwise provided by law.

The section was adopted.

Section 7 was read.

Mr. VAN HORNE. I hereby give notice that I will move a reconsideration of the vote adopting the article entitled schedule.

Section 9 was read.

Mr. RICHARDS. Mr. President, I desire to offer an amendment to this section: Insert after the word "voter" in line 12, the words:

And all persons, who are qualified to vote at elections held under this Constitution after its adoption.

Add at the end of said section, after the word "county," in line 26, the following words:

And provided further, that all votes cast by female voters, for or against this Constitution, shall be deposited in separate boxes and canvassed separately, and so certified by the said commission.

Mr. GOODWIN. Mr. President, I want to give notice that when Mr. Richards finishes his speech, I shall move the previous question.

Mr. RICHARDS. Mr. President, I should not occupy any time in discussing this amendment, or proposed amendment, but for the fact that I regard it as one of very great importance, and one which involves statehood itself, and I desire to present, in the best way that I can in the few minutes that

I have under the rule, the reasons why I do this. If I did not believe that statehood would be imperiled if this amendment were not adopted, I think after the manifestation of the members of the Convention in committee the other day, I should not have presented this amendment. I have not time to discuss the question on its merits, as to the reason why the construction that is placed upon the Enabling Act by the gentleman whose communication I read the other day—I say I have not time to discuss the reasons why that construction is a proper one, but I submit that when it appears to this Convention, when it appears to us as the representatives of the people of this Territory, that there is a serious question in this matter, and that there is danger, it is not only the act of prudence, but it is the act of duty that we should pause and hesitate before we proceed to do something that will incur this risk and this responsibility, and possibly this great disaster, when we can just as well avoid it as not. Now, it is not necessary that I should demonstrate to you that the opinion of Judge Sutherland, of Judge Marshall, of Mr. George Sutherland, and of Mr. Dey, is correct. But when I tell you that these men insist that that is the law, although other men may claim that the construction is different, there is a question raised.

Mr. VARIAN. I want to ask you whether their judgment is made after hearing argument or not?

Mr. RICHARDS. I desire to ask that this shall not be taken from my time. I desire to say what little I may in this time. Now, I say, when it appears there is a serious doubt of this question, and it is admitted by the gentlemen on the other side, every one of them, that no possible injury can result from the method I propose, and when they admit in the same breath that if the construction gentlemen are contending for is correct, that the Constitution will fail and statehood will be defeated, if you reject this proposition, then I say that there is but one thing for us to do, and that is to take the course in which there is no risk, and in which there is no hazard, and if we fail to do that, gentlemen of the Convention, we take upon ourselves a grave responsibility. We take upon ourselves responsibility of saying to the people of this Territory, "We will run the risk of depriving you of state sovereignty and keeping you in a condition of territorial vassalage." My colleague from Salt Lake (Mr. Goodwin), who says he will move the previous question when I sit down, asked me the other day what Congress intended in relation to this matter. I am authorized to say for Honorable Joseph L. Rawlins, the delegate in Congress, the man who framed this Enabling Act, the man who secured its passage, that it is the right of the women of Utah to vote on this proposition. He concurs with the gentlemen whose opinion you heard the other day in saying that if provision is not made in the Constitution, for their voting, and if they have no opportunity to vote, it will be an illegal submission, and statehood will fail, and what does that mean? Does it mean as my friend from Salt Lake (Mr. Goodwin) said this morning, that it will come back to us to try again? No. It means nothing of the sort. Don't you be beguiled into any such idea. It means if this Constitution fails, because of an illegal election, no other constitution can be had. We cannot assemble here together. We cannot provide for another election. No other election can be had until Congress passes another law. Now, gentlemen, it seems to me that in view of these facts, we ought to pause, and we ought to take the course of prudence, but some of my friends say to me, "Richards, you are unnecessarily exercised. There will be enough male votes cast to save the Constitution. That won't help us any."

Suppose the male vote was to adopt

the Constitution. If the women had a right to vote the President of the United States might say to us, "You should have given them an opportunity to vote, and possibly they would have defeated the Constitution." So that it makes no difference which horn of this dilemma we take; whether we get more male votes for the Constitution than against it, or whether it is vice versa. The whole thing will fail, if this proposition is correct that is made by these gentlemen; so I say there is but one thing for us to do, and that is to take the course that is marked out here, which involves no risk, which simply places these votes in separate boxes, and then if they have the right to vote, well and good, and if not, no harm is done. Now, I would expect this proposition to be made from people who were opposed to statehood, but I take it for granted that every man on the floor of this Convention is acting in good faith, and that every man on this floor desires statehood, and when I take that for granted, I tell you, gentlemen, it is incomprehensible to me how any man can stand up and say that by taking the other course we will incur risk, and yet refuse to adopt this method.

Mr. VARIAN. Mr. President, if the gentleman's premises were true, we would grant his conclusion. The difficulty is, he has confused this proposition. So far as the right to vote upon the adoption of this Constitution is concerned, it cannot depend upon what we put in this Constitution. It will depend upon the act of Congress. Now, to legislate and bring in a new class of voters to vote upon the other proposition for State officers, will involve what? An overturning of the whole electoral system of the Territory. Women are not entitled to register. You have got to recognize your registry law. You cannot, by putting a clause in the Constitution here, bring in and enfranchise a new class of voters, and also by implication, recognize, as it were, the entire system governing the electoral franchise. What is going to be the result? It is in the hands of the Utah Commission. If you put in a declaration that women shall vote for State officers for instance—they are not registered. The Utah Commission and the registrars of election under existing laws would not be permitted to register them, so that to be permitted to vote, without the safeguards and the prudential cautionary measures that envelop and surround the right to vote, or circumscribe, rather, the right to vote, now, would not do at all. There is no necessity for this thing. I understand the gentleman has made a caucus proposition, if I am to judge by the reports in the morning paper, but I submit that is not the fair way to deal with this question, nor is it a fair way to deal with it, and go out and bring in the advice of three or four gentlemen, however distinguished they may be, certainly occupying no higher position than others in the Territory who have not had the audacity as it were to thrust their advice upon this Convention unasked.

Mr. RICHARDS. Let me ask you, what do you mean by "caucus proposition?"

Mr. VARIAN. I saw in one of the papers that a number of gentlemen of this Convention belonging to a political party, had held a caucus meeting last night and determined upon this question. I state it not from my own knowledge, but it has been given out through the medium of the public press. I do not mean to state anything offensive to my friend or his associates.

Mr. RICHARDS. Is there anything improper in a number of gentlemen meeting together and considering what is for the best good, in their judgment, of the people of this Territory?

Mr. VARIAN. No; I don't make a criticism upon it in that sense. I simply alluded to it. I say that that is hardly the way to deal with it, any more than it is proper to deal with it through the

medium of the advice of three or four gentlemen thrust upon this Convention in the manner that it has been, and possibly with a mental reservation, as all judges have, of reconsidering the matter at some future date, when more light is shed upon it.

Mr. RICHARDS. These gentlemen that you say have thrust their advice upon this Convention without being asked for it—haven't these gentlemen as much interest in the success of this Constitution, as you and I have?

Mr. VARIAN. I do not know.

Mr. RICHARDS. Are they not citizens of this Territory?

Mr. VARIAN. I am not going to be made to criticise these gentlemen unnecessarily. I charge nothing against them. I believe it is——

Mr. RICHARDS. I ask you, in all candor and frankness as a man as well as a lawyer, whether these men that you allude to, as citizens of the Territory of Utah, with the welfare of the State at hand—whether it is an act of impropriety on their part, if they see that we are pursuing a course that they think would imperil statehood, to come here and admonish us?

Mr. VARIAN. I answer that question, it is absolutely a matter of gross impropriety. The proper course to have pursued would have been to go before a committee, who are authorized to sit in judgment upon these questions, and there make their arguments, not to thrust them in this way. I answer the other question, since I am asked, that I believe one of those gentlemen is not now in favor of statehood.

Mr. ELDREDGE. Mr. President, I move the previous question.

The motion was rejected.

Mr. IVINS. Mr. President, were it not for the remark made by the gentleman from Salt Lake who has just spoken (Mr. Varian) that this question which is before the Convention at present has been caucused and decided upon by a certain political party, by which I apprehend that he refers to the minority upon the floor of this house, I should not have voted against the previous question; but I did feel that it would be improper for me, at least, to allow that to pass without stating my own position upon this question. I want to say that if any caucus has been held, I was not aware of it, and did not participate in it; that I have not committed myself in favor of the motion proposed by the gentleman from Salt Lake and am not now in favor of it. My reasons I wish to state briefly. They are these, gentlemen: In the first place, I understand that under the provisions of the Edmunds-Tucker act, a certain class of male citizens, and all female citizens of this Territory, were disfranchised. Now, the Enabling Act, in section 2, provides a means by which the disability, so far as it applies to a certain class of male citizens in this Territory, may be removed, and the right to vote be granted to them; but I can find nothing in this Enabling Act that leads me to believe that the operation of the Edmunds-Tucker act is not now in full force so far as the women of this Territory are concerned; and I cannot construe these words in the fourth section of this act to mean anything else than that the present legal voters of this Territory, which is the proposed State of Utah, are entitled to vote, and no others.

Now, while it is true that very able gentlemen have expressed their opinion upon this question, and that it is different to my own opinion (and I profess no great legal knowledge), it is also a fact that very eminent legal gentlemen in this city have expressed their opinion upon the lines upon which mine is expressed, and have said to me just as emphatically as it has been said on the other hand, that if they be permitted to vote, it would absolutely be improper and not in accordance with the conditions of this Enabling Act. I do not believe, gentlemen, that it was ever con-

templated. If it had been, a provision would have been made clearly in this Enabling Act by which that condition could have been made; and I submit that if it was the intention of the men who drafted this bill that the women of this Territory, in case they should be enfranchised, or proposed to be enfranchised, by this Constitution, should vote on the Constitution, they made a bungling job of it. It ought to have been made plain. I do not believe it was ever contemplated, or ever intended; and I shall vote against the proposition.

Mr. THORESON. I would like to ask the gentleman if a female could be elected at the first election in this State, for State officers?

Mr. IVINS. No, sir.

Mr. THORESON. Why not?

Mr. IVINS. Because she is not eligible to election until after that Constitution shall be approved, neither to vote nôr to hold office; and the very fact that she could not hold office indicates that she could not vote. I do not believe it is good law. The gentleman may be a lawyer, but that hypothesis, upon which this whole question is based, is wrong. I believe it is intended for political purposes; and I want to say to you here, that if I knew that by voting for this proposition it would result in victory for my political party in the next campaign, I would vote against it. [Applause.] I do not want a vote if we cannot get it honestly. I do not want this question to be submitted to the women separately, and after the election is over, to have this whole question dragged into the courts, and have such another scene in the Territory of Utah, as we had through the complications that resulted from the operations of the Utah Commission in the last campaign. I want to avoid that litigation.

Mr. GOODWIN. I would like to ask Mr. Richards a question.

The PRESIDENT. Will you yield to a question?

Mr. RICHARDS. I am not on the floor.

The PRESIDENT. He does not consent to be questioned.

Mr. RICHARDS. No, I do not put it upon that ground. I haven't the floor. If the Judge wants to put me on the stand, I am willing to answer any question I can.

Mr. GOODWIN. The gentleman may take his seat as far as that is concerned. I will get along without asking.

Mr. RICHARDS. The record will show I responded and I was ready to answer.

Mr. GOODWIN. Mr. President, the Enabling Act provides as to the returning of votes. Now, if the Utah Commission certify to the President of the United States that a majority of the votes cast were for the Constitution, who is going behind it? I hate to see a man so badly frightened as my friend from Salt Lake seems to have been, when in fact it was only ghost taps. There is nothing in it.

Mr. HEYBOURNE. Mr. President, I move the previous question.

The motion was rejected.

Mr. VAN HORNE. Mr. President, I want to call attention of the Convention to section 2 of the Enabling Act. (Reads.) The Congress of the United States, sovereign in this case, has determined what the registration shall be, has legislated upon the subject. By the amendment proposed by the gentleman from Salt Lake, we would be saying that the Utah Commission, so far from not being governed entirely by the act itself, and the manner in which the act prescribed that the new registration should be taken, should be governed by the action of this Convention, in providing for a new class of registration, not recognized by the laws of the United States, nor the laws of the Territory of Utah. It does not say anything about the registration of the voters who would be qualified under the laws of the State, as their qualifica-

tion might be determined by the Constitution itself, but it says expressly, under the laws of the United States and of the Territory of Utah. We have no territorial law that would entitle a woman to register for voting at any election. We have no United States law that will authorize a registering officer to receive the name of a woman as an elector of this Territory, and when we err in the line of putting a new construction upon this, and new duties upon the Utah Commission, other than those that are prescribed by the Organic or Enabling Act, for the proposed State of Utah, we lay ourselves open to having the President, in his wisdom, say, the conditions of this Enabling Act have not been complied with, but conditions forced upon the Utah Commission by the Constitutional Convention have taken the place of those, and consequently I can refuse to admit the State of Utah.

Mr. THURMAN. Mr. President, I would not ask to be heard on this question, if it had not been for the very extraordinary speech of the gentleman from Washington County (Mr. Ivins). I admit that he has a higher degree of Spartan integrity, perhaps, than I have. He has a right to take any position that he pleases upon this floor. I accord that to him, and I claim it for myself. But when he goes out of his way to brand his whole party with dishonesty, and charges them with doing something simply for political effect, in order to evoke applause from his opponents, then, Mr. President, I feel like arising to my feet and resenting it. It was a remarkable statement: "I, the delegate from Washington (laughter), I! Ivins! I believe that the party to which I belong are playing a game. There is nothing patriotic in all they are doing here. It is a trick. It is a scheme, and I am agin it." Now, gentlemen, I am surprised that my friend should want to parade his virtue, and charge every democrat on this floor who may disagree with him, practically with being dishonorable in this movement; and I say that when a man charges that I do anything on a serious matter like this, in framing the Constitution merely for political effect, I say it is charging me with dishonor, and I resent it. And the fact that it comes from a gentleman in high standing, a man whose character is unimpeached and unimpeachable, makes the accusation all the more serious, and I arise, if for no other purpose, to resent the insinuation, and ask him when, by what means, and how, he entered into the consciences of all his political friends here, and found out just what their beliefs and their intentions were? No secret has ever been kept from him, and as far as I am concerned in my action on this matter, I have no secrets, gentlemen, even from you. Why, talk about caucuses! I may say that you caucussed on this floor this morning, quietly, getting ready with your "previous question" to shut off debate, and to throttle men who are here standing up for what they believe to be right—notwithstanding the gentleman from Washington says it was for political effect. There has been too much of that kind of talk upon this floor, about things being for political effect. It came up on this very question of woman suffrage in the beginning. Gentlemen of the majority, man after man, arose and practically admitted that what he had done at Provo was, for political effect; and now the gentleman from Washington, following in that line, threshing that same old straw, comes and charges his colleagues on this floor with doing something simply for political effect.

Mr. ROBERTS. Mr. President, on the proposed amendment, now offered by the gentleman from Salt Lake, I stand just where I stood in the committee of the whole, and if there is any danger to the Constitution itself, arising out of this proposition, I am as

firmly convinced now as I was then that it lies in the direction of undertaking to allow unenfranchised people to vote upon its adoption, and not from confining the vote upon the Constitution to the legal voters of the Territory of Utah.

Mr. RICHARDS. Would you kindly point out what danger could possibly arise from permitting the women to vote in separate boxes?

Mr. ROBERTS. Mr. President, the very proposition to keep the vote of men and women apart on this subject in my mind exhibits the fear the gentlemen have of the illegality of causing them to vote upon the proposition direct. It convinces me that they must, themselves, be full of fear that to permit them to vote on the proposition involves a doubt as to the legality of that proceeding. Had my friends insisted upon putting this directly into the Constitution itself, without any such backgate escapement as that separate voting proposition, I might possibly have been led to believe fully and altogether in their theory, but I cannot have any confidence in the proposition, when I see such a provision for retreat made in it, and I am firmly convinced that if there is any danger in this thing, it will come from that very thing.

Mr. RICHARDS. Well, but wherein is the danger? You spoke without answering my question?

Mr. CHIDESTER. Mr. President and gentlemen of the Convention, inasmuch as I expect to vote against this, I do not wish to make any explanation when I do so, and I want to say just a word or two. I notice that Wyoming, placed in a similar attitude to that in which we are placed, the ladies did not vote for the Constitution there, and it did not seem to endanger the Constitution.

Mr. RICHARDS. Was Wyoming admitted under an Enabling Act?

Mr. CHIDESTER. No; I think not.

Mr. RICHARDS. That is the reason why.

Mr. SQUIRES. The women were legal voters there.

Mr. CHIDESTER. The women, however, had been voting in that territory, if I understand it aright, for a number of years, and they have not been here for a number of years. I think that would make some difference. Now, while I would very much like to see them vote for State officers, and for the Constitution, I would not like at this time to take any step that would be detrimental to us, or could be construed so, and I have met a number of the leading ladies of this Territory, and shortly after this proposition was mentioned here the other day, they signified to me that they did not wish that matter dwelt upon any longer, that they were perfectly satisfied with it as it stands to-day, and they did not wish to vote for the adoption of the Constitution, nor for State officers, at this election; they would be perfectly satisfied if they had the right to vote after the Constitution was adopted. For that reason I feel at perfect liberty now to say that we have gone far enough, and to vote against the amendment offered.

Mr. WHITNEY. Mr. President, I thought I saw very clearly on yesterday my duty in relation to this matter, and I will admit frankly that my views were similar to those of my friend from Davis County. I thought I saw clearly that the women ought not to be permitted to vote until the adoption of the Constitution, but I am not lawyer enough, and I have not the temerity to place my feeble judgment against those of such men as Judge Sutherland, Judge Henderson, the Honorable Joseph L. Rawlins; and I am willing to defer to their judgment, especially since it involves no risk whatever, My colleague from Salt Lake asked the gentleman from Davis County what possible danger there was in the women voting

separately upon this proposition, and in keeping the vote separate. The answer was that the fact that the vote was to be kept separate implied a fear on the part of those who supported this proposition, of the legality of the proceedings. I wish to say candidly that I admit there is a fear in my heart, but the fear is this, that the preventing of the women from voting is the danger. I fear the illegality of that proposition, and as I say, I am willing to defer to these gentlemen who are wiser than I in the law, and since this matter involves no risk whatever, and in the opinion of these gentlemen who are wiser than I there is a risk on the other side, I am willing to take what I conceive to be the safe course and save this point, and I therefore, shall vote for the proposition of Mr. Richards.

Mr. HILL. Mr. President, in reply to what my friend, Mr. Thurman, has just advocated on the floor of this Convention, I wish to call his mind to the statement which he made when this proposition was being discussed in reference to female suffrage. I stated that the republican party at their convention in Provo, in section 18. stated that they favored the granting of equal suffrage to women. Mr. Thurman, in reply to that proposition—I wish to quote him correctly; I made a notation of his statement at the time, which I have in my hand. It was thought by his party that they would go one better than the republican party had stated. He, individually, upon my solicitation, handed me the article which he had drawn to be adopted in the platform of the democratic party, which I hold in my hand.

"The democrats of Utah"—I guess I will have to ask him to read it.

Mr. THURMAN. I can repeat it for you.

Mr. HILL. It does not make any difference; this is in his handwriting, but in connection therewith I wish to say that I have not, as a member, occupied much of the time, but it is to me very inconsistent at this period of our Convention for him to take his present position, in reference to the party on the other side. My position has always been conservative. It is conservative to-day, and these aspirations that are being cast from one side of this house to the other I think are irrelevant to the question before the Convention.

Mr. EVANS (Weber). Mr. President, I want to call attention to a principle or two in this matter that we are now discussing; the right of women to vote for the rejection or adoption of the Constitution, I believe depends upon the Enabling Act itself, and its construction. In conventions where there was no restriction in the Enabling Act, by legislative enactment, it has been held, as Mr. Jameson states in his work on constitutional conventions, where he is discussing the question as to the right of a convention to disfranchise a class of people. He discusses it at some length and concludes as follows:

> The conclusion at which I arrive, then, is that a convention may, by constitutional provision, affect the disfranchisement of existing electors. Of course, with the question of policy of so doing, in any case, I do not concern myself.

Now, if the Convention can disfranchise a class of existing voters, I can see no reason why they could not enfranchise them, unless there was an express restriction, in the paramount authority, but the exact question is discussed by Jameson in his work, to which I have referred. Speaking of the question as to who may vote for the adoption of the Constitution, he gives a number of cases and uses this language:

> Of these, the highest proportion were cases in which submission was made to the electors, plus certain designated classes of persons, previously not entitled to vote at such elections, and the residue of cases in which submission was made to the electors, minus certain classes of persons thus entitled, according to exist-

ing laws. To these should be added two cases in which submissions of constitutions were made to an electorate, both increased and diminished, as compared with that qualified by the existing constitution. Thus the Tennessee convention of 1834, in submitting the constitution of that year, restricted the suffrage given by the convention of 1796, by inserting the word "white," and enlarged it by no longer requiring a freehold as a qualification for an elector, as did the convention of 1796. The Arkansas convention of 1868, on the other hand, in submitting its constitution, enlarged the previous suffrage by striking out the word "white," and restricted it by disfranchising persons who were electors according to existing laws, for offenses connected with the war of the rebellion. In a few cases the conventions, by schedules or ordinances, required submission to be made to the electors qualified to vote according to both the existing and the amended constitution. In most of these cases, the effect was on the whole, doubtless, to increase the existing electorate.

Mr. BUTTON. Mr. President, I move the previous question.

Mr. HAMMOND. That is just the way we have been doing all the time.

Mr. NEBEKER. Let San Juan proceed.

The PRESIDENT. San Juan may proceed if there is no objection.

Mr. HAMMOND. I have had my old democratic gun loaded to the muzzle three or four times, and some jake or other will jump up and spring the previous question. Now, on this matter, I am not acquainted with Judge Sutherland nor Judge Henderson. I have heard of those gentlemen and read of them. Now, I am not acquainted with our honorable delegate as a lawyer. I don't know anything about him, and when we San Juan laymen get into a snarl like this and have to depend upon lawyers, I will tell you where I stand. I know Dave Evans, and if he don't know more than all these republicans, then I will sit down. [Applause and laughter.]

The roll being called on the adoption of the amendment offered by Mr. Richards, the result was as follows:

AYES—34.

Anderson	Lemmon
Boyer	Lowe, Wm.
Call	Low, Cache
Corfman	Maloney
Creer	Maughan
Cunningham	Murdock, Wasatch
Engberg	Nebeker
Evans, Weber	Partridge
Evans, Utah	Preston
Francis	Raleigh
Hammond	Richards
Hart	Robertson
Halliday	Thoreson
Howard	Thorne
Hughes	Thurman
Johnson	Warrum
Kimball, Salt Lake	Whitney.

NOES—53.

Allen	Larsen, L.
Bowdle	Larsen, C. P.
Brandley	Lowe, Peter
Button	Lund
Cannon	Mackintosh
Chidester	McFarland
Christiansen	Morris
Clark	Moritz
Coray	Murdock, Beaver
Crane	Murdock, Summit
Driver	Page
Eichnor	Peterson, Grand
Eldredge	Peterson, Sanpete
Emery	Roberts
Farr	Robinson, Kane
Gibbs	Ryan
Goodwin	Sharp
Green	Shurtliff
Heybourne	Squires
Hill	Stover
Hyde	Strevell
Ivins	Thompson
James	Van Horne
Jolley	Varian
Kiesel	Wells
Kearns	Williams.
Lambert	

ABSENT—17.

Adams	Miller
Barnes	Peters

Buys	Ricks
Cushing	Robison, Wayne
Haynes	Snow
Keith	Spencer
Kimball, Weber	Symons
Lewis	Thatcher.
Maeser	

PAIRED—2.

Kerr	Pierce.

Mr. KERR. Mr. Pierce and I are paired on the question. I would vote aye and he would vote no.

The PRESIDENT. The amendment is lost, gentlemen.

Mr. THURMAN. Mr. President, I move that we strike out all of section 9, down to and including the fourteenth line, except the last word "the." The rest of the section to stand as a part of what I offer, and insert in place of that struck out the following:

The election for the adoption or rejection of this Constitution and for State officers herein provided for shall be held and conducted according to the laws of the Territory and the provisions of the Enabling Act, at which election the qualified voters of the proposed State shall vote directly for or against the proposed Constitution and candidates for State officers. The votes cast at said election shall be canvassed and returns made in the same manner as was the election for delegates to this Convention.

Mr. SQUIRES. Will Mr. Thurman allow me a suggestion? An amendment, which we have already adopted for the first part of the section, provides the time when this election shall be held. Did you want to cut that out? It is to be held on the Tuesday after the first Monday in November, in the year 1895.

Mr. THURMAN. I want to include that, of course. I accept that as a part of the substitute that I propose. Now, I only desire to say a few words on that, just merely to call attention to my object in offering this. I have no speech to make, but I have in this language endeavored to strike a ground which those who are opposed to the women voting, and think it dangerous, ought to compromise on. It follows the exact language of the Enabling Act. It says that at this election the qualified voters of the proposed State shall vote for or against the Constitution, without this Convention undertaking to determine who are the qualified voters of the proposed State.

Mr. CANNON. I desire to ask Mr. Thurman whether the effect of the motion would not be to carry into the courts the contest which we have had here this afternoon?

Mr. THURMAN. Yes; and won't the effect of what you have just done be that very same thing?

Mr. CANNON. I think not.

Mr. THURMAN. I can answer it for you, that it most unquestionably will. About the first thing that will be done, will be to try to determine this matter before the election comes off.

Mr. CANNON. Then, I arise to a point of order. My point of order is that the gentleman is seeking by this motion to introduce again that which the Convention has just decided shall not be introduced. It is in a different form, but it is the same thing under another head.

The point of order was overruled.

Mr. THURMAN. I wish to say now, Mr. President, that in the Enabling Act, section 4 reads that in case a Constitution and State government shall be formed in compliance with the provisions of this act, etc. My amendment contains the language in the Enabling Act. If as a matter of law women have no right to vote, then they are not qualified voters of the proposed State. If they did have a right to vote, then they are qualified voters of the proposed State. I think the amendment ought to be adopted.

Mr. EVANS (Weber). Mr. President, it seems to me that this proposition offered by Mr. Thurman is a very fair one. We are so tenacious about following the Enabling Act, why not follow the exact language in this section?

I am in favor of it, and I think it ought to be adopted. It certainly cannot do anybody any harm. It will be doing that which we ought to do. If there is a serious doubt upon this question, let it be determined in the proper tribunal.

Mr. SQUIRES. Mr. President, I think we have had this question discussed long enough. I move the previous question.

The motion was agreed to.

The roll being called on the adoption of the amendment offered by Mr. Thurman, the result was as follows:

AYES—36.

Anderson	Lemmon
Boyer	Lowe, Wm.
Call	Low, Cache
Chidester	Maloney
Corfman	Maughan
Creer	Murdock, Wasatch
Cunningham	Nebeker
Engberg	Partridge
Evans, Weber	Preston
Evans, Utah	Raleigh
Francis	Richards
Hammond	Robertson
Hart	Snow
Howard	Thoreson
Hughes	Thorne
Johnson	Thurman
Kerr	Warrum
Kimball, Salt Lake	Whitney.

NOES—18.

Allen	Larsen, L.
Bowdle	Larsen, C. P.
Button	Lowe, Peter
Cannon	Lund
Christianson	McFarland
Clark	Morris
Coray	Moritz
Crane	Murdock, Beaver
Driver	Murdock, Summit
Eichnor	Page
Eldredge	Peterson, Grand
Emery	Peterson, Sanpete
Farr	Roberts
Gibbs	Robison, Kane
Goodwin	Ryan
Green	Sharp
Heybourne	Shurtliff
Hill	Squires
Hyde	Stover
Ivins	Strevell
James	Thompson
Kiesel	Van Horne
Kearns	Varian
Lambert	Wells.

ABSENT—22.

Adams	Maeser
Barnes	Mackintosh
Brandley	Miller
Buys	Peters
Cushing	Pierce
Haynes	Ricks
Halliday	Robison, Wayne
Jolley	Spencer
Keith	Symons
Kimball, Weber	Thatcher
Lewis	Williams.

Mr. EVANS (Weber). Mr. President, I have an amendment that I desire to offer to that section, as follows:

Strike out all after the word "Constitution," in line 13, in section, and all of line 14 to and including the word "for," and insert in lieu thereof the following:

And all voters qualified under this Constitution, both male and female, are entitled to vote at the first election for State officers and for members of the Legislature; provided that the vote of each sex shall be taken in separate boxes.

Mr. VARIAN. Mr. President, I would make the point of order that that matter has been determined by the vote preceding the last vote. It was included in Mr. Thurman's motion substantially.

Mr. EVANS (Weber). Those two propositions that were made related to the right of women to vote for the Constitution. This is now simply leaving out the voting for the Constitution.

Mr. RICHARDS. If the gentleman will permit me, I will suggest it did not include this, for the reason that in my amendment there was no provision for the vote for State officers to be taken in separate boxes.

Mr. CANNON. Mr. President, I raise

the point of order that this proposition should have come at that time in the form of an amendment. If the gentleman did not wish to carry out the entire proposition proposed by Mr. Richards, he should have proposed an amendment, and after that is disposed of he could not bring it in in this form.

Mr. EVANS (Weber). Mr. President, it would not be germane to the other, because it would not harmonize at all, the other amendments were so different from this. The other two amendments related to the right of women to vote at the election for the ratification or rejection of the Constitution, but in different forms. Now, I propose an amendment that will authorize women to vote for State officers only, and put the vote in separate boxes.

Mr. GOODWIN. Boys twenty years old now, who will be 21 on the first of January—does it include those?

Mr. EVANS (Weber). It includes those who are qualified under the Constitution.

The point of order was sustained.

Mr. EVANS (Weber). Mr. President, I appeal from the decision of the chair on this question. I do not care anything about this amendment that I offer, so far as any virtue that is in it is concerned, because I do not expect that it will be adopted by the Convention, but I want to remind you, gentlemen, of the course of procedure which we have had since the beginning of this Convention. We have always been entitled to offer amendments, and to have them entertained for the purpose of expressing a view which has not been passed upon before. The only thing that is in these other two amendments offered by Mr. Richards and Mr. Thurman, relates to the right of women to vote for the adoption of the Constitution and for State officers. They were competent in the Richards amendment, and in the Richards amendment, it further provided that the votes for the adoption of the Constitution should be in separate boxes. Mr. Thurman's amendment simply followed the Enabling Act for the purpose of permitting the courts to determine who were qualified voters. Now, I simply propose an amendment here that women may vote for State officers alone, that is all. I admit that that is a question, of course, which the Convention may deal with. They can either adopt it or not, but that has nothing to do with this point of order.

Mr. HART. Mr. President, as I understand it, the only ground upon which this could be ruled out of order would be that it is in substance the same as Mr. Richards's amendment. Now, I understand there is a great difference. There is an additional element included in this amendment, and that is that votes for State officers shall be kept separate as well as votes on the ratification and adoption of the Constitution. Now, it will be an impossibility, from the form of these two amendments, for Mr. Evans of Weber to amend Mr. Richards's motion. There is a difference in form. There is no rule anyway requiring him at that time to propose a different proposition, unless he wished to. We have had a right to vote on Mr. Richards's amendment, now we have a right to vote on this.

Mr. CANNON. I would like to ask Mr. Hart a question. Is it not the original proposition—two ideas conveyed, first, vote for the adoption of the Constitution, and second, vote for State officers?

Mr. HART. I understood it was simply upon the one proposition for the ratification of the Constitution.

Mr. VARIAN. Mr. President, Mr. Richards's motion included an addition in line 12, after the word voter, "and all persons who are qualified to vote at elections held under this Constitution after its adoption," should have the right to vote, and an addition at the end of the section, "and provided fur-

ther, that all votes cast by female voters for or against this Constitution, shall be deposited in separate boxes and canvassed separately and certified." Mr. Evans's motion provides that all voters qualified under this Constitution, both male and female, are entitled to vote at the first election for State officers and members of the Legislature, etc. I submit, that it is the same proposition in different form, and that by simply changing the verbiage, or selecting a different place in the section, will not accomplish the purpose of keeping us here to vote it down time after time. It seems to me the chair ought to be sustained.

Mr. EVANS (Weber). The Richards proposition includes the right to vote for the Constitution and also for State officers, doesn't it?

Mr. VARIAN. Yes, sir.

Mr. EVANS (Weber). Some members may be opposed to their right to vote for State officers, but in favor of their voting for the Constitution. Now, I have singled that out so that we may have a vote on that proposition. He has a double proposition, and I have a single one.

Mr. VARIAN. I think that Mr. Richards's amendment included Mr. Evans's proposition. We certainly understood it that way, and we voted twice with some difference in the verbiage upon one or the other of these propositions, once on both of them put together, and on Mr. Thurman's we have voted practically on the same line. It provides that qualified voters of the proposed State should vote directly for or against the proposed Constitution and candidates for State officers.

Mr. RICHARDS. Mr. President, I insist that this is entirely a separate and distinct proposition. My amendment was that the women should be permitted to vote for the Constitution and for State officers. As was stated by the delegate from Weber, they were both combined, and so far as the Constitution was concerned, it was provided that the vote should be taken separate. This is a separate proposition, for the reason that it brings the question squarely before the Convention alone upon the right of the women to vote for State officers, and for the further reason that it provides for putting the votes in separate boxes for State officers, and my amendment did not provide for that. It is a separate and distinct proposition.

Mr. ROBERTS. I would ask these gentlemen who are contending for another vote upon this proposition, if there was anything in the course of the discussion that would lead them to conclude that this Convention would vote for this single proposition when unconnected with the proposition to to vote for or against the Constitution?

Mr. RICHARDS. Will the gentleman permit me to answer the question he asks?

Mr. ROBERTS. I did not direct it to you.

Mr. RICHARDS. You referred to the gentleman who stated these things.

Mr. ROBERTS. Excuse me. I referred to all of them. I directed my question, not to Mr. Richards at all, and therefore I cannot conceive that I am treating him with discourtesy in not allowing the interruption; but sir, on the other hand, when this question of allowing the women to vote for the officers in the new State government separately was proposed to the committee of the whole, it was voted down, and I contend, sir, that there is no reason that these gentlemen can put forth—that there is anything in the disposition of this Convention to change their vote on this proposition, when it was coupled with the proposition that women should vote for or against the Constitution.

Mr. HART. I would like to ask the gentleman what that has to do with the point of order.

Mr. ROBERTS. In answering that,

I would say, sir, that it helps us in the interpretation of this proposition that is now before the house. The idea is that this Convention has never expressed itself upon this proposition singly and alone, and I refer to the action of the committee of the whole, by which the sense of this Convention may be known or may be properly judged.

Mr. HART. Would the gentleman contend that a motion is out of order unless the mover of it contemplated receiving a majority of the Convention?

Mr. ROBERTS. Mr. President, I hold that the motion is out of order, for the reason that we have decided this question when it was associated with another question, and there was nothing in the discussion to indicate that gentlemen would vote for it, if separate from the other proposition with which it was connected.

Mr. SQUIRES. And no motion made to separate them.

Mr. ROBERTS. And no motion or amendment made to separate them.

Mr. THURMAN. Mr. President, I desire to answer my friend from Davis County. He asks these gentlemen who are contending for this, if there was anything that had occurred to lead us to believe that there would be any difference in the vote. I say yes. I say there are republicans on this floor who have stated time and time again that they were willing to allow women to vote for State officers, but not for the Constitution.

Mr. RALEIGH. Mr. President, I have voted for Mr. Thurman's amendment and I have not voted for women to vote for State officers. I am certain of that.

The roll being called on the appeal from the the decision of the chair, the result was as follows:

AYES—43.

Allen	Larsen, L.
Bowdle	Larsen, C. P.
Button	Lowe, Peter
Cannon	Lund
Chidester	McFarland
Christiansen	Morris
Clark	Moritz
Coray	Murdock, Beaver
Crane	Murdock, Summit
Driver	Peterson, Grand
Eichnor	Peterson, Sanpete
Eldredge	Roberts
Emery	Robinson, Kane
Farr	Ryan
Gibbs	Shurtliff
Goodwin	Squires
Green	Stover
Heybourne	Thompson
Hill	Van Horne
Hyde	Varian
Kearns	Wells.
Lambert	

NOES—38.

Anderson	Lowe, Wm.
Boyer	Low, Cache
Call	Maloney
Corfman	Maughan
Creer	Murdock, Wasatch
Cunningham	Nebeker
Engberg	Page
Evans, Weber	Preston
Evans, Utah	Raleigh
Francis	Richards
Hammond	Robertson
Hart	Robison, Wayne
Howard	Sharp
Hughes	Snow
Ivins	Thoreson
Johnson	Thorne
Kerr	Thurman
Kimball, Salt Lake	Warrum
Lemmon	Whitney.

ABSENT—25.

Adams	Maeser
Barnes	Mackintosh
Brandley	Miller
Buys	Partridge
Cushing	Peters
Haynes	Pierce
Halliday	Ricks
James	Spencer
Jolley	Strevell
Kiesel	Symons

Keith Thatcher
Kimball, Weber Williams.
Lewis

The chair, was sustained.

Mr. IVINS. Mr. President, I want to say by way of explanation, that while I am opposed to the motion made by the gentleman, I am also opposed to the ruling of the chair, and therefore, I shall vote not to sustain the chair.

Mr. STOVER. Mr. President, I move we now adjourn.

The motion was rejected.

Mr. RICHARDS. Mr, President, I desire to offer an amendment to section 9, and before I present my amendment I desire to say to the gentlemen on both sides of the house, for their relief, that there is no reference whatever to woman's suffrage in the amendment that I propose. I regard this as a very important amendment. In the committee of the whole, on the motion of my colleague from Salt Lake, Judge Goodwin, the words "and are qualified voters" were inserted after the word election, in line 12. That was a mistake. Those words ought not to be there. The Enabling Act provides for the qualifications of certain persons who shall vote on this Constitution, provided that all male citizens of the United States over the age of 21 years, who have resided in this Territory for one year next prior to to such election—that is the exact language of the Enabling Act, and the words, "and are qualified voters," were inserted after, and I move to strike those words out. The purpose of the Enabling Act undoubtedly was, and I think no gentleman on this floor will dispute it, to permit men over twenty-one years of age, who had resided in the Territory one year prior to their election, to vote, who were not qualified to vote under the laws of the Territory—who were ineligible, and were not legal voters except for this act. Now, if we retain these words, "and are legal voters," it simply means that those men to whom the right to vote is guaranteed by this provision, cannot vote, and those words ought to be stricken out.

Mr. CANNON. Would not the same result that you desire follow by adding "and the qualified voters under the provisions of the Enabling Act?"

Mr. RICHARDS. No, sir; the words ought not to be there at all, because the committee have undertaken here to prescribe the exact qualification provided in the Enabling Act. Section 1 provides who may vote, and section 4 guarantees to these people the right to vote. We have been contending that it also guaranteed to other people, in section 4, the right to vote, but certainly no one will deny that it guarantees in in the latter part of section 2 the right of these people to vote. I suppose this insertion was made by inadvertence. At any rate it would, if allowed to remain here, exclude this class of people from voting, who are guaranteed that right under the Enabling Act.

Mr. CANNON. There is another class, though, on another election here mentioned; that is, in addition to voting for or against the adoption of the Constitution, you also vote for the State officers herein provided for, but at the present time, the officers would not be elected by that class of voters.

Mr. RICHARDS. I understand that the gentlemen are contending that only voters qualified under the Enabling Act can vote.

Mr. GOODWIN. Mr. President, I had no thought in making that motion, but to make it conform to another section in this Constitution. The parties referred to by Mr. Richards, as I understood and always contended, were made qualified voters by the amnesty of President Harrison, and later of President Cleveland. My thought was that men who were convicted of such crimes as robbery, homicide, etc., who are scattered through this Territory, and persons also who would be voters if they were registered; I think that without

that, any other man that is not registered at all, can go to the polls on election day and claim the right to vote.

The amendment was agreed to.

Mr. VAN HORNE. Mr. President, I move we adjourn.

The motion was rejected.

Section 10 was read.

Mr. ROBERTS. Mr. President, my recollection is that in the article on public lands providing for three land commissioners to locate lands, it was stricken out. If my recollection is correct on that, then, "three land commissioners," in this section should be stricken out. My recollection is that the section on public lands was so amended. I make the motion, therefore, that those words be stricken out.

Mr. CREER. Mr. President, I hope that that motion will not prevail. I think it should not prevail. There is nothing in that that will conflict at all with the Enabling Act, as I understand it. Furthermore, it leaves it for the election of these officers by the people, which is a very important matter, as I believe. If this were stricken out, it may be then the Legislature should perhaps appoint some other State officers. Now, I think there is nothing at all in the way here, why we should not elect these as State officers. I do not believe it was the intent at all, in striking out this section, that this should also be stricken out.

Mr. CANNON. Would it not be a strange condition of affairs to have three men elected, when there are no duties assigned to them?

Mr. CREER. The Legislature can prescribe their duty.

Mr. CANNON. The Legislature may see fit to trust it to a dozen men, or half a dozen men, or any number.

Mr. CREER. That is very true, and that is the reason why I say the Constitution should fix it now. I think it is proper they should be State officers.

Mr. ROBERTS. Mr. President, I remember that these words of section 10, "three land commissioners," were inserted here, because, in the committee of the whole, in the article on public lands, we had provided for those land commissioners, but in the Convention that section in the article on public lands, that required the appointment of three land commissioners, was stricken out, and that being the case, the Constitution does not provide for these officers anywhere; and since these officers were provided for in consequence of the section that at that time was a part of the article on public lands, since that has gone, it seems to me but reasonable that the words here also should go.

Mr. CREER. I think, if my memory serves me right that, the section that was stricken out went to prescribing duties of these commissioners, but this simply elects them.

Mr. MALONEY. Mr. President, I trust this will not be stricken out. The Legislature can prescribe for their duties. If we are to have these commissioners let us have them elected by the people.

Mr. THURMAN. Mr. President, I think it ought to be struck out. This is a schedule. We have no right to put any officer in here, unless he is created in some other part of the Constitution. Have we got it anywhere else?

Mr. ELDREDGE. No, sir.

Mr. VARIAN. Strike him out.

The motion to strike out was agreed to.

Sections 11, 12, and 13 were read.

Mr. RICHARDS. Mr. President, I move the word "term" be made "terms," in section 13.

The amendment was agreed to.

Section 14 was read.

The PRESIDENT. The roll will be called on the adpotion of the article.

Mr. EVANS (Weber). Mr. President, the article is now open for remarks, and I simply take this opportunity of saying that as far as the remarks of Mr.

Varian, which related to me, as being a very inferior lawyer and pettifogger and all that, I do not care to resent it especially, except that I will say this, that I believe the amendment which he offered to the section, and which was adopted, ought not to have gone into the schedule. I think if anything upon that subject was put into the Constitution at all, it should have been in the ordinance, and I oppose it seriously upon that ground, and I do not think I shifted around from one position to another. I probably merit all the strictures which he placed upon me. That is a matter which I will leave this Convention to determine. I will say, however, that I believe his work in amending that section is a piece of the worst blacksmith work that I ever saw in a constitution.

The roll being called on the adoption of the article, the result was as follows:

AYES—60.

Allen	Larsen, C. P.
Anderson	Lemmon
Bowdle	Lowe, Wm.
Button	Lowe, Peter
Call	Lund
Cannon	Maughan
Chidester	Morris
Christiansen	Murdock, Beaver
Clark	Murdock, Wasatch
Coray	Murdock, Summit
Crane	Page
Cunningham	Peterson, Grand
Driver	Peterson, Sanpete
Eichnor	Roberts
Eldredge	Robertson
Emery	Robinson, Kane
Engberg	Robison, Wayne
Farr	Ryan
Gibbs	Sharp
Goodwin	Shurtliff
Green	Snow
Hammond	Spencer
Hill	Squires
Hughes	Stover
Ivins	Thompson
Johnson	Thorne
Kearns	Thurman
Kerr	Varian
Lambert	Wells
Larsen, L.	Whitney.

NOES—18.

Boyer	Low, Cache
Corfman	Maloney
Creer	McFarland
Evans, Weber	Partridge
Francis	Preston
Hart	Raleigh
Heybourne	Richards
Howard	Thoreson
Kimball, Salt Lake	Warrum.

ABSENT—28.

Adams	Lewis
Barnes	Maeser
Brandley	Mackintosh
Buys	Miller
Cushing	Moritz
Evans, Utah	Nebeker
Haynes	Peters
Halliday	Pierce
Hyde	Ricks
James	Strevell
Jolley	Symons
Kiesel	Thatcher
Keith	Van Horne
Kimball, Weber	Williams.

During the calling of the roll the following statements were made.

Mr. ANDERSON. I vote aye for the article, but I wish to be recorded as being opposed to section 2, where we are trying to get special legislation in regard to polygamy.

Mr. HAMMOND. I am not altogether satisfied with my vote on the Varian amendment, but I did it merely as an expedient, that is, a republican expedient, and I wanted to help them out as best I could, and so I voted aye. I am ashamed of it. As a democrat I had no business to do it. I will let it go aye.

The PRESIDENT. You will please record that the gentleman is ashamed of himself.

Mr. RICHARDS. I vote aye, with an interrogation mark. I desire to change my vote.

Mr. EVANS (Weber). If the article will carry without my vote, I would like to vote no, but I do not want it to fail.

The PRESIDENT. I cannot say.

Mr. EVANS (Weber). Well, I will vote no and see whether I can change my vote afterward.

Mr. SQUIRES. You cannot change it after the result is announced.

Mr. CREER. Change my vote to no. I vote no.

Mr. PARTRIDGE. I voted aye, and I am willing to vote aye, if Mr. Thurman's amendment had carried, but under the circumstances I believe I will change my vote to no.

Mr. CREER. That is the way I felt.

The PRESIDENT. The article has been adopted, and under the rules goes to the committee on compilation and arrangement.

The committee on engrossment and enrollment presented the following communication:

MR. PRESIDENT:

Your committee on engrossment and enrollment finding nothing in the rules prescribing the number of copies of the Constitution to be prepared for the signature of the delegates, respectfully ask instructions as follows:

(1.) How many copies of the Constitution shall be prepared for signature of delegates?

(2.) Shall all of said copies be written, pen and ink copies, or may any of them be in typewriting?

Mr. RICHARDS. Mr. President, I move that that communication be referred to the committee on rules.

Mr. VARIAN. Permit me to suggest to make it a select committee?

Mr. RICHARDS. No; this is a rule.

The motion was agreed to.

The Convention then, at 6 o'clock p. m., adjourned.

SIXTIETH DAY.

THURSDAY, May, 2 1895.

The Convention was called to order at 9 a. m., President Smith in the chair.

Journal of fifty-ninth day's session was read and approved.

The Convention then resolved itself into the committee of the whole and resumed the consideration of the article entitled miscellaneous, Mr. Eichnor in the chair.

Mr. ROBERTS. Mr. Chairman, I observe that the chairman of the committee reporting this article is not present and for the information of the committee, I wish to state the circumstances under which this report has been made. There were, I think, a number of suggestions in regard to an article for the Constitution on the subject of exemptions. The committee, in consequence of having so much other matter before it, had but little opportunity to go into this matter in detail for themselves and make any personal detailed examination of the subject, but one of the files that was referred to this committee contained this article that is now reported to the committtee of the whole. It is an article drafted by Judge Cooley and is taken bodily from the Michigan constitution, and the committee on schedule and miscellaneous were of the opinion that it is a subject that ought to be considered and disposed of by the Convention, and they, therefore, in consequence of the great reputation of Mr. Cooley as a constitutional lawyer, concluded the best thing they could do would be not to attempt any improvement on his production, but to report that as a working basis for the committee. The position, therefore, of your committee on schedule and amendments is this, that while they have reported this article to you, they are not standing in the position of recommending or urging its passage at all, but have merely reported it here for the action of the committee or of the Convention.

Section 1 was read.

Mr. ALLEN. Mr. Chairman, it appears to me that this ought to be left

to the Legislature. Therefore, I move to strike out section 1.

Mr. MALONEY. Mr. Chairman, I am not a member of this committee, but I sincerely trust that motion will not carry. The article as reported is copied literally from the constitution of Michigan, and I am informed by Judge Miner, who is a distinguished jurist in this Territory and a native of Michigan, or a resident of that statel that Judge Cooley drew it. It has worked most admirably in Michigan, and they would not part with it under any circumstances. This question was discussed before the people in our county. The people up there demand something of this character. I sincerely trust it will pass. If the question comes down to this, whether the money power should be protected or the widows and children, I think this Convention will take care of the little children and keep this provision in the Constitution.

Mr. KEARNS. Mr. Chairman, I hope that this motion will not prevail as to this section, nor any other section in this article. I trust it is the will of this committee to give that much protection to the little homes, and to the orphans and widows of Utah. Capital will take care of itself. This does not apply to any mortgage legally drawn. If those debts should be contracted by a husband that is called away, and left his children without any protection, or a man without the consent of his wife, to take the little from them—this is the only thing that we have left in the Constitution to protect them. They say it is legislative matter. That may be very true. I maintain that it is good constitutional matter, and matter that will be to our honor long after we have gone to the grave. So I trust, gentlemen of this committee, that there is not one section of this article that will get a jar at your hands.

Mr. BOWDLE. Mr. Chairman, it may be true that it does partake a little of legislative matter, but if we have never done any legislating in the Constitution, I would be in favor now of entering upon that new field. If the assertion of gentlemen on this floor be correct, we have played a little at that heretofore, and some way it has turned out that whenever there was anything that seemed to look out for the interests of those that we ought to look out for particularly, we hear the cry that it is legislation. In nineteen constitutions of the United States (the names of the states I have before me, but I will not read them), there are provisions protecting the homestead, and the people entitled thereto. California, in its late constitution, made a declaration that the legislature should pass laws protecting the homestead exemptions, and those states that have been lately admitted to the Union—Wyoming, Washington, South Dakota, and Montana—all have provisions of some kind on the question of the exemption of homesteads. Now, the only thing, in my opinion, is whether this article is the one that we want or not. I am fully of the opinion that we ought to say something on the subject in this Constitution. This article I have looked over very carefully. It is clear, explicit, and simple. I do not see how we could get the substance very much shorter than we have it in this article. Now, if you commence to strike out, I apprehend that the whole article will go. That is our disposition when we once start that business. We do not stop short. So that I want to defend the first section of this article, not for what it contains so much as what is in the subsequent sections. It is the policy of this government, in every state in the Union, to protect people named in this article, in the possession of something to keep them from want, and I oppose the striking out of this first section. I think that it is just exactly what we want on that subject.

Mr. ANDERSON. Mr. Chairman, I hope we will not strike this section out.

It is a provision tending to protect the poor and weak—those who need protection. The money lender and the rich man take care of themselves. If a section of this kind or an article of this kind is in the Constitution, they will be more careful. I think an article of this kind should be in the Constitution, and, therefore, I shall vote against the striking out.

Mr. HART. Mr. Chairman, the present law of the Territory is that the debtor is entitled to an exemption of property, at least equal to this. I am in favor of retaining the first section. It will prevent the Legislature, in case there shall be any disposition, which I do not fear, from reducing the exemption of personal property. I am in favor of retaining the first section, although I am opposed to the second section, and will give my reasons for that when that comes up.

Mr. BOYER. Mr. Chairman, I wish to offer as an amendment to the motion to strike out, to precede the section with the words, "until otherwise provided by law."

No second.

Mr. ALLEN. Mr. Chairman, in order to save time, it seeming to be against the wishes of this Convention, I will withdraw the motion.

Section 2 was read.

Mr. CHIDESTER. Mr. Chairman, I make the motion to strike this section out. It has been asserted that the first section is to protect the poor man. I think this other section is to protect the money lender. Under our present law, the head of the family is allowed one thousand dollars, five hundred dollars for the wife, and two hundred and fifty dollars for each child. Now, I think that this is not as good as the law that we already have. The exemption of forty acres of land is not a good provision because one piece of land owned by one party may not be as good in value as that owned by another. I think it should be placed on a money valuation basis.

Mr. SNOW. Doesn't this section provide for a money basis of fifteen hundred dollars?

Mr. CHIDESTER. Well, if I understand it aright, it is not true.

Mr. SNOW. Do you not understand that "not to exceed fifteen hundred dollars," applies to the forty acres as to the city lot?

Mr. CHIDESTER. I understand that the exemption is to be forty acres of land, or instead thereof, at the option of the owner, a city lot. If he has land and also a city lot, he can take his choice, but if he has not the city lot, the land is his exemption, and no matter what the value of it is, why, that is all that can be exempted. I think it should be on a money basis. If he has not the town property, then we have got to take his exemptions in forty acres of land, let it be good or bad. Now, under the present law, there is so much exemption, and I think it is a much better law than this. Then, besides that, I think this is a piece of legislation that should be left to the Legislature. They never have shown any disposition to rob the poor man or to change the exemption so but that the debtor was well protected, and it is my opinion that they never will seek to change it to injure the poor man, and for that reason I think that this section should be stricken out.

Mr. BOWDLE. How would this protect the money lenders, Mr. Chidester?

Mr. CHIDESTER. Because it seeks to make the exemption less than the amount that we have at present.

Mr. BOWDLE. It might or might not, might it? Suppose that described a man and his wife under the present law, he would not have fifteen hundred dollars, would he?

Mr. CHIDESTER. Well, that is true, but if they had eight or ten children, they would only have the same amount; I think it is unjust in

that, too. I think the larger the family the more exemption they should have.

Mr. HART. Mr. Chairman, I am in favor of striking this section out for the reason that it is very much less liberal than the present exemption law of Utah. This may be a very good provision in the state of Michigan, and I have no doubt of the wisdom and ability of Judge Cooley to draw a constitutional provision on this subject which would operate properly in the state of Michigan, but I desire to call the attention of the committee to the fact that conditions in Utah are different from almost any other state in the Union. On account of Indian difficulties here in early days, this whole country was settled in a peculiar manner; that is, instead of going and living upon their farms, as they have done in the state of Michigan, in Utah they have settled upon the little lot in the town, village, or city, and have their adjoining farms scattered in various directions through the surrounding country, in five, ten, and twenty acre tracts. Now, Mr. Chairman, nearly every state the Union has an exemption of a homestead and it has an exemption as a homestead, as such. That is, it must be one tract and the dwelling must be upon that tract; even if a street intervenes between the homestead and the land, the land would not be considered as a part of the exemption. Courts have even gone so far as to hold that where two tracts of lands simply join, by meeting corners, that the tract was not a part of the other tract upon which the homestead stood; so that every state in the Union, with the exception of perhaps two or or three—Texas, perhaps, California, and the state of Utah, there is an exemption of so much land, but in Utah, there is an exemption of value, and the person is entitled to so much value regardless of where the same may be. Part of it may consist of a little homestead in the town, and the other part may consist of five, ten, fifteen, or twenty acre tracts scattered over the surrounding country. If you pass this article, the result will be that a person will have to take his choice between an exemption of the farm, upon which he may have a homestead, and his home in the city. If he is situated, like the great majority of the people of the Territory, with a home in the town or city, and a farm outside, the only exemption he can claim under this will be the exemption of his home, and his land will go. If he lives on the farm he can only retain the forty acres. I am opposed to this for the reason that it is not suited, it is not adapted in any respect to the people of the Territory of Utah. I am in favor of an exemption of value consisting of a definite amount, either based upon the number of persons composing the family, or of some fixed amount, but with this it will give a man no exemption of land, if he happens to live in the city, which the gaeat majority of people in this Territory do. There can be no doubt but what there are no two exemptions here, but simply the one. If he is living on a farm, an exemption of forty acres, or if he is living in the city, an exemption of the city lot; and with the condition that city lots or forty acre tracts, as a general rule, are not worth fifteen hundred dollars, it would be a meagre right indeed to secure to the people of Utah. It would be throwing away and abandoning a good system that we already have and forcing upon the people something that will not be adequate to their needs. I am in favor of striking it out.

Mr. KEARNS. Mr. Chairman, I will have to add to the remarks of the eloquent gentleman from Cache. I do not wish to wear out the good patience of this committee discussing this all day. It is useless, for I think the gentlemen have come to the conclusion that this is a very good article and will maintain it. He says the same state of affairs does not exist in Utah that exists in Michigan or California. Now,

it is very necessary for the orphans or widows of Utah to have protection, just as well as in those states. Reference has been made, if the gentlemen will remember, by most every member of the legal fraternity on this floor since this Convention opened, to Judge Cooley. It has been stated that he was an able constitutional lawyer. Not belonging to that fraternity, I listened to their eloquent praise on this matter, and thought he was, too, but since I have examined this article in the constitution of Michigan, I concede to the gentlemen that he was more than eloquent; he was a true man, to protect the poor of the state he was in, and I trust the motion to strike this out will not prevail, and not only this, but any section in this article.

Mr. CREER. Mr. Chairman, I am satisfied that the gentleman has not given this section deliberate reflection or else he may not be fully conversant with our present laws. I agree with the gentleman from Cache (Mr. Hart), that this section is not suited to the condition and situation of the people of this Territory, because a great many of the owners of real estate live in small towns, villages, and settlements, and as he has remarked, under our present law, it is valuation. Now, under this law, it would prevent the man who had a little homestead, city lot, small home, from having anything else exempt than that. As he remarked, the law as it stands now, the land can be taken in detached pieces, and it is exempt to the amount he stated, one thousand dollars to the head of the family, five hundred dollars to the wife, and two hundred and fifty dollars to each of the children. That is not the only objection; we have lien laws. This would sweep out, to my understanding, the protection that there is to the contractor; to the builder, to the material man, and the man who labored in building the house, there is no protection. It simply would remove that protection away, because it is a protection against any and all contractors. Now, I think that the laws are very good as they stand to-day, that it should be the valuation of the homestead, and our law as it stands is much more liberal than this is. It gives a better opportunity for the man to secure his home, and, furthermore, this will place the single man precisely on the same grounds.

Mr. CORAY. May I ask the gentleman a question? If the town lot or city lot mentioned in this section should happen to lie under the Gardo house, would not you think the exemption sufficient?

Mr. CREER. I understand it is only exempt to the amount of fifteen hundred dollars, no matter where it may be. It names the amount; but there is another objection to the section, and that is that the single man stands exactly upon the same ground as the married man. He may have a homestead to the amount of fifteen hundred dollars. You are talking about the widows and children. Why, you are protecting the single man to the detriment of the man of family. If a married man, the mortgage would not only be valid without the consent of his wife, which clearly means that a single man can have an exemption to the amount of fifteen hundred dollars. Now, our laws do not grant that privilege at the present time, and I think the whole plan or system of this section is entirely wrong. I am in favor of striking it out. It is not fair.

Mr. ROBERTS. I would like to ask the gentleman, if he can, to explain how this section affects the mechanic's lien laws in this Territory?

Mr. CREER. Of course, it makes provision that any debt contracted after this Constitution—but I say it is in opposition to the present system, to our own lien laws as we have them to-day—the mechanic's lien and the material man—he who furnishes the lumber and the material, simply because they are protected; they have a mechanic's

lien and this does not provide anything of that kind, but simply independent of any debt whatever, it gives him a protection of the homestead. I say it is entirely different, whatever the situation of the people of Michigan may be. I think that our system is much better than this provides.

Mr. EVANS (Utah). Mr. Chairman, I propose an amendment to this section, by striking out all of section 2, down to and including "constitution," in line 14, and substitute the following:

Every person, the head of a family, shall have exempt from execution, real estate to the value of fifteen hundred dollars, together with a house thereon.

Mr. LAMBERT. Would you be willing to include in that amendment of yours, two hundred and fifty dollars for each minor child?

Mr. EVANS (Utah). Well, I do not know; it seems to me that fifteen hundred dollars and a home on it ought to be enough. I think men ought to pay their debts, and I am highly in favor of protecting the family in the homestead right and with some land. Now, my reasons for offering that is this: Under this, as I comprehend it, if a man had a little city lot, as many of our people have in villages, with perhaps half an acre of land, just barely enough for him to live on, and a very small garden, that under the provision of section 2 as I have comprehended, if he should select that as his homestead, it would cut him off from every other particle of land that he may have. He may have forty acres of land that would be worth very little more than this half acre of land would be in the townsite. I know of such cases in the town where I live. When you take in consideration the fact that he has a little house and that in addition to that lot, his selection would be that little home, thereby depriving him of five acres or ten acres of land that he may have had in the field. The object of this motion is that he should be protected first in his home, if it shall be a home that is worth fifteen hundred dollars, exclusive of the house thereon; then he ought not to be exempt from more, but if it shall be a little lot, that is worth three hundred dollars or four hundred dollars, then if he has a small farm, he ought to be protected in that, that they could be joined together, so long as in the aggregate they do not exceed fifteen hundred dollars.

Mr. JOLLEY. The homestead—the little home and the piece of land, suppose it lays a distance from the homestead, would that make any difference?

Mr. EVANS (Utah). I think that this would cover it, if a man owned in the city a lot worth five hundred dollars, and he owned a farm in the field that is worth a thousand dollars, that this would exempt it.

Mr. IVINS. Is it not a fact that under your amendment, an exemption would be granted of lands to the amount of fifteen hundred dollars with the house that was on them, regardless of the value of the house?

Mr. EVANS (Utah). Yes, sir.

Mr. IVINS. Then, a man might own a city lot, and he might have a house on it worth twenty or thirty thousand dollars.

Mr. EVANS (Utah). As I remarked, this is very hurriedly drawn up.

Mr. MALONEY. I did not hear your amendment read, but would not it meet the objection by striking out the words "and occupied," in lines 10 and 9?

Mr. CREER. I desire to offer this as a substitute for the entire section. I think it is much better:

A homestead, as provided by law, shall be exempt from forced sale, under any process of law, and shall not be alienated without the joint consent of husband and wife, when that relation exists, but no property shall be exempt from sale for taxes, or for the payment of obligations contracted for the purchase of said premises, or for the erection of improvements thereon.

Now, that is all there is in Wyoming, and that would be in accord with our present law. It seems to me much better than the section as it stands, or the amendment offered by the gentleman from Utah County.

Mr. RICHARDS. Mr. Chairman, I am in favor of liberal exemptions, and I am therefore not in favor of the section as it stands, in the report of the committee. It is not in my opinion a good provision; that is, it is not a provision that is applicable to the condition of the people of this Territory. The gentleman from Summit seems to think that it necessarily follows that because Judge Cooley is a great constitutional lawyer (and I say in passing that no man has a greater reverence or respect for his ability in that capacity that I have), that therefore everything that Judge Cooley may prepare or recommend or suggest for the state of Michigan must be exactly the right thing for the Territory or State of Utah. Now, this provision may be all right in Michigan. I do not propose to say anything about that, because I do not know how it works there. I am told by gentlemen who do know or claim to know, that it works well, but I say that it is not applicable to the people of this Territory or of the new State. We have now, as has been stated here, an exemption law that is infinitely better than this, in my estimation. It is a law by which the head of the family is entitled to a homestead of the value of one thousand dollars in his own right. If he has a wife he gets an additional five hundred dollars in valuation, and for each minor child, he gets an additional two hundred and fifty dollars. Now, it seems to me that that is a much more equitable and proper way of estimating exemptions, according to the size of the family, than to make an exemption of a specific sum, or of a homestead of a specific value, to apply to a man whether he has any family or not. I think the value of the exemption should be determined by the size of the family. That is my idea about that. Now, as has been pointed out to you, in regard to the selection of the homestead, it has been held by the courts of this Territory, under the statute that I have referred to, that a man, if he has a little home in the town that is worth five hundred dollars, he may select that, and then he may select in addition to that a farm, or a meadow, or a pasture, or any other tract of land that he may, by which he obtains his subsistence, and the subsistence of his family. Isn't that just and right? I think so. I am not in favor of this provision. I think myself, that if we were to adopt such a provision as there is in the constitution of Washington, that that would be perfectly safe. There they provide in the Constitution, as is usual where any mention is made of exemptions, that the Legislature shall provide for the exemption of homesteads and personal property, to judgment debtors, the heads of families.

Now, I think that that would be sufficient, but if that is not deemed sufficient, then let us have something similar to the provision in Wyoming, or something that will be broad enough to give us such an exemption as I have spoken of that may be adapted to the size of the family, and the condition of the family. I am not in favor of the section as it stands, but am in favor of striking it out.

Mr. VARIAN. Mr. Chairman, I quite agree with the suggestions made by my colleague (Mr. Richards). It seems to me that this section as it stands is not only legislation, but of an extremely undesirable nature, and the amendment offered by Mr. Creer seems to contemplate matters that might properly be left to the Legislature. I do not see why, as suggested by one of the gentlemen, in place of sections 2, 3, and 4 we might not content ourselves with the provision "the Legislature shall provide by law for the selection and exemption

of a homestead from sale on execution." That is all that is necessary, unless we desire to tie the hands of the Legislature, and it may be, and probably will be, the case sooner or later that the people will want a change in that particular. Exemption laws are of great benefit, particularly in times of financial crises and distress, for the protection of the people. And I am utterly and entirely opposed to putting into the Constitution any fixed limitation, either of a maximum or a minimum, in regard to that matter. If the matter were now open for amendment, I should offer substantially what I have read, in lieu of section 2, and then move to strike out sections 3 and 4, if it should carry, because all that follows, as a matter of course, if there is an exemption.

Mr. ELDREDGE. Mr. Chairman, I have an amendment prepared that I was thinking to offer, but as it is so that I cannot now, I will simply make it a portion of my remarks, and read it that the delegates may have it before them in considering their vote upon the question now pending:

To all heads of family, there shall be an exemption of lands and the improvements thereon, not exceeding in value one thousand dollars, and if such head of a family be married, five hundred dollars for the wife and two hundred and fifty dollars for each minor child.

Then strike out all of section 2 down to the word "dollars," in line 11. Then, at the end of the section, add "But no property shall be exempt from sale for taxes."

The amendment of Mr. Evans, of Utah, was rejected.

The substitute offered by Mr. Creer was rejected.

Mr. THORESON. Mr. Chairman, I now move to amend section 2, by striking out the words, "not exceeding forty acres," in lines 1 and 2, and inserting in lieu thereof the word "consisting," and also striking out, in line 4, all after the word "thereof," and all of lines 5, 6, 7, 8, 9, and part of line 10, to and including the word "State."

Mr. VARIAN. Mr. Chairman, I offer my amendment now to section 2 as a whole.

Mr. THORESON. Mr. Chairman, I think the amendment meets all the objection that has been brought out in opposition to the provisions of the section as it now stands. It will cover the peculiar conditions referred to by my colleague, from Cache, of people that may own a small portion of land adjoining the town and live within the town or vice versa. They may own part of the town lot; it may be a farm, and they may live immediately outside; as long as the value of their land does not exceed fifteen hundred dollars, it is exempt; also, to cover circumstances peculiar to our country. Supposing a man goes out on to 160 acres of dry land, under the present section, 120 acres of that land could be taken from him through failure of crops or otherwise, by which he could not meet his obligations. Now, if his homestead was not worth more than fifteen hundred dollars, it would be retained to him and his family. I think we should guard the homestead to this man, and I do not think the limit is too much under the circumstances that we find ourselves in, and I believe it covers the conditions of the Territory, and it conforms to a great extent to our present law.

Mr. VARIAN. I would like to have my substitute read now.

The same was read as follows: Strike out section 2 and insert, "The Legislature shall provide by law for the selection by heads of families of exemptions of homesteads from sale on execution."

Mr. VARIAN. Now, Mr. Chairman, why should we undertake to fix these matters of detail for all time, or at least until the Constitution shall come to be amended? Of necessity this question of exemptions from sale for the protection

of the property of debtors from the exactions and demands of creditors, is one of public policy, depending from time to time upon the condition of the people and the necessities which exist. I believe, although I do not speak by the book, because I have not made the detailed examination, but my general impression is from what I have read heretofore, that very generally throughout the country this idea is contained in the several constitutions. At all events, it seems to me that it is so manifestly reasonable and in accordance with the general intent and idea of constitution making, that it ought to be accepted to provide a limitation upon the Legislature beyond which they may not depart. That is to say, insist that there shall be the necessary exemptions for the protection of poor debtors, or the people, but leave that necessity to be determined from time to time by the Legislature, which is better enabled to pass upon the question, as the several legislatures meet, than this Constitutional Convention.

Mr. HART. Mr. Chairman, while Mr. Thoreson's amendment is a great improvement over section 2, yet I am in favor of the substitute offered by Mr. Varian, and I do not think it would be wise to define just what the homestead should be. I think we should provide as California, Washington, and other states have in a general way, that there shall be a homestead, and then leave it to the Legislature to say what that homestead shall be. Mr. Thoreson fixes it at fifteen hundred dollars. In some cases that will not be large enough. A man has a family of ten, twelve or more, a homestead of fifteen hundred dollars may be almost exhausted by the house and lot within the city limits, and then his farm that he should retain in order to support his family would be taken from them and sold to pay his debts. Whereas, if he is permitted to retain his farm, he would be able to pay his debts from the proceeds thereof.

Mr. MURDOCK (Beaver). Mr. Chairman, this matter has been talked upon one side, but there is another side to this question that seems to me ought to be taken notice of. Now, my ideas in regard to a large exemption are, that in many respects it is very detrimental. There are some men that are always willing and struggling to pay their debts, and there is another class that are not willing, and they will make any agreement, either with a poor man or a man of means, and will make any promise, and of course that promise is very frequently accepted, and yet after they have contracted the debt, if they know that their property is inside of the exemption, there is very little exertion made by the persons to pay their debts. Now, it has a bad tendency, let me tell you, to have a very extended limitation, for this fact that people are not careful; if they know that the limitation is pretty contracted—pretty small, they will endeavor to work within that limit, but if they have a very liberal exemption of property by the Legislature, or by any means that there is an exemption, then they feel perfectly at ease to go into debt. Now, I contend that our present depressed times that we are now passing through, we will look back to and see that they are an advantage to the people in this respect. People will become more careful than they were formerly, and it is upon the same principle that you extend a large exemption to people, and they will be very careless and indifferent in regard to their indebtedness. Some men, it makes no difference how poor they are, will pay their debts, but there are many men, or persons, that will not pay their debts, and you cannot get it. The transaction is frequently between poor men. Of course men of means are able to take care of themselves—at least they do so, but I think that there should

be a restriction, and that men of small means, that contract debts with other men of small means, it is just as absolutely just that these men should pay their debts as it is that men should have an amount of property exempt. Now, this is a feature, perhaps, that some may not have thought of, but it is calculated to make men more extravagant and more ready to go into debt, if they know that their exempted property will warrant them to do so. I speak of this, that you may have that side of the matter to look at. The exemptions that are contained in this article here, seem to me to be quite sufficient for any reasonable man.

Mr. GOODWIN. Mr. Chairman, all the states recognize the justice and necessity of homestead laws. It is well under our Constitution to do the same, but it is a matter which the Legislature ought to regulate from year to year. A fifteen hundred dollar exemption would not be any more than a five hundred dollar exemption was twenty-five years ago. Probably a fifteen hundred dollar exemption will not be any more than a three thousand dollar exemption twenty-five years hence. The value of property is changing every day. The value of property is changing every day, and the necessities of men are changing every day, and that being the case, it ought not to be fixed and rigid in this Constitution, but after the principle is recognized, the whole business should be given to the Legislature to regulate from year to year. I favor the substitute.

Mr. HAMMOND. Mr. President, I am in favor of this substitute. As a rule, when anything is sprung on us from a republican, I am dead against it, but this substitute, I favor and I have my reasons. I do not wish anything fixed in the Constitution that shall in any way militate against the prospects of San Juan. While we have no widows there that I am aware of—I do not know of a widow in the county, but with the surroundings and prospects, we are living in an Indian country, we do not know what may transpire any moment, and the time may come when we will have as many widows there as they have in Sanpete to-day, and I want a provision or want the Legislature to be foot loose, so that they can take care of this matter as the exigencies of the case may required from year to year. Therefore I am in favor of this substitute from the gentlemanly gentleman, of Salt Lake.

Mr. EVANS (Weber). Mr. President, if the gentleman from San Juan had not spoken when he did, but had waited until he found out the position which I take, his vote might have been different; I believe, gentlemen, in a Constitutional Convention, that we ought to recognize a substantial right to people owning homesteads and who have families and children dependent upon them. I do not believe that the article as first proposed would meet the conditions of our Territory. It has worked, I am told, admirably in Michigan. It was drawn there by the shrewdest constitutional lawyer living, and of course, he kept in mind the particular conditions of Michigan people. There usually people do not live in settlements as they do in Utah. That is not so much the rule, so that I think it would not be right to make a man either select a lot or his farm and lose one or the other. I believe that he ought to have a certain amount exempt in both lots and farms, because here they live in little cities and have their farms lying just adjacent to the town; but I do believe, gentlemen, that we ought to do something to recognize the right of the homestead. I am unqualifiedly in favor of that. The Varian amendment simply says the Legislature may do this. It has that unqualified power without our saying anything at all.

Mr. HART. Does not it say that the Legislature shall do so?

Mr. EVANS (Weber). Well, that would

be construed the same as may. It is not compulsory upon the Legislature when we say it shall do so.

Mr. HART. Would it be construed the same as may?

Mr. EVANS (Weber). It is simply directory, you could not compel them do it. I believe the Legislature would. The argument has been made that it will have a tendency to make people go into debt. I have heard that matter discussed a good many times and there is a serious difference of opinion on that question. My own view is that the tendency is to keep people out of debt. I will tell you why. The creditor will extend credit more tardily when he knows that the man is secure in his home and his possessions up to a certain amount, and the individual owning the farms and homes will not go into debt so readily, because the creditor will not extend the favor. It will keep people more out of debt. It will make creditors and debtors alike more careful in going into debt, and anything that will prevent indebtedness I believe is a good thing for the people.

Mr. President, I have formulated an amendment here which is not in order now, and I will read it, which I believe ought to be inserted, and the substance of it is, following Michigan, that it allows a homestead of at least fifteen hundred dollars in separate parcels of land, so that the Legislature may grant more, but my own idea is to fix it constitutionally, that the man owning a home and having a family will be secure in his home against any creditor who might issue an execution, and have it levied upon his home, and have it sold out, and thereby divest his family of shelter which is so much needed. I will read it as a part of my argument:

Every homestead of not exceeding forty acres of land and the dwelling house thereon and the appurtenances, to be selected by the owner thereof; or instead thereof, at the option of the owner, any lot, in any city, village, or recorded town plat, or such parts or lots thereof, and its appurtenances, owned by any resident of the State, of at least the value of fifteen hundred dollars, shall be exempt from forced sale on execution or any other final process from a court for any debt contracted after the adoption of this Constitution. Selections may be made from one or more parcels of such lands, to the amount of the sum herein designated. Such exemption shall not extend to any mortgage thereon lawfully obtained, but such mortgage or other alienation of such lands by the owner thereof, if a married man, shall not be valid without the signature of his wife to the same.

Mr. CHIDESTER. Under that amendment, a man cannot have more than forty acres of land, if I understand you?

Mr. EVANS (Weber). He cannot have more than forty acres of land, if it is of at least the value of fifteen hundred dollars.

Mr. CHIDESTER. As I understand it, no matter what the value is, he cannot go over forty acres?

Mr. EVANS (Weber). I think that would be the proper construction of it.

Mr. CHIDESTER. So that, in that respect it stands the same as in the original section?

Mr. EVANS (Weber). But I will say this, if he owns a farm that is not worth fifteen hundred dollars and he owns a city lot, which would make the two worth fifteen hundred dollars, he could claim both.

Mr. CHIDESTER. But if he did not own a city lot and only owned forty acres of ground, no matter what its value might be, he could only take the forty acres of ground.

Mr. EVANS (Weber). That is right.

Mr. CHIDESTER. And the land might not be worth five hundred dollars.

Mr. EVANS (Weber). Exactly; but if it is worth more than fifteen hundred dollars, of course it could be sold.

Mr. THORESON. Mr. President, I agree with the gentleman from Weber that we should have something in this Constitution to guard the homestead of our residents and those who may be.

We expect an influx of people into this new State, and sending them our Constitution, we want to send them our guaranty that when they dispose of their property east and move into our State, with the wife and the children of such families, they may have some guaranty that they will be provided for at least to the extent of fifteen hundred dollars. Now, it is stated that this may be left to the Legislature. I have heard time and time again by the representative men of this Territory, expressing their want of confidence in future legislatures, and it is a question in my mind if the people of this Territory entertain the same lack of confidence, and I say in looking over the constitutions of so many states, we find that this is provided for as a guaranty to the families of the residents of the state or those who may be, and I think we should do something definite on this subject. I believe furthermore, that fixing the exemption at fifteen hundred dollars, and without including land, whether that be forty acres or one hundred and sixty acres, or whether it be confined to the one acre, so that it is the land that is used for the homestead and upon which the family subsists, that it will be guaranteed to that family forever from encroachments of any kind. I believe, gentlemen, that if a man gets in debt over and above this amount that he ought to pay the debt. If the man leaves his wife and children, whether he has a large family or a small one, with fifteen hundred dollars, it is a safeguard and a satisfaction to them, and I do not think that they could ask for much more, which in our Territory would be an average endowment, and that which is provided now by law—both exemptions, and the right retained on the widows and children from the estate of their deceased husband and father. I hope that in considering my amendment to this provision—it leaves the field open as regards the amount of land. It allows the head of the family to designate the appurtenances belonging to that homestead. Some objections have been made that water rights should be included. I say that water rights are the appurtenances unto the land and he has a right to designate and select them; also a home and such other property to the amount of fifteen hundred dollars, with the provisions we have already adopted in section 1; two thousand dollars I think is a liberal law on this subject.

Mr. JAMES. Mr. President, I did not intend to say anything on this question until I saw that there was a disposition to say everything on one side and nothing on the other. The only gentleman that I have heard on the floor that seems to view this thing from both sides of the question is Bishop Murdock. The balance of them have all been talking that they must appoint a guardian to take care of the people. and they see nothing beyond that proposition. Now, I want to say to you, there is another side to this question. I call this Convention's attention to the fact, in place of bringing people into the Territory, the provision of the gentleman from Cache will keep them out of the Territory. Let a man travel down through the newly settled portions of Nebraska, Kansas, and that country where the poor honest man goes out from the city or some foreign country and locates on a piece of land, and all he has got in the world may be is a pair of cows or a yoke of oxen, or a single mule, or something of that kind, and he goes to breaking up land, under the right of homestead. He goes to the merchant near by and he says to him, "I want a few supplies to tide me over this summer until I can raise a little crop, and I will pay you back." The merchant credits him, but these gentlemen would make a provision here which would prevent him getting credit. He must have a house of fifteen hundred dollars, and he must have so on, that will be exempt from the payment of certain debts.

Why, you are just simply putting a prevention in the way of the poor man of going to the store and getting credit.

Mr. CHIDESTER. Those people could give a mortgage on this under this proposed amendment, could they not?

Mr. JAMES. They have not acquired title to their home yet.

Mr. CHIDESTER. Then they could not take it away?

Mr. EVANS (Weber). Yes; they could sell out their possessory right under execution.

Mr. JAMES. Of course, I want to see something done in the way of protecting people, and leaving something to orphans and widows, but I believe it will be much more safely done by Mr. Varian's amendment, by leaving it to the Legislature.

Mr. BOWDLE. Mr. President, I want to say a single word in answer to what Mr. James has said. He speaks of Kansas, as though there was no exemption law. I would like to remind the gentleman that the constitution of Kansas provides that there shall be a homestead of 160 acres of farming land. That is a good deal more liberal than we are proposing to give in this Territory.

Mr. EVANS (Weber). Permit me to say that I will change my substitute, if we ever reach it, to 160 acres, because it will make no difference anyway. The value should be fifteen hundred dollars. While I am upon my feet, I simply want to say that for the purpose of securing in the Constitution that much value to the settlers, and those who have families, this provision should be adopted.

Mr. MALONEY. Mr. President, I will take up but a moment of time. With the change made by my colleague from Weber County, I will be glad to vote for his amendment. The gentleman from Salt Lake who just addressed the committee, argued that it would keep people out of Utah, if they came here, and could not get credit. I want to say to this committee, that a liberal exemption law, or homestead law, is what built up the great state of Kansas. People by the hundreds and thousands came there because of the great protection that the poor people have. We have a proposition here to leave it to the Legislature. I want to say to you, when you leave it to the Legislature, you will find it changed at almost every meeting of the Legislature, like it was in some of the states east of the Mississippi. What we want is to fix it in the Constitution, and make it permanent, so that no Legislature can alter it. Now, when it is fixed, that is the end of it. In so far as the amount is concerned, when you leave it to the Legislature, it is continually being altered at every session of the Legislature, and you will see a great many complications growing out of the fact that it was one amount at the time of one contract, and another at another, and the courts will be flooded with litigation. I say make it permanent.

Mr. HART. How many changes have been made in the homestead exemption law in the last eight years in Utah?

Mr. MALONEY. I do not know that any have been made so far as real estate is concerned, but so far as changes have been made with regard to the exemptions of personal property——

Mr. CREER. I would like to ask how many changes have been made in personal property within the last twenty years?

Mr. MALONEY. I do not know, but there have been changes made several times within the last ten years with regard to the personal property exemptions.

Mr. CREER. I think the gentleman is mistaken.

Mr. HART. It made it more liberal.

Mr. EVANS (Weber). The Legislature of 1894 exempted the clothing of a man. Prior to that time, his wearing

apparel could be taken right from the hook, hanging in the house.

Mr. CANNON. Mr. Chairman and gentlemen of the committee, I am opposed to the original section and also to the amendment of Mr. Thoreson, for the reason that in both of these the amount is left the same for a man who has no family, as for the man, the head of a large family. No distinction is made and no difference would be allowed in either case. I think that a difference should be allowed. The Evans amendment, if it were presented, is one to which there would be less objection, and the only objection I would have to it would be the fact that it leaves it for the Legislature to change from time to time. I am in favor of fixing this matter——

Mr. EVANS (Weber). It cannot be less than fifteen hundred dollars.

Mr. CANNON. I understand that it cannot be less. I say to that extent I favor it, but at the same time, I say it would be better to fix it in our Constitution and leave it so that it would not be subject to change from time to time. I believe that the present law is one which is satisfactory to the people of Utah, and for this reason, whenever it is presented, I shall favor the amendment offered, or that will be offered when opportunity is presented, by the gentleman from Summit County, Mr. Eldredge. I believe that that comes nearer to giving justice to the people than any other, and I believe that it is one that should be fixed. To that extent I agree with Mr. Maloney and believe that in the Constitution is the proper place to provide what your exemptions of homestead shall be. I think that it would be eminently proper to fix it now, and I believe that men who loan money and men who give credit where it is fixed in the Constitution, will be better satisfied with it, than if it is left for change from time to time. I shall therefore vote against the original section and against these amendments, and if given an opportunity shall vote for Mr. Evans' substitute with some amendment, possibly.

Mr. THORESON. Mr. Chairman, the amendment I understood will be proposed, which is not before the Convention now, of the gentleman from Weber, confines the exemption to a certain number of acres of land. In regard to my amendment, it leaves the amount open. We have land in this Territory worth all the way from twenty-five cents to a thousand dollars an acre, and when you come to define the number of acres, I do not see where the consistency is. Confine it to so much money, fifteen hundred dollars.

Mr. LUND. I would like to ask a question of some member of this committee. Will this exemption extend to promissory notes?

Mr. THORESON. No, sir; the first section does.

Mr. LUND. Mr. Chairman, I hope that this will be left to the Legislature and that they will not make the exemption very great. For instance, if I were a married man and I should buy from some neighbor who thought I was honest, land and the improvements thereon, and he left it to my honesty, and it was not worth fifteen hundred dollars, and my property was not worth that much, he would be turned out and I would be turned in. He would not hold anything in the world, and I would own all that he had owned, and I would be exempt; execution could not be served upon me. I think that this exemption is not a very fair law. I am very much of the opinion that Mr. Murdock has expressed.

Mr. THORESON. Are you opposed to section 1 or 2?

Mr. LUND. Both of them.

Mr. RICHARDS. I desire to ask Mr. Varian if you would accept a slight amendment to your substitute, so that it would read as follows?

The Legislature shall provide by law for the selection by each head of the

family an exemption of a homestead of the value of at least fifteen hundred dollars from sale on execution.

Mr. VARIAN. Yes, sir; I am willing to let that take the place of mine.

Mr. HART. I would like to ask Mr. Richards the purpose of that—if it is not to require the head of a family to make his selection and to record it as required in some states, such as Idaho, and if he would omit to declare that he desired to retain that homestead, he would not have a right to do so, having it made a matter of record by the county recorder.

Mr. RICHARDS. I suppose it would require a selection. I presume, however, that if he desired it to be modified in that particular, the gentleman from Salt Lake would agree to it. In that particular it follows the language of Mr. Varian's amendment, so that the question should be directed to him.

Mr. EVANS (Weber). It would still be statutory. The Legislature could provide for it.

Mr. RICHARDS. Certainly.

Mr. EVANS (Weber). And it could repeal that act whenever it wanted to.

Mr. RICHARDS, Yes, but it could not provide for less than a fifteen hundred dollar exemption.

Mr. EVANS (Weber). That is, if it provided for it at all; but it would not have to provide any exemption at all.

Mr. RICHARDS. It is hardly to be supposed they would not provide some exemption.

Mr. VARIAN. Mr. Chairman, there are just three or four objections that I desire to call attention to. Taking the last question of Mr. Hart first, it does not necessarily follow that the selection shall be made in the form indicated. It may be, as now, selected at any time—when execution is levied, if the Legislature shall so provide; but let me call the attention of the committee to the fact that we have, I presume, what is deemed to be a good exemption law. It has been on the statute book for a number of years. Under this Constitution it would be continued in force until changed by the Legislature. Now, this constitutional provision simply guarantees that it shall never be changed, or that it shall never be obliterated. It must be maintained in some form or other. As to the objection that the word shall be construed as may, as I understand, that would do violence to all rules of statutory construction. Where the word shall is to be deemed directory, always, is made to depend upon the meaning of the Legislature in that particular, and that is to be gathered from the context. Nothing is to be determined here except the fact that the word shall means just what it says, that the Legislature shall provide by law. In relation to the suggestion made by Mr. Thoreson, in regard to water rights, that simply indicates now the difficulty of attempting to legislate upon this subject in the Constitution. Water rights are not part and parcel in all cases of the realty here, or appurtenant to the land. In many instances, under your laws, they are considered personal property. Then, again, you are confronted with this other difficulty. Under the United States laws, men holding homesteads of 160 acres of land, under the laws of the United States, have them exempt. The Legislature, in dealing with this question, would regulate the whole subject with reference to the exemptions and necessities of the case.

Mr. EVANS (Weber). I agree with you about your construction of the word "may" and "shall" in legislative enactments, but in this sense, where a Constitutional Convention directs the Legislature to do a thing of this kind, by using the word shall, is it compulsory upon the Legislature?

Mr. VARIAN. I think it is, without question. "Shall" means what it says, otherwise, why say anything about it? If the Constitution means that it shall be left to the Legislature to do it or not,

there is no necessity for putting anything in there at all. Now, this is in accordance with the constitution of many of the states, certainly of California, Nevada, Oregon, and Colorado, I believe, and I simply was endeavoring to show the difficulty of doing exact justice in the matter by attempting to put in details and surrounding the matter with restrictions and limitations. It ought to be left to the Legislature, because, just as sure as you undertake now to cover the subject, you will ascertain that you have omitted something, when it is too late, or conditions and necessities of your people may change. There may come a time when you would want an exemption of five thousand dollars. Then again the time may be when the people of this State will want it two thousand dollars, or, as has been suggested by Mr. Cannon, in relation to the number in the family; but as it stands now, with this provision in the Constitution, the existing law will be maintained until the Legislature shall modify or change it, but it never can wipe it out.

Mr. GOODWIN. Mr. Chairman, I only want to call attention to the one fact that water rights are personal property, and another, that the provisions of this Constitution are mandatory.

The amendment of Mr. Thoreson was rejected.

The question being taken on the substitute of Mr. Varian, the committee, divided, and by a vote of 58 ayes to 15 noes, the substitute was adopted.

Section 3 was read.

Mr. SQUIRES. Mr. Chairman, I move that section be stricken out.

The motion was agreed to.

Section 4 was read.

On motion of Mr. Squires, section 4 was stricken out.

Section 5 was read.

Mr. RICHARDS. Mr. Chairman, I move to insert after the word "by" and before the word "gift," in line 4, the word "purchase."

Mr. LAMBERT. Mr. Chairman, I move to strike out the whole section.

Mr. LUND. Mr. Chairman, I do not think that that word "purchase" should be inserted there, because I do not think it is a correct principle that property should ever be exempt from sale for the payment of obligations contracted for the purchase of the same.

Mr. VARIAN. That is not what it means.

Mr. CHIDESTER. As I understand it, that does not reach the objection of Mr. Lund.

Mr. LUND. I will introduce that as a new section.

Mr. EVANS (Weber). Mr. Chairman, I fear that this section will go out, because the others have been stricken out, and I do not think if the gentlemen understand it they will strike it out. Under the old common law, whenever a woman married, her property became the property of her husband. They were in law one. This is simply a recognition of the right of women to acquire and dispose of property after marriage, just the same as while single. I think that right ought to be recognized. It is in keeping with all the advance of recent years.

Mr. HOWARD. Mr. Chairman, we have in this Convention been working hard to give women equal rights with men, and we have done so up to the present time, and I propose giving them the same rights in this. For that reason, I will make the motion to strike out all of section 5, commencing with the word "and," in line 6, and insert: "And may be sold, devised, or mortgaged by her, but such sale, or alienation, if a married woman, shall not be valid, without the signature of her husband to the same." [Laughter.]

Mr. VARIAN. I want to call the gentleman's attention to the fact that the first part of this amendment is unnecessary. It is included in the right of

property recognized in the section as it stands, and it would be manifestly unjust, and an unnecessary restriction upon the recognition of the right of property to require the signature of the husband. That would practically give him the control over her property.

Mr. SNOW. I arise to point of order. That was not seconded.

Mr. VARIAN. Well, I will discuss the motion to strike out, then. This is simply a literal statement of the law as it now exists on the territorial statute books, as I recollect it, and it is, as suggested by Mr. Evans—it was to meet the rigor of the common law rule, by which, when a woman married, her property—her personal—became transferred to the husband and the right to the use and occupation of her realty, and I hope that if any recognition at all is to be given to the property rights of women—dowers will have been abolished when the Constitution goes into effect, that at least this much will be accorded to them, that the estate of the woman when she enters the married state shall be her own, to be disposed of just as she sees fit, without any control or limitation by the husband.

Mr. CANNON. Did I understand you to say that the dower will be abolished when the Constitution takes effect?

Mr. VARIAN. I understand so, because there is no territorial statute giving the right of dower. There is a territorial statute regulating that right as it was created and given by the act of Congress, and of course the act of Congress would fall in its operation here.

Mr. RICHARDS. Mr. Chairman, I certainly think this motion to strike out ought not to prevail, and I believe that every gentleman who will give the matter proper consideration will come to that conclusion. I am very much surprised to hear the motion made. I think it must be under some misapprehension. It is not only the statute of this Territory to-day, but it is the law in very many of the states of this Union, that women shall have separate property rights, and that is all that this section is intended to preserve. I regard it as a very important section and think it ought to remain, but I think that a woman ought to have the right to purchase property, as well as the right to receive by gift or inheritance. If she happens to have money—if she receives a bequest in money, she ought to have the right to invest that money in property and by purchase acquire the title. That is the reason why I propose the amendment to insert the word purchase in the fourth line.

Mr. RALEIGH. Would not that allow the woman to purchase the husband's property, too, and screen it from his debts?

Mr. RICHARDS. Well, it is possible that she might purchase property from her husband, but if she did purchase it, she would have to pay for it, and of course the matter of screening from debts—I do not see how it could affect that at all, because if the purchase was not a bona fide purchase it would not affect the creditors, and if it was a bona fide purchase and she paid value for it, then the creditors would have a lien on what she paid him.

Mr. RALEIGH. Yes; but it is too easy to keep that purchase money out of sight.

Mr. RICHARDS. I submit that that can be no excuse for denying a woman the general right to purchase property; because that right could be abused is no reason why she should be deprived of the right.

Mr. RALEIGH. I am in favor, Mr. Chairman and gentlemen, of the section as it stands.

Mr. CANNON. I would like to ask Mr. Raleigh, if you would prohibit a man from selling his property to another man who desired to purchase it?

Mr. RALEIGH. No, but I——

Mr. CANNON. Then would you prohibit a woman from purchasing a piece

of property, even if it belonged to her husband, if she had the money to buy, and it was a desirable piece in her eyes?

Mr. RALEIGH. Well, I would not if there wasn't some shenannigan about it. [Laughter.]

Mr. CANNON. Mr. Chairman, shenannigan would be a different proposition. Purchase is all we provide for, and I think it is eminently proper it should be granted.

Mr. EVANS (Weber). Mr. Chairman, I think the Richards amendment ought to prevail. This might prevent a woman from purchasing a farm and owning it after she had purchased it. It might prevent her from purchasing a horse and buggy. The rigor of the common law might come in and simply give it to her husband, because she could only acquire title under this by gift, grant, inheritance or devise. The word purchase is usually used. I think it is in our statute.

Mr. RICHARDS. It is in our statute, and I think it is omitted here in an inadvertence.

Mr. EVANS (Weber). This must have been an accidental omission.

The amendment of Mr. Richards was agreed to.

Mr. BOYER. Mr. Chairman, I believe I seconded the motion to strike out section 5. The reason I did so was that the mover—thinking he was a man too much married and wished to take away some of the liberties of woman.

The motion to strike out was rejected.

Mr. EVANS (Weber). Mr. Chairman, that ends the article, and I would like to call Mr. Varian's attention to one thing which he has already indicated and which I have had in mind. The only dower act which we have is that of Congress. As soon as this Constitution is adopted, and Utah becomes a State, dower will be repealed. Then a man can dispose of his property if he desires to, without the consent of his wife. I just want to suggest, if it would not be a good idea to add to the Varian amendment, as amended by Mr. Richards, that he should not alienate or mortgage his property, without the signature of his wife. Otherwise, there will be a little period between the adoption of the Constitution and the sitting of the Legislature when this condition of things might exist.

Mr. HART. I would like to ask the gentleman whether he is sure that the territorial laws do not provide for right of dower for women, as well as the United States law? My impression is that there is a territorial law in addition to the United States law. There was an act passed on this question last winter which provided that they should not have dower under both acts. That is why I am very certain that there are two acts.

Mr. EVANS (Weber). I am inclined to think not. Mr. Varian, himself, will say that he prepared that dower act and it was only in aid of enforcing the act of Congress.

Mr. VARIAN. Mr. Chairman, in order to be speaking to a question before the committee, I move that we do now arise and report this article as amended, to the Convention, and now I will be in order to say a word or two. I think Mr. Evans is correct. I had occasion, since he has spoken of it, to give the matter some attention several years ago and drafted two territorial acts, one in relation to administration of probate law, and in relation to the district court jurisdiction, governing the regulation and exercise of this right of dower, and that was enacted by the legislative assembly, and as I remember it, the original territorial act was repealed many years ago; at least a prohibition was put in that there should be no dower. The trouble about the suggestion made by Mr. Evans, to my mind is this, if we put into the law a requirement that the husband cannot dispose of this realty without the wife's signature, you put us just in the very undesirable situation that we are in to-

day. For instance, a man supposed to be married—there have a number of instances happened in Salt Lake within the last year or two, and some are now in court; suits brought to quiet title, where it was supposed that the man was unmarried. After property passed through his hands, perhaps through the hands of several people, some woman turns up and claims to be his wife. Instantly the further disposition of that property is arrested. I know of one instance here where a large and valuable corner lot in the very center of the town is remaining unoccupied, the owner awaiting developments in that particular, before he desires to spend the necessary money to put up a building, because some one of the persons through whom he derives his title, it appears now may have been married, and the signature of the wife was not to the deed. Of course that arrests all further disposition to the property.

I am in sympathy with the sentiment underlying what my friend from Weber suggests. I am in favor, and was, of incorporating in this Constitution a recognition of the community system, and in that view I presented to some one of the committees, at the beginning of the session, an article drawn in exact conformity with the constitutions of California and Nevada on that subject, which enables the wife to participate equally with the husband in all the earnings and accretions derived by either of them during the marriage, but it was not reported upon, and I took it for granted it was not in accordance with the sentiment of this people, so I did not press it. I will withdraw the motion to arise now.

Mr. HART. Mr. Chairman, on further thought, I am satisfied the gentleman from Weber is correct about there being no territorial law of dower. What I had in mind was in regard to succession, and the act passed last winter would prevent a dower, and also a succession under the territorial law.

Mr. MURDOCK (Beaver). Mr. Chairman and gentlemen of the committee, I desire to introduce four sections to add to the article on miscellaneous, and the four sections treat of three different subjects, and I would ask you to be patient and hear them, and if there is any merit in any of them, why retain them; if there is no merit, why, of course, the committee will dispose of them as they think best.

The sections referred to were as printed in the article reported by the committee on water rights, irrigation and agriculture.

Mr. EVANS (Utah). Mr. Chairman, I arise to a point of order. That section has been killed at least four times in this committee and in the Convention.

The CHAIRMAN. The point is not well taken.

Mr. CREER. Mr. Chairman, I arise to a point of order, that the subject matter of those sections has been acted upon by the Convention, and through the regular committees before, and that this is out of order.

The point of order was overruled.

Mr. EVANS (Utah). Mr. Chairman, my point of order was that section 4 is exactly the same thing that we have passed upon in this committee four or five different times. I shall appeal from the decision of the chair.

Mr. SNOW. Mr. Chairman, before you put the appeal, did the chairman understand that this same section, word for word, was stricken out in committee of the whole and also when it came to third reading in the Convention?

The CHAIRMAN. The chair understands it.

Mr. SNOW. Twice or three times it was stricken out. We have a rule that equivalent motions must not be entertained. If the chair understood it right, I am surprised at the ruling.

Mr. HART. Mr. Chairman, this is almost the question that we voted upon last evening, except that there is this

difference. This is the exact thing that we voted upon once before and killed. The question last night was not exactly the same thing, and yet that was ruled out of order and the decision of the president sustained. Now, if that was right last night, the chair will have to be overruled in this instance, for this is exactly the same thing, and the consideration of it is not only prohibited by that special rule that the gentleman from Utah County quotes, but it is sustained by every principle of parliamentary law. There is no rule of parliamentary law which does not say that this would be out of order.

Mr. SQUIRES. Mr. Chairman, if I understood the motion of the gentleman from Beaver, it was to have four sections admitted into this article. Now, I submit if any one of those sections comes under the objections raised by the gentleman from Cache, and the gentleman from Utah County, that particular section may be ruled out when we reach it, but the proposition is for the consideration of four sections, and I think we should take them one at a time and consider them and raise the point of order when we reach the section that comes under the prohibition.

Mr. HART. The point is as to all four of the sections.

Mr. EVANS (Utah). They were read here to the Convention. I take it that they being permitted to be read as a whole, no point of order being raised, it could not be raised now, that each should be considered separately. Permit me to say that this matter in substance, if not in the exact language, was stricken out in the committee of the whole and also in the Convention in the bill of rights. It was again introduced in the committee of the whole under head of mines and mining. It was again killed there, reintroduced, and there killed, and it is for that reason that I raise the point of order.

Mr. JAMES. Mr. Chairman, how are we to know whether every section contained the same matter that was brought before the Convention before, unless we take them up as we come to them? As Mr. Squires has suggested, if section 1 has been dealt with and it is the judgment of this Convention that it should be declared out of order and the chair not sustained, dispose of it that way. There may be one of these sections or more that it may be shown that the rule does not cover.

Mr. KIMBALL (Salt Lake). Mr. Chairman, I understand the objection applies only to section 4?

The CHAIRMAN. The chair is of the opinion that if the point of order is made as to section 1, it is well taken, but the chair holds that we have no right to go to section 4, and raise the point of order on section 4 until we reach it.

Mr. EVANS (Utah). If that be the ruling, I do not object to it. I will withdraw the appeal and the objection also until we reach it.

The first section of Mr. Murdock's amendment was read.

Mr. SQUIRES. Mr. Chairman, before any point of order is raised on this question, would it not be well for us to look at the matter a little? Granted that we have at one time stricken this section out, members of the Convention realize——

Mr. SNOW. Mr. Chairman, I object to this proceeding. I raise the point of order now on the same ground.

Mr. THORESON. I make the point of order.

The point of order was sustained.

Mr. VARIAN. Mr. Chairman, I am going to ask the committee to rise for the purpose of allowing the committee on rules to report to the Convention, in accordance with the resolution on yesterday, because the committee on engrossment are waiting for our report. I move that the committee now rise.

Mr. CREER. I would like to ask the gentleman if he would not defer that

motion for a few moments and then we will probably get through this article.

Mr. CANNON. Mr. Chairman, I would like to present an amendment or an additional section. If the committee desires to rise now, that would prevent it.

The motion to rise was agreed to.

The committee of the whole, having risen, reported as follows:

MR. PRESIDENT:

The committee of the whole have had under consideration the article on miscellaneous, and report progress.

The committee on rules and methods of procedure reported as follows:

MR. PRESIDENT:

The committee on rules, in accordance with the resolution of the Convention 85 A (herewith returned), report the following resolution and recommend its adoption:

Resolved, That the Constitution of the State of Utah be carefully engrossed, without blot, erasure or interlineation, on parchment sheets, 11x17, and that the same, when properly attested by the president and secretary of the Convention and signed by the members, or a majority thereof, be bound between lids, in enduring form, and then be deposited in the office of the secretary of the Territory for delivery to the secretary of state for the State of Utah; and that a true copy thereof, attested by the president and secretary of this Convention, and bound in like manner, be delivered to the Utah Commission for submission to the President of the United States.

VARIAN,
Acting Chairman.

On motion, the report was adopted.

On motion, a recess was taken until 2 p. m.

AFTERNOON SESSION.

The Convention re-assembled at 2 p. m., pursuant to recess, President Smith in the chair.

The PRESIDENT. I want to call the attention of the Convention to the fact that there will have to be an address to the people in connection with the Constitution, and a committee should be appointed for the purpose of drafting it.

Mr. CHIDESTER. Mr. President, if it is order, I would make a motion that a committee of seven be appointed.

Mr. BUTTON. Mr. President, if the motion does not so state, I move to amend that the chair appoint this committee.

Mr. BOWDLE. Mr. President, I wish to amend that by adding, of which committee the chair should be one.

Mr. CHIDESTER. Mr. President, my understanding is that the chair appoints the committee.

Mr. JAMES. That makes it a committee of eight.

The motion was agreed to.

The Convention then proceeded with the consideration of articles reported from the committee on compilation and arrangement.

Article V was read.

Article VI, section 1, was read.

Mr. HART. Mr. Chairman, I move to insert the article "a" after the word "and" and before the word "house." If it were not for the fact that subsequent sections show there are two houses, the way this sentence now reads, it would mean that there was one house only. You might just as well insert it any way.

Mr. EICHNOR. Mr. President, I hope this amendment will not prevail. The Constitution of the United States, all legislative powers shall be vested in a Congress of the United States, which shall consist of a senate and house of representatives.

Mr. CHIDESTER. I make the point of order, anyway, that this would not be a proper amendment at this time.

The PRESIDENT. The point of order is well taken.

Sections 2, 3, and 4 were read.

Mr. RICHARDS. Mr. President, it seems to me that in the seventh line it should be 1895, instead of 1896.

Mr. SQUIRES. Senators will not be elected until 1896.

Mr. RICHARDS. Why not? I do not understand that there is to be an election of State senators in 1896. The

members of both houses are to be elected in 1895, as I understand it. I therefore move that the figure 6 be stricken out and the figure 5 substituted.

Mr. ROBINSON (Kane). Mr. President, this refers to the senators and they are elected by the Legislature which meets next January.

Mr. RICHARDS. No; these are State senators.

Mr. BUTTON. Isn't this just as it was passed by the Convention? We have to elect on even years, not on odd years.

Mr. GOODWIN. Mr. President, as I understand it, the intention is to adjust them so that the regular election will come on the even years.

Mr. RICHARDS. As I understand it, the first senators are to be elected this year.

Mr. GOODWIN. Yes, sir, and that will end their term; they will only have one year's term. Then next year, there will be members of the Legislature, governor, and all the regular officers elected.

Mr. RICHARDS. If that is so, it is right as it is.

Mr. GOODWIN. I do not know what the gentleman had in view when he wrote it, but I presume that was it.

Mr. VAN HORNE. I call Mr. Richards's attention to the fact that it was discussed in the committee—this same article providing for the regular election of members of the house of representatives, to be held on the Tuesday after the first Monday in November, 1896, and biennially thereafter.

Mr. RICHARDS. I withdraw my motion.

Mr. THORESON. Mr. President, I move that the semi-colon after the word "election" be changed to a colon, in the sixth line, and that the word "that," in the seventh line, begin with a capital letter.

Mr. HEYBOURNE. Mr. President, are not those amendments a matter for the revising committee to look after? We should not waste time in this body attending to those slight matters.

Mr. SNOW. Mr. President, I understand that our engrossing clerk is an authority on grammar. Mr. Kerr is a member of the committee on engrossment and enrollment, and I therefore move that all the matters of punctuation be left to the committee on engrossment and that they be left to adjust it.

The PRESIDENT. That is the way the chair understands it.

The amendment of Mr. Thoreson was agreed to.

Sections 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, and 26 were read.

Mr. SQUIRES. Mr. President, the last word in that article ought to be "therein." Herein undoubtedly refers to this Constitution.

Mr. LAMBERT. It refers to this State.

Mr. SQUIRES. Mr. President, I move that that change be made.

Mr. CRANE. Mr. President, I trust this correction will not be made, making it "therein;" it refers directly to this State. When this Constitution is adopted, then we will be within the lines of this—"herein." When you are talking about the furniture in this room, "I own this room and all the furniture herein." If I own the furniture in the other room, I say, "and all the furniture therein." This does not refer to this paper or this book when it refers to this Constitution when it is adopted next November.

Mr. THURMAN. Suppose you are writing a lease referring to that house and you use the word "herein." What would it refer to, the lease or the house?

Mr. CRANE. Why, it would refer to possibly the house, but then you were not in the house at the time; you were not talking in the present tense. Now,

you are talking about this State and everything within this State.

Mr. THURMAN. Suppose you were in the house and were writing a lease about it, would you say herein or therein?

Mr. CRANE. If it referred directly to the house, I would say herein.

Mr. BOWDLE. Mr. Crane, in speaking with reference to the Constitution, we used in a number of places, haven't we, "herein?" Now, there we refer to the Constitution, don't we?

Mr. CRANE. And here you are talking of the State—of this State.

Mr. BOWDLE. If we use the word "herein" when we refer to the Constitution, should not we use the word "therein," when we refer to the State?

Mr. CRANE. I think not. I will say that the corrections that were made here day before yesterday, all those distinguished scholars in this Convention agreed that they were wrong and that "herein" was proper in this case, when we are referring to this Constitution.

Mr. RICHARDS. I would like to ask Mr. Crane, whether in the former part of the Constitution, where the changes were made to "therein," that remains so, or whether it has since been changed by anybody?

Mr. CRANE. It remains. It has not been corrected, but the committee are under the impression that it was entirely wrong and that the "t" should be stricken out wherever it is used in that sense.

Mr. RICHARDS. That may be, but this Convention has passed upon that question once or twice or more, and I wanted to find out whether or not the committee was changing this after the Convention had passed upon it?

Mr. CRANE. No; we do not change anything, but I wanted to draw it to the attention of the Convention now, so that we should know hereafter, in revising the article, whether we should add the "t" before the "h" and make it "herein" or "thereto," and so on.

Mr. RICHARDS. Well, that was the purport of our motion.

Mr. VAN HORNE. Mr. President, I suggest that this Constitutional Convention is the only body that is doing the business in this Constitution. If this definitely refers to the State and doing business within the State, and it refers to a State already accomplished, it should properly be "herein."

Mr. KERR. Mr. President, I just wish to mention one point, and that is, when we use the word "this," we will certainly have to use word "herein." If we say the "laws of the State," then we could use the word "therein," or if we use the words "that state," we could use the word "therein." This can be changed so that "therein" could be used, but if "this" is used, "herein" is correct.

Mr. SQUIRES. Will Professor Kerr kindly answer the question asked by Mr. Thurman? If he was drawing a lease on a house, and the furniture within that house, would he say, "that house and furniture herein?"

Mr. KERR. When you say, "that house," then "therein" should be used, but if you use "this," then "herein."

The question being taken on the motion, the Convention divided, and by a vote of 21 ayes to 42 noes, the motion was rejected.

Mr. SQUIRES. Mr. President, I do not like to leave that word "herein" there at all. I move that the words "or doing business" be inserted before the word "under," so that it will read "incorporated or doing business under the laws of this State."

The amendment was agreed to.

Section 27 was read.

Mr. KERR. Mr. President, the word "this," in the last line but one, of section 27, being used, the word "herein" must be used. I move the word "this," in the last line but one, be changed to the word "the."

The amendment was agreed to.

Mr. THURMAN. Mr. President, if it

is in order, I would like to call attention to the amendment we just adopted in section 26. It seems to me the way that now reads, "incorporated or doing business under the laws of this State," might be construed to mean incorporated under the laws of this State, and would not reach a foreign corporation at all. The evident intention of it was to reach a company incorporated in this State, or any kind of a company doing business in this State, but we have got it now, that they have got to be incorporated and doing business under the laws of the State before they can be reached.

Mr. VARIAN. Let me ask you, if you insert "or within" after the word "of," so it will read, "incorporated and doing business under the laws of, or within this State"—I make that motion.

Mr. THURMAN. I will second that motion.

Mr. ROBERTS. Mr. President, I shall vote against that amendment, because I think that the matter could be much more easily arranged either by changing "this" to "the," and it would obviate the necessity of making the transposition that was before made and then make it "therein," and I offer that, sir, as an amendment, so that we will not bungle this section.

Mr. THURMAN. I second the amendment.

The PRESIDENT. You withdraw yours, do you?

Mr. THURMAN. Yes, sir.

The amendment of Mr. Roberts was agreed to.

Sections 28, 29, and 30 were read.

Mr. RICHARDS. Mr. President, I think that the striking out of the word "to," in the seventh line, is a mistake. If it has been stricken out, I move that it be inserted.

Mr. CRANE. I should like to ask what is the reason that the gentleman asks that that be reinserted?

Mr. RICHARDS. Because it belongs there, that is the reason.

Mr. GOODWIN. Does it strengthen it at all, will it strengthen it or give it a new meaning?

Mr. RICHARDS. I do not think it will give it a new meaning.

Mr. GOODWIN. Then is it not superfluous?

Mr. RICHARDS. No, sir; it is not superfluous, in my judgment. The change made by the committee is not a good change. Therefore, I move to reinsert it.

The motion was rejected.

Mr. THURMAN. Mr. President, in order now to make the section harmonize and be consistent with itself, I move to strike out the word "to," in the second line, the second word "to."

The amendment was agreed to.

Section 31 was read.

Mr. KERR. Mr. President, I want to call attention to a change that was made yesterday on page 7. I think it ought to be uniform with the wording on page 15. As it is now, it is "this State—therein." I would suggest that in line 16, the word "this" be changed to "the."

Mr. HART. Mr. President, I am opposed to the motion. This is a very important article. This whole thing involves the compact and there may be some doubt as to just what you mean, if you change the word "this" to "the" I would prefer to have the "t" stricken off, and have the word "hereof," in order to retain the word "this."

Mr. KERR. I will accept that suggestion, strike out the letter "t," in the 16th line.

The amendment was rejected.

The Convention then proceeded to the consideration of Article VII.

Section 1 was read.

Mr. VARIAN. Mr. President, perhaps some gentleman can turn to the article in the schedule, which provides, as I remember it, for the taking possession by officers-elect on the Monday after the issuance of the proclamation of the

President. There seems to be an inconsistency between the two.

Mr. ROBERTS. In section 9 of article on schedule, there is a provision made for the election for the adoption or rejection of this Constitution, and for the State officers herein provided for.

Mr. VARIAN. No; it is section 14. I call attention to the provision in section 14 of the article on schedule, with a view to going back to the consideration of section 1. That provides that they shall take office on the first Monday next succeeding the issuing of the proclamation. Now, this article provides that the term of office shall begin on the first Monday in January, after the election, except that the terms of office of those who are elected at the first election shall begin when the State shall be admitted into the Union, and shall end on the first Monday in January of the fourth year thereafter. My attention was called to that last evening. I confess now that I do not see any consistency in it as it was suggested to me.

Mr. GOODWIN. I would like to ask how long this first governor will serve under this arrangement. It seems to me that ought to be either in the third or the fifth year.

Mr. THURMAN. That is what I was going to ask. I had an amendment to propose, if you will permit me, that it shall end on the first Monday in January, in the year 1900. That fixes it beyond question, and that is what was intended here.

Mr. GOODWIN. It ought to be 1899 or 1901.

Mr. THURMAN. The question is, do you want the term to begin in the even years or odd years?

Mr. GOODWIN. Begin in the odd years. The elections are in the even years.

Mr. VARIAN. Mr. President, as I understand it, the officers-elect under this Constitution will not take possession of their offices until the Monday following the issuance of the proclamation by the President, which may be in January, February, or March. We cannot tell when it will be. Now, the object of this amendment by Mr. Thurman is to provide for a possible inconsistency at the end of the term—of the four year term.

Mr. GOODWIN. Beg pardon, the object is to get the election in the even year.

Mr. VARIAN. Not at all. We are not dealing with that question now. We are dealing with the question of how these terms shall be regulated, and the first term, if we say, shall end on the first Monday in January and every fourth year thereafter—it ought to be corrected in some way so as to fix the date of the expiration of the first term. It ought to be on the first Monday in January, and the fourth year thereafter. That is the year of our Lord nineteen hundred, as I figure it.

Mr. THURMAN. Mr. President, the trouble I see in the matter is, a doubt would arise as to when the term would end? Now, it says, "in the fourth year thereafter." The question is whether you count 1896 or not. If you did, then it would end in 1899. I did not believe that that was what was intended by the bill. I thought it was intended to bring it out in the even year so that the governor's election would come at the same time as that of the President of the United States.

Mr. GOODWIN. If you would say the last day of December, 1899, that would be all right, but the first day of January, takes another year.

Mr. THURMAN. I understand. The only question is whether we want the governor to serve more than four years in order to bring it out to 1900. If his office should take effect early in 1896, he would serve over four years.

Mr. GOODWIN. If the election is on even years, the first governor must serve substantially either three or five years. Now, fix it either way. We

have got to have an election for congressman and Legislature a year from November, and the governor's term would naturally begin then, but we have got to have a governor in the meantime. Now, do you want that governor to serve three years, at the next election, or five years, until the next succeeding election?

Mr. SQUIRES. Mr. President, I was going to ask the same point that Judge Goodwin made. If this office expires in 1900, then the election would have to be held in odd years and would conflict with other portions of the Constitution, and the question is whether he should serve three or five years.

Mr. RICHARDS. Mr. President, it seems to me this should be made uniform, not only as to this officer, but to all of the other State officers, and as the gentlemen have suggested, it is a question how long the first term may be. The first term may be one year or three years or five years. But I do not see how we can make it any other than one, three, or five, and have the election on the even year. It seems to me the suggestion made by the delegate from Utah, if instead of making his motion 1900, he will say on the first Monday in January, 1901, that will cover the thing as I understand it, and give the governor a five-year term, the same as the others.

Mr. HART. Mr. President, if I understand the situation now, Mr. Thurman has moved an amendment inserting the year 1900. Now, I move as an amendment to that, that the year 1899 be inserted—giving him a a three-year term.

Mr. THURMAN. Mr. President, I have one reason why I am opposed to that. I think we ought to elect the governor on the same day the President of the United States is elected, and have one red hot election every four years. If it takes 1901 to do that—I see that it does, I am in favor of that, although there might be some gentleman elected that we would not want to hold five years, and then we might have a gentleman elected that we would like to have ten years if we could, but I am willing to take chances.

Mr. SQUIRES. Mr. President, I move as an amendment that we make the year 1901.

Mr. THURMAN. I will accept that as my motion.

The amendment of Mr. Hart was rejected.

The amendment of Mr. Squires was agreed to.

Mr. RICHARDS. Mr. President, I desire to offer an amendment in the seventh line. I move that the words, "who were," be stricken out. The reason for that is manifest. It speaks of an election that is to take place in the future as in the past tense.

The amendment was agreed to.

Mr. GOODWIN. Mr. President, I have an amendment, on the sixth line; after "January," add "or so soon thereafter as the proclamation announcing statehood shall be made."

Mr. VARIAN. That, Mr. President, is provided for in two lines further along, I think.

Mr. GOODWIN. I believe it is. I withdraw it.

Mr. GIBBS. Mr. President, I move to strike out "the first Monday in January," and insert in lieu thereof "the thirty-first day of December."

No second.

Sections 2 and 3 were read.

Mr. RICHARDS. Mr. President, I desire to call attention to the fact that under this section there will be no person eligible to elect as attorney genera at the first election, for the reason that it requires a person in order to be eligible, to be 25 years of age, at the time of his election, and to have been admitted to practice in the supreme court of the State of Utah.

Mr. VARIAN. Mr. President, I was just going to make a motion on that, to insert after the word "the," in the

fourth line of page 19, before the word "State," the words "Territory or of the."

The amendment was agreed to.

Sections 4, 5, and 6 were read.

Mr. RICHARDS. Mr. President, at the request of Mr. Whitney, a member of the committee on revision, I move the following amendments: That the words "have been," in line 4, be stricken out, and the words "is to be" inserted in lieu thereof.

The amendment was agreed to.

Mr. RICHARDS. I also, Mr. President, move to strike out the word "they," in the same line, and insert the word "it," and strike out the word "they," at the end of the fifth line, and insert the word "it." This is also a suggestion of Mr. Whitney. Strike out the word "were" and insert the word "was."

Mr. VARIAN. I would like to ask the gentleman if the grammatical construction is deemed by Mr. Whitney to be wrong. I understand that the use of the word in that way is proper in either the plural or singular.

Mr. RICHARDS. I understand that either is correct, the plural or singular.

Mr. VARIAN. This will involve the correction of the entire section. It seems to have passed the committee. They did not report any change in it, and I understood when this matter was under discussion before, Mr. Richards took the same view that it was hardly worth while.

Mr. RICHARDS. Mr. Whitney could not be present this afternoon and he requested me to propose these amendments.

The amendments were agreed to.

Section 7 was read.

Mr. VAN HORNE. Mr. President, I move the insertion of the word "that," after the word "provided."

Mr. CRANE. I will say that "that" was in there, I think, in the original copy and it was stricken out. It was considered unnecessary.

The amendment was rejected.

Mr. RICHARDS. Mr. President, referring back to section 6, my attention has been called to the fact that we have the verb there in the past tense, when it should be in the present—the word "was" I think should be "is," in line with the amendment that was made in the fourth line.

The amendment was rejected.

Mr. GOODWIN. Mr. President, it does not amount to much, but it seems to me that the word "is," in the third line from the bottom of section 7, ought to be "be."

The amendment was agreed to.

Mr. THURMAN. Mr. President, I would like to go back now to the year 1901. [Laughter.] I mean 1901 herein or therein, whichever is right. I move to strike out the words "in the year."

The amendment was agreed to.

Mr. SQUIRES. Mr. President, I move we now resolve ourselves into committee of the whole to finish up the calendar.

Mr. ROBERTS. Mr. Chairman, I would ask if this matter goes into the hands of the engrossing committee from this body, without any motion, or does it require a motion?

Mr. HART. Mr. President, it is not clear as to whether we can refer this matter without a motion to the committee on engrossment and enrollment. I therefore move you that we refer articles from 1 to 6, respectively, and also the first seven sections of Article VII to the committee on engrossment and enrollment.

Mr. RICHARDS. I ask the gentleman to confine his motion to the first six articles.

Mr. HART. I will agree to that.

The motion was agreed to.

Mr. VAN HORNE. Mr. President, according to notice given, I move to reconsider the vote by which section 2 of the article on schedule was passed by this Convention.

Mr. SQUIRES. Mr. President, a few

days ago we had a similar proposition up here, and it was decided by the Convention that the only motion in order would be to move a reconsideration of the vote by which the article was passed, and bring the article back.

Mr. VAN HORNE. I make the motion in that way.

Mr. IVINS. Mr. President, I must rise to a point of order. There was a motion to go into the committee of the whole, before the motion of Mr. Van Horne was made.

The PRESIDENT. That is correct.

Mr. THURMAN. I ask the unanimous consent to withhold that for a moment. At the suggestion of a good many gentlemen on this floor, I want to call attention to section 9 of the article on elections and rights of suffrage.

The section reads, "All general elections shall be held on the Tuesday next following the first Monday in November of the year in which the election is held," and my attention has been called to the fact that it will be impossible for the Legislature, under that section, to fix a different time for school and municipal elections. At the time that we made the amendment, or that I made the motion that carried, it did not strike me that that would be the effect. Now, I have reason to believe that the great majority of the Convention would like that to be changed so that the Legislature could deal with it, either have it on the same day or a different day, and with that end in view, I move that the section be amended to read, "all general elections, except for municipal and school officers, shall be held on the Tuesday next following the first Monday in November of the year in which the election is held." Then it reads the same down to where the words are struck out again, and I wish to insert "municipal and school officers may be elected at such time as may be provided by law." The Legislature can put it on the same day or a different day.

Mr. SQUIRES. I call attention to the fact that this will require a suspension of the rules.

Mr. THURMAN. Yes, sir. In fact, if I had not thought it was pretty generally wanted, I should not have urged it.

Mr. SNOW. I would ask the gentleman, does he want to suspend the rules for this special occasion, or as a general thing?

Mr. THURMAN. Not as a general thing, by any means. I move that the rules be suspended in order to pass this amendment.

Mr. RICHARDS. Mr. President, it seems to me if we are going to change this section, we ought to leave the matter to the Legislature, and instead of making the amendment that is proposed, I offer as an amendment that we add after the world "held," in the fifth line, the words "unless otherwise provided by law," so that the Legislature may not only change the matter with reference to the municipal elections but with reference to the other.

The motion to suspend the rules was agreed to.

The amendment was agreed to.

Mr. VAN HORNE. Mr. President, I now move a reconsideration of the vote by which the schedule was adopted, for the purpose of considering section 2 of that article.

Mr. VARIAN. Mr. President, I want to get the notice that was given there. As I understood it, Mr. Van Horne gave notice that he would move to reconsider the vote by which a certain section was carried. He went away and before he returned, or at least on that or the next day, the article was passed on its third reading, and there was no notice given to move to reconsider the vote by which the article was passed on its third reading. My point of order is that no motion to reconsider that vote was made, and the whole article passed its third reading. The gentleman did not give any notice of a mo-

tion to reconsider, and did not vote for the article at all.

The point of order was sustained.

Mr. VAN HORNE. I appeal from the decision of the chair.

Mr. SQUIRES. Mr. President, before we can vote intelligently on the appeal we want to know what the record says. The journal shows that Mr. Van Horne was not present at the final passage of the article.

Mr. VARIAN. Mr. President, the subject matter of the section that was being considered was the addition of the words at the end of the section, adopting the act of 1892, and it was upon that that Mr. Van Horne gave notice that he would move to reconsider the vote whereby section 2 of the article on schedule was adopted, and that ended it, until the entire article was passed, and as I stated, he did not vote on that, and under the rule is not entitled to move to reconsider the article.

The decision of the chair was sustained.

Mr. MALONEY. Mr. President, in numbering the sections of the Constitution, they ought to be numbered from 1 up regularly all the way through, so that when you want to cite the Constitution, you do not have to cite the article and the section, but simply the section. When you open the book or pamphlet containing the Constitution, in looking for a section you will know whether it is behind you or before you, and it is much more readily found. Some of the constitutions are numbered that way, and it is a very great convenience. I therefore move that the committee having this matter in charge be instructed to number the sections from 1 consecutively all the way through.

Mr. ROBERTS. Mr. President, I think that the engrossing clerk has been engaged in his work now, and since it requires that there be no erasures or interlineations, or anything of that kind, he might have got so far that this would interfere with the work that he has done, and I can hardly think that it is a matter of such importance as to change.

Mr. EICHNOR. Mr. President, I hope this motion will not prevail. I believe there are only two states in the United States that follow that idea—Louisiana and Georgia are numbered similar to the motion of Mr. Maloney.

Mr. MALONEY. The gentleman is mistaken. The whole constitution of Kentucky is numbered that way, so is Louisiana and some of the other states, I think, but I am not sure. You can much more easily find what you are looking for. It is either before you or behind you; you do not then have to cite the number of the article, but simply the number of the section.

Mr. CREER. Mr. President, I understand that the enrolling clerk has got considerable enrolled already. It may require his commencing all over again.

Mr. GOODWIN. Mr. President, that would be remedied by double sections; have each article numbered and the section of that, and then the section as numbered from the first.

The motion of Mr. Maloney was rejected.

On motion, the Convention then resolved itself into committee of the whole, with Mr. Eichnor in the chair.

Mr. CANNON. Mr. Chairman, I have a section which I desire to present as an additional section to the article on miscellaneous.

Mr. BOWDLE. Mr. Chairman, if I remember correctly, the chair was just about to decide a point of order that was pending before the committee.

The CHAIRMAN. That is correct. Mr. Thoreson made a point of order that section 1, as proposed by Mr. Murdock, of Beaver, had been considered by both the committee and the Convention.

Mr. MURDOCK (Beaver). Mr. Chairman, I wish to rise to a personal privilege on this floor. I desire to make the statement, in regard to the position

that I take in this matter. I think that my idea of putting these questions forward was not for the purpose of crowding anything upon this body before me, but simply to get, if I could, something in the interest of the first section. My object of bringing this forward was not to put anything upon this body, that would be absorbing their time unnecessarily, but I had been interrogated by several members that they thought the matter disposed of very hastily, and for that reason I thought under the article of miscellaneous, that probably it would come in very properly. I have introduced four sections, and three of them are upon different interests, and I would like the body, if they cannot accept the other, that is, the first two sections, because they have been produced here, why, I desire to have them consider the other sections, and if there is any merit in either of them to do so. If not, I shall take no offense. I supposed the first two sections would be met with some favor, from the fact that it was accepted when it was thoroughly understood—was accepted very favorably by the committee, and for that reason, I desire to get the feeling and the sympathy of the committee upon this question, and see if there could not be something done, and for that purpose, perhaps, as that is regarded out of the regular order, I would substitute a new section, or two new sections, in regard to the water, but it will be left, of course, with you. Now, I wish you to understand my motive is simply to have this before this body, and if there is any virtue in either one of the sections, I wish them considered, if not, I shall take no offense, but I supposed they would be received with more favor, from the fact that individuals had intimated to me that the water question was dealt with very hastily, and with all due respect to you, gentlemen, perhaps it is out of the general order to so present a matter, but I have done so with a good purpose, to see if there could be nothing done. I have two sections that would be a substitute, if it would be received with any more favor.

The point of order was sustained.

Section 2 was read.

Mr. SNOW. Mr. Chairman, I rise to a point of order.

That section was stricken out in the committee of the whole, and also in the Convention.

Mr. THURMAN. Mr. Chairman, I rise to a point of order, that this cannot be considered in committee of the whole. It cannot be introduced here. We cannot take anything here that is not referred to us from the Convention. I am not now opposing the principle of this, but I am opposing the manner in which it is being done.

The point of order was sustained.

Mr. ROBERTS. Mr. Chairman, I move that the committee arise and report the article on schedule.

Mr. Cannon offered the following section:

No county shall be released or discharged from its or their proportionate share of taxes to be levied for State purposes, nor shall commutation for such taxes be authorized in any form whatever.

Mr. ROBERTS. Mr. Chairman, I raise the point of order on that, that it is new matter and cannot be considered by the committee, unless referred to it from the Convention. It has not passed through the hands of the Convention, and therefore, it is out of order.

Mr. CREER. I raise the further point of order that it should be referred to the committee on printing and that we should have a printed copy.

Mr. SQUIRES. I suggest to Mr. Roberts that we might save time by considering this matter now.

The point of order was sustained.

On motion, the committee then rose and reported as follows:

Mr. President, your committee of the

whole have had under consideration the article on miscellaneous and recommend that it be placed on its final passage for third reading.

Mr. HART. Mr. President, I move we suspend the rules and take up the third reading of that article entitled miscellaneous.

The motion was agreed to.

Section 1 was read.

Mr. CHIDESTER. Mr. President, I offer an amendment to section 1, by striking out the word "five," in the fourth line and inserting the word "one." I believe the whole section ought to be stricken out. As I understand it, this exempts personal property to the amount of five hundred dollars to an unmarried person, and I think it is altogether too much. I believe if this Convention will consider this, that they will see that if it will exempt personal property to that class of persons, it is going too far, and then I believe it will do away with the present law that we have in relation to liens of landlords and hotel keepers. The present law, as I understand it, gives the hotel keepers a lien on personal property for the hotel bills. I think this will do away with that, and I think it is exempting too much, that unmarried persons should not have exempted five hundred dollars in personal property, because it would defeat the ends of justice by doing so.

Mr. THORESON. Mr. President, I trust that this motion will not prevail. In our day and age, in order that a young man might get married, he has to have a start in the world, and one hundred dollars is not enough, he cannot get a living. Now, to marry him, with only one hundred dollars backing him, is not enough, and I am in favor of leaving five hundred dollars, as a stake for single men, and married men also.

MR. MALONEY. Mr. President, I trust that will not prevail. Five hundred dollars is enough. Now, as to the lien of hotel keepers, that is not endangered at all. There is nothing in this suggestion that the gentleman makes, and I trust the section will pass as it is.

Mr. BOYER. Mr. President, I would offer as an amendment to the amendment, to strike out the word "one" and insert "three." I, too, am of the opinion that five hundred dollars is altogether too much. I believe that three will be nearer right.

The amendment of Mr. Boyer was rejected.

The amendment of Mr. Chidester was rejected.

Mr. MALONEY. Mr. President, I move to strike out the word "miscellaneous," and insert "homesteads and exemptions," as the caption of this article.

The motion was agreed to.

Mr. IVINS. Mr. President, I have an amendment that I wish to offer to section 1. It is to insert after "date," in line 7, and before "contracted" the words "except taxes due and owing." My purpose is this: It may be that that would be construed to not apply to debts that are due for taxes that have been levied. It sometimes transpires that men have only personal property in the county at the time the assessment is made. That may be removed, and at the time that the collection becomes necessary, the debtor has nothing that the assessor can seize and sell. He is then required under the law to make settlement of that tax himself, and his only recourse against the debt then becomes the collection of that debt as any other personal account. Now, the question I want to determine is as to whether or not he ought not to be authorized to seize any property of the debtor for taxes that have been levied and are due and owing. Some of the constitutions contain the provisions as I have offered it; others do not have it. To remove the doubt, I thought that I would like to have it inserted.

Mr. MALONEY. Mr. President, there is no necessity for the amendment.

There is nothing exempt from taxation in this State or anywhere else, as far as that is concerned. It is copied from the Michigan constitution. That is construed there not to exempt from taxes or assessments, or purchase money, for that matter.

Mr. IVINS. Mr. President, under existing territorial statutes, after the time has expired for the collection of taxes—I do not remember the date—the assessor no longer has any lien upon the property. It becomes a personal debt that he owes. He is obliged to settle with the Territory, and he can only collect that from the debtor through a civil suit. When it becomes necessary to plant a civil suit for the collection of taxes, I do not want his property exempted, as I apprehend it would be under this section.

Mr. MALONEY. I think not.

The amendment was agreed to.

Mr. CREER. Mr. President, I move to strike out "five" and insert "four."

The motion was agreed to.

Mr. CHIDESTER. Mr. President, I offer an amendment to section 1, by placing at the beginning of the section these words, "until otherwise provided by law."

As this has passed so far, the Legislature cannot change it. The Legislature has never seen fit to pass such a law as this, and we are passing a section, in my judgment, that would be detrimental to the interests of the people. I do not think that a young man should be shielded in that kind of a way. I think it is wrong. I think it is wrong for us to make that kind of a law in the Constitution. It would be bad enough for the Legislature to do it when they can change it.

Mr. EVANS (Utah). Mr. President, I am opposed to the amendment, for the reason it would have the same effect as to strike out the section entirely. This is a restriction upon the Legislature, compelling them to at least exempt four hundred dollars; they can exempt more if they so choose. But, if the amendment shall prevail, providing that it shall be so until otherwise provided by law, the Legislature at its first session may provide by law that only one hundred dollars may be exempt, and it appears from the journal of this Convention that they have decided that they want at least four hundred dollars exempt from execution, and if this motion should prevail, then I am in favor of striking the whole thing out, but I had rather that it would remain just as it is.

The amendment was agreed to.

Mr. ROBERTS. Mr. President, I move that section 1 be stricken out.

The motion was agreed to.

Mr. CANNON. Mr. President, I notice that there are not many more men than a quorum voting, and I think that we should consider this matter carefully, and I move that we adjourn.

The motion was rejected.

Section 2 was read.

Mr. Eldredge offered the following substitute for section 2:

To all heads of families, there shall be an exemption in lands, and improvements thereon, consisting in value of not less than $1,000, and if such head of family be married, a further sum of $500 for the wife and $250 for each minor child, which shall be exempt from forced sale on execution or any other final process from a court, for any debt contracted after the adoption of this Constitution. Such exemption shall not extend to any mortgage thereon, lawfully obtained, but such mortgage or other alienation of such land, by the owner thereof, if a married man, shall not be valid, without the signature of his wife to the same. But no property shall be exempt from tax sale.

Mr. VARIAN. Mr. President, it was only this morning that this Convention, sitting in committee of the whole, by an overwhelming majority, determined that it was the sense of the body that this matter should be left to the Legislature, and incorporated in lieu of these three sections that were stricken out, the provision which this section is now desired to replace. I hope there is no

need to go over the line of argument that we went over this morning. I hope neither this motion nor the motion to strike out will prevail. There certainly ought to be such a constitutional limitation.

Mr. ROBERTS. I would like to ask a question. Your reference to striking out of the section does not refer to the section that was passed by the committee?

Mr. VARIAN. Yes; there is a motion pending to strike out.

Mr. ROBERTS. Did I understand you to be in favor of striking out the section that was passed through the committee?

Mr. VARIAN. No; I hope neither motion will prevail, and let it stand as it came from the committee. We have passed upon this question within three hours.

Mr. BOWDLE. Mr. President, we passed upon this subject this morning, but I do not believe it was fully understood. The substitute, if I understand the nature of it, does not reach the point that the gentlemen argued should be covered, if anything at all was done in this regard; that was where a person living in a town, upon a piece of property, and had other property outside, the piece of property in the town was not of the value as expressed in the substitute, so that he might add to that what he had outside and make it of the value of fifteen hundred dollars, or whatever the amount might be. Now, this substitute does not cover that case. He says that he shall have a homestead of the value of fifteen hundred dollars, or not to exceed that. Now, what is a homestead? A homestead is where the person lives, and he could not go outside, if it is defined as a homestead, and add to that. It would be whatever he occupied. It would be a piece of land in the city or town, or whatever it might be. That is his homestead. There is where his home is, and he cannot add to it. Now, the idea this morning was, so that in a case like that he should have, in addition to his little home in the town, or wherever he might live, property outside.

Mr. HART. I call your attention to the fact that our present statute gives an exemption of a homestead consisting of a certain value; it does not require them to be together at all.

Mr. BOWDLE. I am not talking about the present statute. I am talking about the language of that substitute, that it does not cover the point that was intended, as I understood the discussion this morning.

Mr. SQUIRES. To which substitute do you refer?

Mr. BOWDLE. I refer to the substitute of Mr. Varian that was adopted this morning. That does not cover the point sought.

Mr. VARIAN. I will ask the gentleman if he understands that in that substitute that was adopted this morning, the underlying principle was to leave it to the Legislature and not enter into details?

Mr. BOWDLE. I submit that it does not cover that point.

Mr. CREER. Mr. President, I am in favor of the substitute as it came from the committtee. I think it makes it secure that there shall be a homestead at least of the value of fifteen hundred dollars. Now, it seems to me it would be better to leave it to the detail as to how that must be selected, and I hope that this will not be stricken out, because it is in conformity with the provision made in most of other constitutions. The Legislature can adjust this, either to conform our present law or change it in any manner they see fit. I am certainly in favor of the substitute as it came from the committee this morning.

Mr. THORESON. Mr. President, it seems to me, after we have left out the first section, which was definite in its provision and left that subject to the Legislature, and under our present law

there are better and more liberal sections than provided in the substitute of the gentleman from Salt Lake, let us leave the entire matter with the Legislature and let them provide an exemption law.

On motion of Mr. Snow, the previous question was ordered.

The substitute of Mr. Eldredge was rejected.

The motion to strike out section 2 was rejected.

Section 5 was read.

Mr. JAMES. Mr. President, I feel a little timid in arising here, to ask this Convention to adopt another section, but I shall, however, make the effort. The matter that I am going to ask this Convention to adopt has been before it three times and voted down, but not in the form that I shall put it now. When it came up in the bill of rights, it came up in the form that allowed men to enter upon other property and it should be declared as a public use. I offer the following section:

The necessary right of way for tunnels, flumes, pipe lines, roads, and ditches [laughter], as a means to the development of the mineral and agricultural resources of the State, is hereby declared a public use and subject to the control and regulation of the State.

Mr. VARIAN. Mr. President, I arise to a point of order, that not only once, but three or four or half a dozen times, that matter has been voted down in this Convention and cannot be reintroduced now under our rules.

The point of order was sustained.

Mr. GIBBS. Mr. President, I move to strike out section 5.

No second.

Mr. Cannon offered the following new section:

No county shall be released or discharged from its or their proportionate share of taxes to be levied for State purposes, nor shall commutation of such taxes be authorized in any form whatever.

Mr. CANNON. Mr. President, the Convention, I hope, will not think this something that was introduced a number of times, because this is the first time, I think, that it has been introduced, and I hoped that it would go through while Mr. Eichnor was in the chair, because it was taken from Washington. The provision is one that I think should be placed somewhere in our Constitution.

Mr. EVANS (Utah). Mr. President, I arise to a point of order. We are considering another subject here entirely. We have a matter that has been passed upon relative to taxes, and I think the proper thing to do would be to consider that question by a suspension of the rules, and it ought not to be permitted to be entertained with this subject.

The PRESIDENT. I think the point of order is not well taken.

Mr. HART. Mr. President, I arise to the further point of order that it is not germane to the article now under consideration, which is homestead and exemption.

The PRESIDENT. That is well taken.

Mr. RICHARDS. I just want to call the attention of the Convention to the fact that it seems to me we made a mistake in changing the title of this article from miscellaneous to homesteads and exemptions. The last section relates to the property rights of women, and I think the title should be miscellaneous, or it should be expressed by the objects. I move to reconsider the vote.

The motion was agreed to.

Mr. CANNON. As I understand it, Mr. President, the title now remains as it was, and I can introduce my section.

Mr. VARIAN. I want to call the attention of the Convention to the fact that the motion is to change the title from miscellaneous to homesteads and exemptions.

Mr. EVANS (Utah). Mr. President, I move to amend the motion by adding "and real estate titles."

No second.

The original motion was rejected.

Mr. EVANS (Utah). Mr. President, I move the previous question.

Mr. GIBBS. Mr. President, I had a motion to strike out section 5. It was seconded and never was put before the house.

The motion was put and rejected.

Mr. EVANS (Utah). Mr. President, I move the previous question.

The motion was agreed to.

The PRESIDENT. The question is now on the adoption of the article.

Roll call on the adoption of the proposed article, miscellaneous, as amended, resulted as follows:

AYES—58.

Allen	Larsen, C. P.
Anderson	Lemmon
Barnes	Lowe, Wm.
Bowdle	Lowe, Peter
Boyer	Lund
Brandley	Maeser
Button	Maughan
Call	Morris
Cannon	Murdock, Beaver
Chidester	Murdock, Summit
Christianson	Partridge
Clark	Peters
Coray	Peterson, Grand
Creer	Peterson, Sanpete
Cunningham	Richards
Eichnor	Roberts
Eldredge	Robinson, Kane
Emery	Robison, Wayne
Engberg	Ryan
Evans, Utah	Sharp
Farr	Shurtliff
Gibbs	Snow
Hart	Spencer
Halliday	Squires
Hughes	Stover
Ivins	Symons
James	Thompson
Johnson	Thorne
Larsen, L.	Varian.

NOES—5.

Kerr	Thoreson
Maloney	Thurman.
Page	

ABSENT—43.

Adams	Lambert
Buys	Lewis
Corfman	Low, Cache
Crane	Mackintosh
Cushing	McFarland
Driver	Miller
Evans, Weber	Moritz
Francis	Murdock, Wasatch
Goodwin	Nebeker
Green	Pierce
Hammond	Preston
Haynes	Raleigh
Heybourne	Ricks
Hill	Robertson
Howard	Strevell
Hyde	Thatcher
Jolley	Van Horne
Kiesel	Warrum
Keith	Wells
Kearns	Whitney
Kimball, Salt Lake	Williams.
Kimball, Weber	

Mr. Cannon, Mr. Bowdle and Mr. Gibbs gave notice they would move to reconsider the proposed article, miscellaneous.

During the roll call the following remarks were made:

Mr. BOWDLE. I shall vote aye for the article and I give notice that I shall make a motion to reconsider.

Mr. CANNON. I vote aye, with the understanding that I will move to reconsider.

Mr. GIBBS. I vote aye, but I give notice that I will move to reconsider.

Mr. HART. Mr. President, I rise to a point of order. You cannot give notice to reconsider until after the result is announced. How can we know how the vote will go until after the vote is announced?

Mr. JAMES. I vote aye, with the understanding that I get my mining article in. [Laughter.]

Mr. MALONEY. I desire to be excused from voting on this. A banker writes an impudent letter to this Con-

vention and the Convention follows his dictation. I do not care to vote on it.

Mr. THURMAN. I would like to be excused. I am directly interested in the question.

Mr. CHIDESTER. I object to Mr. Maloney being excused.

Mr. EVANS (Utah). I object to Mr. Thurman being excused, either.

Mr. THURMAN. I vote no.

Mr. MALONEY. I vote no.

The president declared the art'cle adopted and referred to the committee on compilation and arrangement.

Mr. VARIAN. Mr. President, I move now to reconsider the vote by which this was carried. I do it for the purpose of speeding the business of this Convention. We can vote this motion down and that will let it go right into the hands of the committee to-night.

The motion was rejected.

Mr. LUND. Mr. President, I move a suspension of the rules, and that we adjourn until 10 o'clock to-morrow.

The motion was agreed to, and the Convention then, at 5:30 p. m., adjourned.

SIXTY-FIRST DAY.

FRIDAY, May 3, 1895.

The Convention was called to order at 9 a. m., President Smith in the chair.

Roll call showed a quorum present.

Prayer was offered by Delegate Preston.

Journal of the sixtieth day's session was read and approved.

The president appointed, as a committtee to prepare an address to be submitted with the Constitution to the people of the Territory, the following delegates: Messrs. Goodwin, Whitney, Crane, Thurman, Wells, Kerr, and Brandley.

The PRESIDENT. The business in hand, I believe, is the reading of the Constitution now.

Section 8 of Article VII was read.

Mr. RICHARDS. Mr. President, I move that the first word in the last line "hereinbefore," be stricken out. It is, needless and meaningless.

The motion was agreed to.

Sections 9, 10, and 11 were read.

Mr. WHITNEY. Mr. President, I suggest an amendment in line 8, striking out of the word "the" where it occurs before the word "governor."

The amendment was agreed to.

Mr. RICHARDS. Mr. President, I move to strike out the word "and," in line 18, of section 11.

The motion was agreed to.

Mr. CRANE. Mr. President, I think the word "and" should not be stricken out. I move to reconsider that.

Mr. RICHARDS. Mr. President, I desire to state why I made the motion. It seems to me that it is not necessary in this Constitution that we should require the governor or the secretary of state to receive the salary. It is necessary that we should declare that he shall be entitled to it, and we do declare that he shall be entitled to it, but when we insert the word "and," we then not only say that he shall be entitled to it, but that he shall receive it.

Mr. CRANE. I fail to see the point of that argument.

Mr. HAYNES. Mr. President, I move to strike out the word "receive." If the secretary of state is entitled to the salary, he will come pretty nearly receiving it.

Mr. HILL. Wouldn't you prefer that he did not receive the salary?

Mr. HAYNES. No; I would prefer that he get it.

Mr. CHIDESTER. I arise to a point of order, that that is a material amendment and cannot be introduced.

The PRESIDENT. It is not very material.

Mr. CRANE. I trust, Mr. President, that these words will not be stricken out. It seems to me to make very good sense now, the way it reads, and I

presume that no gentleman here will presume for a moment to suppose that the secretary or the governor will not receive his salary if he is entitled to it.

Mr. SQUIRES. I just want to remind the Convention of the fact that the words as they appear in the printed copy are exactly as the Convention adopted them. There has been no changing by the committee.

The motion to reconsider was rejected.

Mr. HAYNES. Now, I renew my motion to strike out the word "receive."

Mr. CHIDESTER. That is out of order. That is an amendment to the section as it reads.

The point of order was overruled.

Mr. CANNON. Mr. President, I am in favor of striking this out, because I believe the meaning to be the same, and it is a little smaller.

Mr. CRANE. Mr. President, I think myself, as we have stricken out the word "and," that" receive" should also be stricken out, to make good sense.

Mr. WHITNEY. Mr. President, I think I should favor that motion, striking out the word "receive."

The amendment of Mr. Haynes was agreed to.

Sections 12 and 13 was read.

Mr. RICHARDS. It seems to me that ought to be "those for." I therefore move that the words "those for" be substituted for "those of."

Mr. HART. Why wouldn't the word "for" be sufficient, instead of the words "those of?"

Mr. RICHARDS. I accept the amendment.

The amendment was agreed to.

Sections 14, 15, 16, 17, 18, 19, and 20 were read.

Mr. JOLLEY. Mr. President, I move that we suspend the rules and raise the salary of the governor from two thousand dollars per annum to twenty-five hundred dollars per annum.

The question being taken on the motion to suspend the rules, the Convention divided, and by a vote of 43 ayes ayes to 34 noes, the motion was rejected.

Mr. SQUIRES. Mr. President, I move that the comma, after the word officers, in the 8th line from the bottom, on page 25, be stricken out.

The motion was rejected.

Mr. WHITNEY. Mr. President, I move to insert the word "in" after the word "and," in line 3, section 20.

The amendment was agreed to.

Mr. WHITNEY. I move, in the same line, to strike out the words "in pursuance of," and insert the words, "pursuant to."

The amendment was agreed to.

Sections 21, 22, and 23 were read.

Mr. RICHARDS. Mr. President, I move that the word "specific," in the last line of section 19, be stricken out.

Mr. EICHNOR. Mr. President, I am opposed to that motion to strike out. The idea of this section is that no other duty except educational duties shall be placed upon the superintendent of public instruction.

Mr. RICHARDS. I would ask Mr. Eichnor what difference there is in the meaning of this section by the insertion of the word "specific" or leaving it out?

Mr. EICHNOR. I think the word "specific" would limit the duties that might be placed upon him.

The motion was agreed to.

Mr. HAMMOND. Mr. President, I move to strike out the word "but," in the last line on page 25.

The motion was rejected.

Mr. PAGE. Mr. President, I move to strike out the word "shall," in the second line from the bottom of section 16.

The motion was rejected.

Mr. WHITNEY. Mr. President, I move the reconsideration of the vote on the motion put by the gentleman from San Juan.

The word "but" occurs in the fourth line from the bottom, on page 25, and I

think if we should close the sentence with a period, and strike out the word "but," as he suggests, it would read better. Strike out the word "but," and begin the sentence with the words, "the Legislature."

The motion was agreed to.

The amendment was agreed to.

Mr. CORAY. Mr. President, I move that the word "prescribe," in section 17, the last line, be stricken out, and insert the word "provided."

The motion was agreed to.

Article VIII, judicial department, was then taken up for consideration.

Sections 1 and 2 were read.

Mr. HART. Mr. President, on page 27, third line from the top, I move to strike out the word "make," and insert in lieu thereof the word "form."

The question being taken on the amendment, the Convention divided, and by a vote of 31 ayes to 16 noes, the motion was agreed to.

Mr. SQUIRES. Mr. President, I move a reconsideration of the vote by which the word "make" was changed to "form."

The question being taken on the motion to reconsider, the Convention divided, and by a vote of 30 ayes to 21 noes, the motion was agreed to.

Mr. HART. Mr. President, as I understand it, my motion is now before the house. This correction is very largely a matter of taste. It seems to me that the word "form" makes the sentence altogether smoother and is much preferable to the word "make."

Mr. SQUIRES. Mr. President, I made that motion in order to give Mr. Whitney an opportunity to debate that subject.

Mr. WHITNEY. Mr. President, I have no speech to make on the subject. I think probably the gentleman is right, that probably the word "form" is a little more elegant than "make." I had just as lief vote for it as not.

Mr. SQUIRES. Mr. President, I apologize; it is a case of misplaced confidence.

The amendment of Mr. Hart was agreed to.

Mr. CRANE. Mr. President, I move to strike out the word "pronounce," in the third line, page 27, and insert the word "render" in lieu thereof.

The amendment was agreed to.

Sections 3 and 4 were read.

Mr. CORAY. Mr. President, I ask that the foreign phrase be stricken out of this section, and good plain English substituted.

Mr. HART. I ask the gentleman to suggest the good plain English to be substituted for these words.

Section 5 was read.

Mr. RICHARDS. Mr. President, I move to transpose the words "who must be a member of the bar," from the third and fourth lines from the close of the paragraph, and have them come in after the word "record," in the second line.

Mr. WHITNEY. I asked the gentleman if that would not produce ambiguity? "And who" would then refer to attorneys of record, instead of judge pro tempore.

Mr. RICHARDS. That may be so; the amendment proposed was proposed very hastily, of course.

The PRESIDENT. Do you withdraw it?

Mr. RICHARDS. Yes.

Mr. WHITNEY. Mr. President, in line 8 of section 5, I would suggest the striking out of the word "the," before district court, and a substitution of the word "a" in lieu thereof.

The motion was agreed to.

Mr. LAMBERT. Mr. President, in line 10 of section 5, I move to insert the words "Territory or" before the word "State," and the words "of Utah" after the word "State."

The amendment was agreed to.

Mr. THURMAN. Mr. President, the last line of section 5 seems to me to be slightly ambiguous as it is. "Any

cause in the district court may be tried by a judge pro tempore, who must be a member of the bar, agreed upon by the parties or their attorneys of record, who shall be sworn to try the cause." The question is, what does "who" refer to? It is intended to refer to the judge pro tempore, but in fact, it refers to attorneys of record.

Mr. SQUIRES. I suggest that we might transpose that so as to put, "who shall be sworn to try the cause" after the words "pro tempore," and strike out the words "who shall be."

The amendment was agreed to.

Mr. CRANE. Mr. President, then I move to transpose those words, and make it "Territory or State of Utah."

The amendment was agreed to.

Mr. HART. Mr. President, I move to insert, after the word "years," in the same line, the words, "next preceding his election."

The amendment was agreed to.

Mr. WHITNEY. Mr. President, I supported the amendment offered by Mr. Squires to the last sentence of that section. I now move a reconsideration of that vote, and to strike out all after the word record, in the last line but one of section 5, and insert after the word "bar," in line 17, the words, "sworn to try the cause."

The motion to reconsider was agreed to.

The amendment was agreed to.

The Convention then took a recess until 2 o'clock.

AFTERNOON SESSION.

The Convention re-assembled at 2 o'clock p. m., President Smith in the chair.

The consideration of Article VII was resumed.

Sections 6, 7, 8, 9, 10, 11, 12, 13, and 14 were read.

Mr. SQUIRES. Mr. President, I move that the word "prescribed," in the last line of section 14, be stricken out, and the word "provided" be inserted in lieu thereof.

The amendment was agreed to.

Sections 15 and 16 were read.

Mr. SQUIRES. Mr. President, I move that the word "courts," in the second line in this section, be stricken out and the word "districts" be inserted.

The amendment was agreed to.

Sections 17, 18, and 19 were read.

Section 20 was read.

Mr. BOYER. Mr. President, I move that the rules be suspended for the purpose of reconsidering section 20 of this article, and offer as an amendment to section 20, that the words "three thousand," in third line, be stricken out, and the words "twenty-seven hundred" be inserted in lieu thereof.

Mr. GOODWIN. Mr. President, I hope the Convention will not accede to that. There is barely a quorum present. We went over that and decided it two or three times, and I hope that this section will not be altered now.

The motion was rejected.

Mr. SQUIRES. Mr. President, I move to insert the article "the" before the word "salaries," in line 1 of section 20.

The question being taken on the amendment, the Convention divided, and by a vote of 25 ayes to 18 noes, the motion was agreed to.

Mr. SQUIRES. Mr. President, Judge Goodwin, of the committee on compilation, suggests that there are too many articles in this Constitution now, so I move that we strike out the article "the" in the second line.

The amendment was agreed to.

Section 22, 23, 24, 25, and 26 were read.

Mr. GOODWIN. Mr. President, I wish the Convention would consider section 5 for a moment. When this article was drafted, the understanding was that the election for district judges and supreme judges would not be at the same time of the general election, and it will be seen in section 5 that the term of office of the district judges shall be

four years. Under this new arrangement by which the judges are elected at the same time as the State officers, it looks as though it would be necessary, if this remains as it is, for judges to be elected a year in advance, unless the terms of the first judges be changed, and I have prepared an amendment, which the Convention should consider for a moment, to come in after line 5, in section 5, to read as follows: Insert after the word years the following:

Except that the district judges elected at the first election shall serve until the first Monday in January, A. D. 1901, and until their successors shall have qualified.

The motion to suspend the rules was agreed to.

Mr. BUTTON. Would not it have been well, if that had read "serve until January, 1901," the same as the amendment we offered the other day?

Mr. BOWDLE. I want to ask Judge Goodwin a question on that. Will the election this fall be under this Constitution?

Mr. GOODWIN. I should say so. If the Constitution is not adopted, there will certainly be no election.

Mr. BOWDLE. The question in my mind is whether, that election will be under this Constitution or under that provision in the Enabling Act? If it is under the Enabling Act it might raise a question as to whether it would——

Mr. SQUIRES. We can amend that by saying the district judges elected in 1895.

Mr. BOWDLE. That would cover it.

Mr. HART. I would ask the mover of this amendment whether there would be any difficulty about when the term of office would expire under this amendment? That is, supposing that the State were not admitted until February or March, whether they would have to serve five years from the date of the admission, if it would not be better to fix the time when they would expire, the same as we did the executive officers—name the date?

The amendment was agreed to.

Section 27 was read.

Mr. EICHNOR. Mr. President, I desire to offer an amendment to section 18, not an amendment that will change the sense in any way. I move to insert the word "the" before the word "State," in line 1 of section 18.

The amendment was agreed to.

Article X—Education, was then taken up.

Mr. CRANE. Mr. President, I desire to draw the attention of the Convention to the fact that almost the identical words that are used in section 1 of this article are used in the fourth clause of ordinance. It seems to me to be a section that could be eliminated from one or the other of these articles. It is a repetition. I would, therefore, ask that the rules be suspended in this instance and this fourth section of the article of ordinance be stricken out.

Mr. RICHARDS. Mr. President, I am opposed to that.

Mr. CRANE. I am informed by the judge that it cannot be stricken out of ordinance. Then, I would move that it be stricken out as section 1 of the article on education.

Mr. CHIDESTER. Mr. President, there is one objection to that, striking out section 1 in this article—this provides for a uniform system, and that I presume is what we want.

Mr. BOWDLE. Mr. President, I do not believe it ought to be stricken out of this article. While it may appear somewhere else in the Constitution, it is certainly very proper that it should appear in the article on education. and if there should be a little repetition, I would be in favor of keeping it in here.

Mr. RICHARDS. Mr. President, I think it would be a mistake to strike this out of the article. It cannot be stricken out of the ordinance, because the Enabling Act requires it to be there.

It is an irrevocable compact with the United States.

Mr. CRANE. Mr. President, I do not insist on this. I just wished to bring it before the Convention. I will withdraw the motion.

Mr. SQUIRES. Mr. President, I move to strike out the word "the," in line 3 of section 1.

The motion was agreed to.

Sections 2, 3, 4, 5, 6, 7, 8, and 9 were read.

Mr. MAESER. Mr. President, according to this, no provision at all is made for prescribing text books. According to this, it would be left to our school—to every teacher to get text books, as they please. It would throw us back in that time of confusion when every teacher and every school had their own text books, and changed it every quarter, perhaps two or three times a year. Some provision, it appears to me, ought to be made.

Mr. EVANS (Utah). This leaves it entirely in the hands of the Legislature. It simply fixes it so that the Legislature can prescribe.

Section 10 was read.

Mr. SQUIRES. Mr. President, I notice the word institutions in the fifth line is made in the plural. I think the intention was to transfer the property of the deaf and dumb asylum to the university, and that is the way we have it in the marked copies. I think that was the purpose and effect of the amendment. It was so stated here the other day, when we tried to change the deaf and dumb asylum.

Mr. EVANS (Utah). Mr. President, if I remember right, the Enabling Act provides grants for separate purposes. I am not sure, but that is my recollection of it now, and if that is the case, why, this would be proper.

Mr. HALLIDAY. I think you are correct.

Mr. IVINS. Mr. President, before we pass that section, I would like to ask some member of this committee to which institution this property is to be transferred? I cannot tell whether it is to be transferred from the deaf and dumb and blind institute back to the university or from the university to those institutions.

Mr. SQUIRES. I think it is a little ambiguous, but I think the gentleman understands what the purpose was. The intention was to transfer all the property of the institutions to the university itself.

Mr. IVINS. Mr. President, I had just the other idea exactly. I thought it was to be transferred from the university to the institutions.

Mr. SQUIRES. Do you remember when the debate was had here about sending the deaf and dumb asylum to Ogden, that the deaf and dumb asylum was without a home because we had transferred its property to the University? That was one reason why it should go to Ogden, because it had no home, that the building should go to the university.

Mr. SNOW. Mr. President, if that was the argument that was made, it was a wrong argument and founded upon a false basis. The intention of the committee was to transfer the property that belonged to this deaf and dumb school to that institution, wherever it should be established.

Mr. IVINS. That was the idea exactly, not to transfer the buildings; the buildings belonged to the university.

Mr. SQUIRES. Mr. President, I move that the letter "s" be stricken off from that word "institution," in the fifth line, making it conform to the article as it was passed by the Convention.

Mr. CANNON. Mr. President, I think the gentleman who makes the motion is laboring under a misapprehension. I have the same understanding that Mr. Snow has expressed. Mr. Snow is a member of the committee on education, and it was spoken of on this floor at the time the bill came up. The idea was to convey the property which is

properly personal property to the institutions wherever they should go, and let it follow these institutions. The point was brought up that the building occupied by the deaf mutes was upon the university ground, consequently, that remained with the university, and the title is in the university, but the personal property was designed to go with the institutions wherever they might be located.

Mr. IVINS. I move then, Mr. President, to insert after "institutions," in line 5, the words "for the deaf, dumb, and blind."

Mr. CANNON. Mr. President, I arise to a point of order. The only way to do that would be to move to suspend the rules.

Mr. IVINS. It is understood that if this amendment is made it is under a suspension of the rules.

Mr. CANNON. The motion should be made in that form.

Mr. IVINS. I wish to say it is not necessary, every time an amendment is made to one of these sections, to first move that the rules be suspended, and then to see whether you can make the amendment or not. If the motion prevails, the rules are suspended and the amendment is adopted without the necessity of two motions.

Mr. HART. Mr. President, if the contention of Mr. Cannon and these other gentlemen is right, it would not require a suspension of the rules, because if the word is "institutions" there, I think by adding the words "for the deaf, dumb, and blind," we do not make any material change.

Mr. EVANS (Utah). Mr. President, the Enabling Act provides for the deaf and dumb asylum in one place a hundred thousand acres and then for the blind in another place.

Mr. CRANE. Mr. President, in the original section, it was "institutions."

Mr. GOODWIN. I would like to ask if there is any property in the university that belongs to the building?

The PRESIDENT. The remembrance of the chair is that there was considerable apparatus used.

Mr. GOODWIN. As I understand it, it was all for the deaf and dumb, and not the blind, and if the object is to transfer it to both institutions, that is all right. If the property there belongs to them, it ought to go to the deaf and dumb asylum. Does any one know whether there is any property there belonging to the blind or not?

Mr. SQUIRES. I suggest that if there is any property there that belongs to the school for the blind, then this sentence is very incomplete.

Mr. GOODWIN. Then it ought to read that it should go to the deaf and dumb asylum.

Mr. IVINS. Mr. President, I think Judge Goodwin is right about that; it should be as he states. There is no institution for the blind at present.

Mr. EVANS (Utah). Mr. President, I think the "s" ought to come off of "institutions," because it has reference to only one institution. That will cure the whole thing.

Mr. SQUIRES. Mr. President, I suggest that amendment be made as follows, so that the sentence will read, "all property belonging to the school for the deaf and dumb heretofore connected with the university of Utah shall be transferred to the institution for the deaf and dumb."

Mr. IVINS. Now, I think "said" ought to be there, because it refers to to the institution we refer to in the first line.

Mr. SQUIRES. All right, I will accept that.

The amendment was agreed to.

Sections 11, 12, and 13 were read.

Mr. WELLS. Mr. President, if it is in order, I move to strike out the word "all," in line 2 of section 13. I do not think it ought to be taught in the kindergartens. They are a part of the public school system of the State.

The motion was agreed to.

Article XI, counties, cities, and towns, was taken up.

Sections 1 and 2 were read.

Mr. CRANE. That is all, Mr. President, that we have now from the printer, but if the gentlemen will take up the article on apportionment as printed in the journal, or as you have it already printed in your copy of the article——

Mr. CANNON. Mr. President, in view of the fact that there are no changes in this, I think it would be a waste of time to read it over. I move that the rules be suspended, and that this be passed to the committee on engrossment, without reading.

Mr. SQUIRES. We have no way of knowing how many changes the committee made in this article.

Mr. CRANE. The committee has not made any changes, nor have they had it reprinted. The committee has had it before them. They have never considered it.

Mr. SQUIRES. Well, if they never considered it, it ought to be considered.

Mr. CANNON. Mr. President, I submit that if the committee have not considered it, it is not proper to present to us.

Mr. HAYNES. Mr. President, I would like to call the attention of the Convention to page 27, section 3, of the judicial article. It is not in my own interest, but I believe it needs a change. Every judge of the supreme court shall be at least thirty years of age, and before his election shall be a member of the bar. My idea is to strike out the word "before," and insert "at the time of his election."

Mr. GOODWIN. I would say for the information of Mr. Haynes, that that was all discussed and considered, and the idea was that no one should be nominated for that office, unless he was an actual practising lawyer in the Territory, and the idea was not to permit someone to go and get admitted to the bar on election day in order to get the office. I think it is all right as it is.

Mr. HAYNES. I thought he might have been admitted to the bar at some time before and be disqualified, and he should be an active practising member of the bar.

The PRESIDENT. Would that amendment prohibit a judge who is now sitting upon the bench from being elected?

Mr. HAYNES. No; he is a member of the bar.

Mr. GOODWIN. The only difficulty about that is that he should be learned in the law.

Mr. HAYNES. Mr. President, just to test the sense of the Convention, I make a motion to that effect, that the word "before" be stricken out, and "at the time of" be inserted in lieu thereof.

Mr. SNOW. That will require a suspension of the rules?

The PRESIDENT. Do you move to suspend the rules?

Mr. HAYNES. I am not particular about it, if the Convention don't want to take it up.

Mr. GOODWIN. Mr. President, I move that the committee on compilation and arrangement be honorably discharged.

Mr. CRANE. I second the motion.

Mr. GOODWIN. The Convention has simply to resolve itself into that committee of the whole and it is simply unnecessary. I think it would be better to take up whatever matter may be presented, and consider it in committee of the whole.

Mr. JAMES. I amend the motion, Mr. President, that the Convention return the work to the committee and permit them to complete it.

Mr. HART. Mr. President, this motion really contemplates a suspension of one of our standing rules, the rule which provides for the various committees and their duties. Now, I do not see any more reason for abolishing this committee at this time than doing away with any other of our

standing committees. I think there can be no doubt in the minds of members of this Convention that the committee on revision have greatly assisted the Convention in this work.

The PRESIDENT. There is nothing before the house.

Mr. HART. I understood there was a motion.

The PRESIDENT. There was no second to it.

Mr. VARIAN. I would like to have the Convention consider section 19 of the executive article in connection with section 8 of the educational article. I called the attention of several gentlemen to an apparent inconsistency there, and am told now that you have passed both articles. Section 19 of the executive article provides that the superintendent of public instruction shall have general supervision of all matters pertaining to the public schools. Section 8 of the article on education provides that the general control and supervision of the public school system shall be vested in a state board of education. Now, one or the other ought to be changed so that it may be harmonious. Section 19 of the article on executive might be amended so as to read that the superintendent of public instruction shall perform such duties as may be provided by law—something of that kind.

Mr. EVANS (Utah). Could not we strike out section 19 of the executive article?

Mr. VARIAN. Yes; we might strike out section 19. That will accomplish the purpose.

Mr. GOODWIN. Has that article been sent to the engrossing clerk?

Mr. EICHNOR. Mr. President, I am opposed to striking out section 19.

Mr. WELLS. Mr. President, the engrossing clerk has just about reached that section.

Mr. VARIAN. Mr. President, I suggest to the gentlemen of the Convention, whether or not we might better accomplish the purpose by just simply striking out section 19, after the word "shall," in the second line, and the word "perform," in the third line, and strike out the word "other," in line 4 of this section 10. If there is no objection I will withdraw the motion to strike out the section and make it in the form as indicated.

The PRESIDENT. The question is on the suspension of the rules.

The motion to suspend the rules was agreed to.

Mr. EICHNOR. Mr. President, I am opposed to this motion, and I will give my reasons for it. The state superintendent of public instruction is one of the officers of the executive department of this State. No doubt, it is intended to elect a responsible man. That man should have control of the public school system of this State. The attorney general is not tied up with a board, neither is the treasurer tied up with a board, neither is the auditor, neither is the governor, and this idea that is embodied in section 8 of the educational article is only found in a few states. In the states that have the best school system, they elect a responsible man, an intelligent man, and they place him at the head and he controls the public school system. The idea of tying up the superintendent of public instruction with a board—the people elect the superintendent of public instruction for that purpose, and I hope this motion won't prevail.

Mr. VARIAN. Mr. President, I made the motion in regard to the executive article. I assumed that it was the will of the Convention that the provisions of section 8 of the article on education stand. It was considered last. It is utterly immaterial to me, only you want to harmonise it, that is all.

Mr. CANNON. Mr. President, I am in favor of the motion to strike out the portion of section 19 mentioned, and believe that section 8 is all right. This

whole matter is left to the Legislature, and I am not afraid that they will interfere in any injurious way with the workings of the school system.

Mr. GOODWIN. Mr. President, there is another reason for it, if the superintendent of public instruction shall prove himself to be a thoroughly competent man, he will control that board. If he happens to be a stick, the board can control him. That was the idea of the Convention.

The amendment was agreed to.

Mr. VARIAN. I suggest, Mr. President, that that motion include "other" and "specific," in the fourth line.

Mr. Cannon was called to the chair in the absence of the president.

Mr. EVANS (Utah). Mr. President, I desire to offer the motion that we proceed to consider the apportionment article, for the reason, as I said before, that we have cleared everything away. It seems to me satisfactory to the committee on compilation and revision, and the object of that committee is to simplify these matters, and get them into the best shape before presenting here, and we then go over them all, and as we have got nothing else before us, I move that we take this matter up and proceed to its consideration.

Mr. SQUIRES. Mr. President, I would much prefer to let the committee on compilation make a report on that article first, and note such changes as them deem necessary; they can examine it more carefully and more consistently than we can in open Convention, and I understand the committee is now ready to go to work on that particular subject. I am not in favor of taking this up now before the committee on compilation has reported it. It is only by suspension of the rules it could be done.

Mr. HART. Mr. President, I think we should leave that to the committee, and let them report on it first. I am opposed to the motion.

Mr. EICHNOR. Mr. President, I am in favor of taking it up, because they have got into such a habit here, that we pass an article when it is reported from the committee on compilation and arrangement; then we go back again; then the next day we go back and make an amendment. We might as well being doing that, as getting into this poor practice of amending day after day every article. I am in favor of taking it up right now.

Mr. SQUIRES. I call the gentleman's attention to the fact that to-day, in the reading of this report, we found that the committee have made a number of changes which nobody has questioned. It seemed to be all right, and they have changed even the original copy that we passed in the Convention, and there has been no objection raised, except in one or two cases, and they can do that business more carefully than we can here. A small committee can more easily do that kind of work, and I hope no demand will be made to take it out of their hands. I raise the point that it will require a two-thirds vote, because it will certainly be a suspension of the rules.

Mr. ALLEN. Did not the chairman state that they have looked it over, and found no mistakes?

Mr. SQUIRES. I asked the chairman of the committee the direct question, and he said no. They had it before them, and had not considered it.

Mr. LAMBERT. I think I can give Mr. Squires some light on that. We have had that report up before the committee, and we did consider it, and as there was only one word changed in the instrument when it came before the committee of the whole and the Convention, and that word was suggested by one of the committee on compilation and arrangement, which he withdrew in our committee, as he believed the original document was better than his suggestion, we agreed to make the report as it comes from the committee on legislative and apportionment our

report, and it is open here now for consideration.

Mr. EVANS (Utah). Then, I make the point of order, if that be the fact, it does not require two-thirds. It is before the Convention, and all we need to do is to proceed with it.

The PRESIDENT (pro tem). The point of order as made by the gentleman from Utah County, is in accordance with the statement of the chairman of the committee on compilation and arrangement. The chairman will rule that, under the circumstances, it would require only a majority vote to take up the article.

Mr. WILLIAMS. Mr. President, before that question is put, I would like to know if there is a quorum present?

Upon a count, the secretary announced fifty-four members present.

The question being taken on the motion to consider the article on apportionment, the motion was agreed to.

Mr. ALLEN. Mr. President, I move that the sergeant-at-arms be instructed to keep these delegates from running off.

The PRESIDENT. The sergeant-at-arms is instructed to arrest and bring in any fleeing member.

Mr. VARIAN. Mr. President, what is the point in this? Even if there should not be a quorum, if the point is not raised, it is all right. There is nothing of importance.

Mr. SQUIRES. Mr. President, I move that we head this article something; I move it be made Article IX.

Mr. GOODWIN. Mr. President, the arrangement will be submitted to the house in the morning, and it is liable to be changed.

Mr. SQUIRES. Well, it can be changed then.

The motion was agreed to.

Section 1 was read.

Mr. SQUIRES. Mr. President, in order to have this conform to other sections in the Constitution, I move that the word "next" be inserted after the word "Tuesday."

Mr. WELLS. Mr. President, I do not think that is the language used elsewhere. Strike out the word "first."

Mr. SQUIRES. Yes, strike out the word "first," before "Tuesday."

The amendment was agreed to.

Mr. ROBINSON (Kane). Mr. President, in order to make this conform to the rest of the article, I move that in line 6, the word "prescribe" be stricken out, and "provide" be substituted.

Mr. HART. Mr. President, I think that is all right to make that change where there are three sections following each other, all of the same construction and nature. This is different from the others, and I am in favor of retaining this.

The motion was rejected.

Section 2 was read.

Mr. HART. Mr. President, in order to make section 2 uniform in one respect with section 1, I move that the words, "in the year of our Lord," in lines 2 and 3, be stricken out and the letters A. D. be inserted in lieu thereof.

The amendment was agreed to.

Section 3 was read.

Mr. LAMBERT. Mr. President, I move to strike out the word "more," and replace the word "greater," in line 7. I think it is better.

The amendment was agreed to.

Section 4 was read.

President Smith resumed the chair.

Mr. SNOW. Mr. President, there should be a comma placed after "districts." wherever it occurs, as follows: "County of Box Elder shall constitute the first representative district;" wherever that phrase occurs, there should be a comma placed after it.

Mr. HART. Mr. President, it is the tendency of modern usage to omit commas there. According to the old rule, we should insert a comma there, but I believe the tendency of modern times is such——

Mr. SNOW. Can you cite a tendency

of that kind? If you will look in your constitutions, you will find that it has been followed in all the constitutions.

Mr. HART. I have not had reference to constitutions. Probably they do. The general tendency of newspapers and periodicals is to omit commas.

Mr. SQUIRES. I will have to admit that my education, such as it is, was not acquired in the last few years. I was educated when I was a boy.

The motion was agreed to.

Mr. CANNON. Mr. President, I move that this article be referred to the committee on enrollment and engrossment.

The motion was agreed to.

On motion of Mr. Cannon, the rules were suspended, and the Convention, at 5:10 o'clock p. m., adjourned until 10 o'clock to-morrow morning.

SIXTY-SECOND DAY.

SATURDAY, May 4, 1895.

The Convention was called to order at 10 a. m., President Smith in the chair.

Roll call showed a quorum present.

Prayer was offered by Delegate Eldredge.

Journal of the sixty-first day's session was read and approved.

The following communication was read:

Salt Lake City, Utah Ter.,
May 4, 1895.

To the President and Members of the Constitutional Convention:

GENTLEMEN.—Will you be so kind as to furnish me with a copy of the Constitution, to be sealed up in the construction of a table whereon will be signed the first bill passed by the first State Legislature of Utah? I now have in my possession a representative piece from each of the governors of the states and territories. If the copy could be printed on some light material so that it would not be too bulky.

If your honorable body will comply with this request, you will confer a lasting favor on

Yours with respect,
JOHN R. WILSON.

Salt Lake City, Utah Ter.

Mr. SQUIRES. Mr. President, I move that request be granted and the copy furnished to the gentleman.

The motion was agreed to.

Mr. VARIAN. Mr. President, I move to suspend the rules and correct a matter concerning section 4 as printed in the article on schedule, for the purpose of enabling the committee to proceed with its work. I move to strike out, under suspension of the rules, "and the people of the United States in the Territory of Utah."

Mr. GOODWIN. Mr. President, would not it be better to leave out this last "Territory of Utah," and make it "thereof?"

Mr. VARIAN. That could be included in one motion. I accept that. The committee, as I understood the chairman last night, did not feel authorized to make this change, and they recognize the fact that it was not consistent or harmonious. I make the motion now so that the section will read "or to any official board for the benefit of the Territory of Utah, or the people thereof."

The amendment was agreed to.

Mr. THURMAN. Mr. President, if this is in order now, I would like to call the attention of the Convention to section 9 of the article on judiciary. If the Convention remembers, the question that was discussed by Mr. Varian and Mr. Evans of Weber, and myself, on that section—to obviate an objection raised by Mr. Evans of Weber, that an appeal to the supreme court might permit of the case being tried anew in that court and witnesses examined, I gave notice that I would move to reconsider, after looking into the matter, and I will now offer an amendment to that. I move that the rules be suspended and that section 9 be amended as follows:

Insert after the word "court," in line 8, the words, "the appeal shall be upon the record made in the court below and."

Mr. GOODWIN. I would like to ask Mr. Thurman if the balance of that

line where the amendment is inserted adds any strength to it. Would not it be just as well to include in his amendment——

Mr. THURMAN. Yes, I think that should be there to cover the amount of bond and mattters of that kind.

Mr. GOODWIN. All right.

The motion to suspend the rules and amend as stated was agreed to.

Mr. Eichnor offered the following resolution and moved its adoption:

Resolved, that the following attestation be placed at the end of the schedule of the Constitution immediately preceding the signatures of the delegates of the Convention:

Done in Convention at Salt Lake City, in the Territory of Utah, this——day of May, in the year of our Lord one thousand eight hundred and ninety-five, and of the independence of the United States the one hundred and nineteenth year.

The resolution was adopted.

The committee on compilation and arrangement reported the arrangement of the proposed articles for insertion in the Constitution as follows:

1. Preamble and declaration of rights.
2. Boundaries.
3. Ordinance.
4. Elections and rights of suffrage.
5. Distribution of power.
6. Legislative.
7. Executive.
8. Judicial.
9. Apportionments.
10. Education and school lands.
11. Counties, cities and towns.
12. Corporations.
13. Revenue and taxation.
14. Public debt.
15. Militia.
16. Labor and arbitration.
17. Water rights.
18. Forestry.
19. Public buildings not educational.
20. Public lands.
21. Salaries of public officers.
22. Miscellaneous.
23. Amendments.
24. Schedule.

On motion of Mr. Squires, the report was adopted.

The Convention then resumed the final consideration of the article entitled counties, cities, and towns.

Section 3 was read.

Mr. VARIAN. Is the word "stricken" in the first line of the article as passed? It seems like a strange formation.

Mr. IVINS. It seems to me the word "detached" would be a better word there; I move that the word "detached" be substituted.

The motion was agreed to.

Sections 4 and 5 and 6 were read.

Mr. WHITNEY. Mr. President, I wish to move, in section 3, line first, after the word which stands now "detached," and formerly was "stricken," the substitution of the word "taken," so that it will read, "no territory shall be taken from any county," I do not think Mr. Ivins will object to it; I have consulted with him.

The motion was agreed to.

Mr. HAYNES. Mr. President, in section 3, the last word in line 2, I move to amend by striking out "such" and inserting "said."

MR. WHITNEY. Mr. President, I have some slight doubt that that would better it.

Mr. CRANE. I think it should be left just the way it is.

The amendment was rejected.

Mr. VARIAN. Mr. President, I move to strike out, by consent, from the last line of page 37, in section 3, the words, "applicable to the whole State." All general laws are applicable to the whole State.

The amendment was agreed to.

Mr. CANNON. Mr. President, I move to strike out the article "a," there before "general law."

The amendment was agreed to.

Mr. ELDREDGE. Mr. President, I think the word "transcribed" there

should be changed to "provided," so as to conform to the other sections.

The amendment was rejected.

The Convention then proceeded to the consideration of Article XII, entitled corporations.

Section 1 was read.

Mr. THORESON. I move that the words, "as to such business," be restored in the next to the last line of that section, for this reason, that I do not believe the Legislature could limit legally or restrain corporations. We can only restrain the business that such corporations are doing in our State. They may be incorporated under some other state constitution, and we only regulate the business that they are doing.

The amendment was agreed to.

Mr. VARIAN. Mr. President, I move to strike out the words, "at any time," in line 4; it is sufficient to say that they may be amended or repealed by the Legislature.

The amendment was agreed to.

Section 2 was read.

Mr. VARIAN. Mr. President, I do not quite understand the meaning of the last clause in the section. Literally it would simply prevent them from having the benefit of any future legislation, without reference to existing legislation, which is carried by this Constitution. Was that the design of the article, or was it simply an oversight? In other words, is it the intention of the Convention to require all corporations to file an acceptance of the provisions of this Constitution with the secretary of state? If so, why limit it under the proviso that they shall not have the benefit of future legislation? That would leave it open to go on under their existing charters, which are carried over under the new Constitution by its general provisions. I confess I do not know what the committee intended by that—whether they intended to have every corporation in existence file with the secretary of state an acceptance of this Constitution.

Mr. JAMES. Mr. President, this was debated about an hour when it was up, and that purpose was gone into. There was no other intent by the committee that adopted this—the committee of the whole, other than expressed in the language, and that was that they should not benefit by legislation unless they should file an acceptance of the provisions of the Constitution. That was all there was to it, and all there was in it.

Mr. RICHARDS. Mr. President, I was trying to get some information on this subject. It seems to be a little dubious to me, but the statement of the chairman is as I understood the discussion in the committee of the whole. I desire to call attention that the language of this section in one particular is not as the languge of the original article. In the third line, "all existing charters, franchises, and special or exclusive privileges under which an actual bona fide organization has not taken place," is the language in the article as presented now, and as it was passed it was "shall not have taken place." I think the latter is the proper form. Of course it has not taken place now. This is in future. Therefore, I would move that that amendment be made.

Mr. WHITNEY. Mr. President, I suppose that the gentleman has considered that this reads on "has not taken place" at the time of the adoption of this Constitution.

Mr. RICHARDS. That is not correct.

Mr. WHITNEY. I am inclined to think the gentleman is correct.

The amendment was agreed to.

Mr. CANNON. Mr. President, I call attention to the fact that in the orignal article this read "and business," and not "nor business." I do not know why the committee has changed it.

Mr. GOODWIN. How can you find out whether a man is in good faith when he commences business?

Mr. WHITNEY. Why not strike out the words, "in good faith?" You can hardly go to a man's conscience.

The PRESIDENT. Do you make the motion to strike that out?

Mr. WHITNEY. Yes, sir.

Mr. SQUIRES. The way this sentence reads now, it seems to me that if a bona fide organization had taken place, that would make the charter valid, with the word "nor" in there. If you put the word "and" in place of the word "nor," then it would require that a bona fide organization had taken place, and business commenced. I think the word "and" should go in there in place of "nor."

Mr. WHITNEY. I think so, too.

Mr. SQUIRES. Mr. President, I move the substitution of the word "and" for the word "nor."

Mr. THORESON. Mr. President, I think the word "nor" is the proper word there.

The PRESIDENT. The question on Mr. Whitney's motion is the striking out of the words "in good faith," in the fourth line.

Mr. RICHARDS. Mr. President, I hope those words will not be stricken out, because they have peculiar significance. The insertion of those words was, no doubt, intended to avoid, and it could not attempt to avoid the law by simply making a pretense of commencing business. It must be an actual commencement of business. Evidently the object of this section is to avoid this condition. A corporation or individual may get a franchise, then, without a bona fide organization, or without actually commencing business in good faith, continue the life of this franchise. Now, it is to avoid that; it is to require that they either have an actual bona fide organization, for the purpose of exercising the franchise, or they must commence business in good faith. They might commence business by doing something that might technically be regarded as a commencement of business, and yet not do it with any intention to carrying on that business, but simply for the purpose of holding the franchise, and it is to avoid that, that I understand these words are inserted. It is language that is frequently used in that connection, and I think it should be retained.

Mr. WHITNEY. I would like to ask Mr. Richards, after the word "actual," would not be better, then?

Mr. RICHARDS. I think not, for the reason I suggest. They may actually have commenced business, but with no expectation of continuing business, but simply for the purpose of holding a franchise.

Mr. WHITNEY. How can you tell whether a man intends to conduct it or not?

Mr. RICHARDS. That is a matter that is easily told.

Mr. WHITNEY. By simply commencing?

Mr. RICHARDS. No. Such questions are arising constantly and being adjudicated as to the actual commencing being in good faith.

Mr. SQUIRES. I will ask Mr. Richards this question: Suppose a company starts and actually commences business and then in a short time closes business, would not that be an evidence that they had not opened in good faith?

Mr. RICHARDS. No, sir. If an attempt were made to forfeit their charter or franchise, the burden of proof, I take it, would be upon the government to show it was simply a pretense, and that they were not acting in good faith, and if the State could show that clearly, they ought to have a right to forfeit it. If they could show it, it would not have that right. It is a matter that is frequently presented in this way.

Mr. JAMES. Mr. President, I hope that this Convention will amend the word "and" there, and leave the words "good faith" in. It is the language in almost every constitution. It is found everywhere, and as it was debated here

on the floor in the committee of the whole and in the Convention on third reading——

Mr. SQUIRES. Mr. President, I raise the point of order, to save time. That amendment is not before the house.

Mr. JAMES. I am speaking of the word "and."

Mr. SQUIRES. That is not before the house.

Mr. JAMES. The other part of it—I am speaking on both together.

Mr. WHITNEY. Mr. President, I will withdraw my objection to the phrase out of deference to the legal gentleman, Mr. Richards.

Mr. SQUIRES. Now, Mr. President, I present my amendment.

The PRESIDENT. The question is now on the change from "nor" to "and."

The amendment was agreed to.

Mr. BUTTON. Mr. President, I move we strike out the word "been," in the fourth line.

Mr. WHITNEY. Mr. President, I shall object to the striking out of that word; I think it is necessary to the balance of the sentence.

The amendment was rejected.

Sections 3 and 4 were read.

Mr. GOODWIN. Mr. President, I move a reconsideration of that vote by which "nor" was stricken out and "and" was inserted.

The motion to reconsider was agreed to.

Mr. SQUIRES. Mr. President, my object in moving that the word "and" be inserted there, was so that it will require both things to be done. I believe that if the word "nor" remains there, if a bona fide organization shall have taken place a charter will be valid without the other.

Mr. CANNON. Mr. President, I am opposed to the change from "and" to "nor." I prefer "and" for the reason that the purpose of it was to make not only the organization take place, but also business to be commenced in good faith first. Now, if you insert "nor," if business is commenced in good faith, whether the organization is perfected or not, the existing charters would be perpetuated. I think the "and" should be required.

Mr. WHITNEY. Mr. President, I think the word "and" should remain, but in case a vote to change it prevails, I insist upon it being "or" instead of "nor."

Mr. GOODWIN. Mr. President, the way the paragraph reads, if the corporation fails in either, then it can be attacked, and if the word "and" is put in there—I may be dull, but I do not see any sense at all in it. I think Mr. Whitney's amendment is all right, to make it "or."

The motion of Mr. Squires was agreed to.

Section 5 was read.

Mr. SQUIRES. Mr. President, I move that the word "prescribed" be stricken out and the word "provided" put in its place, so as to conform to other actions already taken.

No second.

Mr. RICHARDS. Mr. President, I move to strike out the letter "a," in the 7th line, before "general law."

The motion was agreed to.

Mr. WHITNEY. Mr. President, in the fourth line from the bottom, section 5, I move that "nor" be changed to "or."

Mr. CANNON. Mr. President, I think that that would be an improper change. It is a negative proposition all the way through.

The motion was rejected.

Section 6 was read.

Mr. CANNON. Mr. President, I notice the committee has inserted the word "of" in the first line. I think the sense is better without it. I move to strike it out.

The question being taken on the motion, the Convention divided, and the vote standing 24 ayes to 22 noes, the motion was agreed to.

Mr. EVANS (Weber.) Mr. President, I move to amend that section by striking ont the words "of the," in the first line, and the word "limits," at the beginning of line 2.

Mr. SNOW. Mr. President, I move a reconsideration of the vote by which "nor" is retained in line 4, after the word "stock." I think it should be "or."

Mr. WHITNEY. I second the motion. I contend that "or" is the correct word. It is merely an alternative.

The question being taken on the motion, the Convention divided, and by a vote of 37 ayes to 12 noes, the motion to reconsider was agreed to.

The PRESIDENT. The question is, shall it be changed to "or?"

The question being taken on the motion, the Convention divided, and by a vote of 40 ayes to 10 noes the motion was agreed to.

Mr. HAYNES. Mr. President, I move that the last sentence of section 5 be stricken out, "all fictitious increase of stock or indebtedness shall be void." It is not a constitutional provision, to say that a fictitious increase of stock shall be void.

Mr. SNOW. That requires a suspension of the rules.

Mr. HAYNES. Then, I move for a suspension of the rules.

The motion was rejected.

Mr. BUTTON. Mr. President, I move we take a recess until 2 o'clock.

The motion was rejected.

Sections 7 and 8 were read.

Mr. SQUIRES. Mr. President, I move that the article be struck out before the word "control," in next to the last line.

The motion was agreed to.

Sections 9, 10, and 11 were read.

Mr. SNOW. Mr. President, I move that in section 9 the words "in the same," in the third line, be stricken out.

Mr. CRANE. Mr. President, I do not think that that should be stricken out in this sense—that is a very material change in the section.

Mr. THURMAN. I want to ask the gentleman a question. Does "in the same" refer to the State or place of business? It is ambiguous the way it is and may refer to either.

Mr. CRANE. In the State. "State" could be replaced. Certainly to eliminate the three words would make a very material change in the section; if that is stricken out, Mr. President, the agents might be in another state, the way I read it, and not in this State. It certainly must mean that the agents must be residents of this State or in the same State, or something of the kind.

Mr. CANNON. Mr. President, the purpose, as I understand it, is different than that explanation by Mr. Crane. In the places of business is what "same" refers to, as I understand it. I think it it is proper that it should remain. We want the agent in the place of business.

Mr. GOODWIN. Mr. President, I move an amendment to the amendment; strike out the word, "and" in line 3, and insert the word "with" in lieu thereof, and strike out the words "in the same."

Mr. JAMES. Mr. President, the gentlemen really do not understand what they are doing, when they move to strike this out. This is the language precisely of five or six of our constitutions, and not only that, there is not a single new constitution adopted in this western country that has not got it.

Mr. THURMAN. Let me ask the gentleman a question. What does "in the same" refer to—places or state?

Mr. WHITNEY. It sounds as if they might always have to be in their offices.

Mr. JAMES. Not necessarily. It is not so technical as that, Bishop. You cannot go into details and say they must be in their office. It says they must be either in their office or on the street where process can be served upon them—where their headquarters are.

The question being taken on the amendment to the amendment, the Con-

vention divided, and by a vote of 30 ayes to 16 noes, it was agreed to.

Mr. GOODWIN. Mr. President, to make the article correspond, I move that "nor," after the word "served," in the last line on the page, be made "or."

The motion was rejected.

On motion, the Convention then took a recess until 2 o'clock p. m.

AFTERNOON SESSION.

The Convention re-assembled pursuant to recess, President Smith in the chair.

Roll call, to ascertain if a quorum was present, resulted as follows:

Adams	Lowe, Wm.
Allen	Lowe, Peter
Boyer	Low, Cache
Brandley	Lund
Button	Maughan
Buys	Morris
Call	Moritz
Chidester	Murdock, Beaver
Christiansen	Murdock, Summit
Clark	Nebeker
Corfman	Page
Cunningham	Peterson, Grand
Cushing	Peterson, Sanpete
Eichnor	Preston
Engberg	Raleigh
Evans, Utah	Robertson
Francis	Robinson, Kane
Gibbs	Robison, Wayne
Hammond	Ryan
Howard	Shurtliff
Hyde	Snow
James	Squires
Kimball, Salt Lake	Stover
Kimball, Weber	Thompson
Lambert	Thoreson
Larsen, L.	Thorne
Larsen, C. P.	Williams—55.
Lemmon	

Mr. Snow presented the following resolution, and moved its adoption:

Resolved, That the committee on enrollment and engrossment be instructed to report the earliest date that the engrossed Constitution can be submitted for final reading.

The resolution was adopted.

The Convention then resumed the consideration of Article XII.

Sections 12, 13, 14, 15, 16, 17, and 18 were read.

Mr. JAMES. Mr. President, I do not see why the change was made in this section. This change was proposed by Mr. Cannon.

Mr. KIMBALL (Weber). That does not change the sense of the section.

Mr. JAMES. As I understood Mr. Cannon, this was the statute as it exists at the present time in Utah.

Mr. KIMBALL (Weber). That is true as to banking corporations, but it is not true as to any other corporations, and the transposition does not change the sense of the section at all. It leaves the section just as originally reported. It does not affect that.

Mr. RICHARDS. Mr. President, I think it does affect very materially, and I object to the change.

Mr. KIMBALL (Weber). The original section does change the effect of the present law, because there is no such law on the statute books to-day as embodied in that section, except as to private banking law of this Territory.

Mr. EVANS (Utah). Mr. President, I arise to a point of order. There are three or four men talking here.

Mr. RICHARDS. Mr. President, I move that the transposition of the committee be not accepted, and that the paragraph be left as in the original copy. There is a very material change in the sense, as I understand it. The section as it now reads, or as printed in this copy, is that a stockholder in every corporation and joint stock association for banking purposes, in addition to the amount of capital stock subscribed and fully paid, shall be individually responsible for an additional amount equal to the amount of their stock in such corporation, for all its debts and liabilities of every kind. That is to say, a man's liability is still by this section limited to the amount of

stock he has in the company and an additional amount equal to that. But with the change that the committee propose to make, he is first individually responsible for all debts and liabilities of the company, of every kind, and then, in addition to that, he is liable for the amount of stock that he has in the corporation. Now, why should that be so? What is the purpose of law in making a man liable for twice the amount of stock that he has in the corporation? It is to pay the debts. That is the only object of it, and there is no reason in the world why a man should be liable in any additional amount after the debts are paid. But the purpose of this is to make him liable for the amount of his stock, and then, for an additional amount, equal to the amount of his stock, out of which to pay debts, and then if the debts are not paid, the man's liability ceases.

Mr. KIMBALL (Weber). Now, I would like for Mr. Richards, or any man on this floor, to point out to me where there is any difference between the section as transposed and the original proposition, except the transposition of the terms that the individual stockholders shall be liable for all debts and liabilities of every kind in an additional amount equal to the stock subscribed. That is the way it reads in the original article—except the phraseology in the amendment suggested by the committee and placed there by the committee, it is a little more euphonious, and makes it read a little better, that is all. And after all the debts and liabilities are paid, Mr. Richards's bugaboo is out of the way anyhow, because a stockholder could not be liable beyond the debts and liabilities in any event, and when the debts and liabilities are paid, the liability of the stockholder ceases, and I submit that the change in phraseology in that makes it read a little more pleasantly and makes it better.

Mr. JAMES. Doesn't this cover what the effort was made to cover; doesn't it provide for all we attempted to cover?

Mr. KIMBALL (Weber). Their reading does.

Mr. JAMES. Then, why change this one?

Mr. KIMBALL (Weber). Simply because it reads a little more pleasantly and would answer the criticisms of grammarians a little better, that is all. And in the absence of the members who purport to be champions of grammar here, I am in favor of the change made by the committee.

Mr. THORESON. Mr. President, I hope that the Convention will not change this correction made by the committee. I think it is a good one, the way it now reads. It will not change the liability of the stockholders. I think that change that the committee has made is a good one and is grammatically correct. It does not change the meaning, but has much better phraseology.

Mr. PRESTON. Mr. President, the original writing of this is correct, and the change made by the committee is not. It makes stockholders individually responsible for all debts of the bank or the company that they are associated with, and then double the amount of their stock besides, and that is not intended. The original writing is correct, and whether it is quite as euphonious and grammatical or not, it is written so that it can be easily understood, and ought to remain as it was originally, without the amendments made by the committee.

The motion of Mr. Richards was agreed to.

Section 19 was read.

Mr. SNOW. Mr. President, ought there to be a comma after "obtaining," in the fifth line? I move to strike it out.

The motion was rejected.

Section 20 was read.

Mr. THURMAN. Mr. President, I de-

sire to know why the words, "for that purpose," were struck out. I move those words be reinserted.

The motion was agreed to.

Mr. KIMBALL (Weber). Mr. President, in order to test the sense of the Convention, I will suggest this, that at common law, no statutes were punctuated and no contracts were punctuated, and I suggest now to save time that we follow the common law rule and quit this punctuation. I make that motion.

The motion was rejected.

Mr. WHITNEY. Mr. President, it seems to me that the pronoun "it" ought to precede the word "may," in the next line to the last one of that section. I move the insertion of that word.

The motion was agreed to.

Mr. SQUIRES. Mr. President, I move that a comma be inserted after the word "penalties."

The motion was rejected.

Mr. KIMBALL (Salt Lake). Mr. President, I move you that in the punctuation, that when a person makes a motion or suggests a comma, or anything of that kind, if there is no objection from the house, it shall stand.

The motion was rejected.

Mr. LUND. Mr. President, I move that any person making a suggestion, cite a rule for so doing. I think that will suppress all these suggestions.

Mr. KIMBALL (Weber). Mr. President, I object to that motion. Some of us are not as wise or as well informed as the gentleman from Sanpete; and do not want to be called upon to expose our ignorance.

The motion was rejected.

Mr. MORRIS. Mr. President, in regard to section 20, I think that other articles will come in contact with this section. In relation to the combination of the soap factories in this city—and this will touch them, and govern them in their actions. I would like very much to get a little information on this. I belong to a firm of a combination on mills. I have heard many making a remark, it was a trust to regulate prices, or to raise the prices. I find another about to be incorporated or united together of four corporations of this city.

The object, I understand it, then, is to cut down expenses and cost. While we have four soap factories in this city to-day, it is more than the market demands, and they are all losing money in their competitions, and not able to keep in full capacity. They are going to form a combination to cut down expense that they may be able to compete with foreign markets. Some might construe this, according to this section, a trust that will raise the price of that article, while the object, in fact, is that they want to stop operating one or two of these factories, and cut down the expense. Will this section reach that class? I think it is a serious thing.

Mr. KIMBALL (Weber). Mr. President, I am of the opinion that this section will reach the class that Mr. Morris alludes to. I am further of the opinion that it would be very proper that it should reach that class. This is an article against combinations or trusts, to keep them, as the common phrase is, from cornering the market on any particular product. While it is true that this section may be a hardship to one particular industry, in the great majority of instances it proves a public good, and promotes the public welfare. Now, there is no law passed, either by a legislature or by Congress, but what in isolated cases will prove a hardship, but the hardship is only the exception to the rule, and because in this Territory there may be one industry that will be retarded, and will be made to suffer a loss by this section, in the outcome the section may prove a benefit to the public, for the reason that it prevents combinations and corners, and I submit that, not-

withstanding the objection of the gentleman, this section should stand.

Article XIII, entitled revenue and taxation, was then taken up for final consideration.

Sections 1 and 2 were read.

Mr. WHITNEY. Mr. President, in the sixth line from the bottom of section 2, I move that the word "and," beginning the section, be stricken out. It is entirely superfluous.

The motion was agreed to.

Mr. RICHARDS. Mr. President, I think the words "in this State," should be inserted after the word "taxed," in the twelfth line. They are in my copy.

Mr. CANNON. Mr. President, the debate took place upon that for about a half an hour, after which the Convention refused to insert the words which the gentleman wants inserted.

Section 3 was read.

Mr. KIMBALL (Weber). Mr. President, I offer the following amendment to that section: To strike out after the word "of," in the second line on page 43, "the United States, the State, counties, cities, towns, school districts, municipal corporations," for the reason that there is no power in this State to tax either one of those. The State would not certainly tax its own property; it cannot tax the property of the United States; and it is certainly unnecessary to have in here a provision that the Legislature of this Territory cannot tax the property of the United States or of the State, or of the counties, cities, towns, school districts or municipal corporations.

The PRESIDENT. Do you move to suspend the rules?

Mr. KIMBALL (Weber). I do not think it is a motion to suspend the rules, because it does not touch the substance. If necessary, I move to suspend the rules and take up the consideration of that section 3 for the purpose of making that motion.

The motion was rejected.

Mr. CANNON. Mr. President, I notice the committee have changed the first word at the top of page 43, and have it read debits. As it was originally it provided that a deduction of debts from credits may be authorized. I move that that be changed to its old form; the language is taken from Washington.

Mr. EICHNOR. It is all right.

The motion was agreed to.

Section 4 was read.

Mr. JAMES. Mr. President, I move to amend the word "proceeds" to "profits." It was a word that I overlooked at the time, but after it had been adopted by the Convention on its passage, my attention was called to it, and I believe that if the word was changed to "profits" in place of "proceeds," although it is intended to cover that very proposition, it is more comprehensive and better understood by mining people.

Mr. BUTTON. Do you move to suspend the rules?

Mr. KIMBALL (Weber). It is a very radical change.

Mr. JAMES. I take it not. It is put there to cover and mean "profits." I move to suspend the rules.

No second.

Mr. KIMBALL (Weber). Mr. President, in that section I desire to make an amendment, by striking out, beginning with "which," in the fourth line of that section from the bottom, and including the word claims, in the fifth line. It may be thought that is a radical change. I move to suspend the rules for the purpose of making that amendment. You see the preceding section taxes all mining machinery and all surface improvements, appurtenant to the mine and mining claims. If you strike out what I move to strike out, it will leave that all taxable. You leave in the words that I move to strike out and it leaves it uncertain there as to what is valuable for mining purposes and what is not valuable for mining purposes.

Mr. CANNON. Will the gentleman

permit a question? I desire to know, if I understood you correctly, to say that all mining men on this floor favor the change?

Mr. KIMBALL (Weber). I believe there is not a mining man on this floor—there is not one that I have conversed with, at least, but what favors that change.

Mr. GOODWIN. I will ask Mr. Kimball if he understands why that was put in?

Mr. KIMBALL (Weber). I do not, sir. I have talked with several mining men on this floor and they have been unable to say why that was put in.

The motion to suspend the rules was rejected.

Mr. RYAN. Mr. President, I would move to suspend the rules and strike out, commencing in the first line after the word "claims," down to and including the word "depositors." I do that in the interests of simplifying the section. If you leave it as it is, the first time some claim is taxed, they will make the county prove that it is mineral bearing in some particular, and it will give rise to litigation, while if it is stricken out, everything is covered anyway. I think it should be stricken out.

The question being taken on the motion to suspend the rules, the Convention divided, and by a vote of 26 ayes to 22 noes, the motion was rejected.

Sections 5, 6, 7, 8, and 9 were read.

Mr. KIMBALL (Weber). Mr. President, I move that in section 9, the second line on page 45, the word "eight" be stricken out and the word "seven" inserted.

The amendment was agreed to.

Section 10 was read.

Mr. CANNON. Mr. President, I move to insert the letter "t" before the word "herein," in line 2.

The motion was rejected.

Sections 11 and 12 were read.

Mr. Snow offered the following resolution and moved its adoption:

Resolved, That the committee on enrollment and engrossment be instructed to employ the necessary help to report the engrossed Constitution to this Convention for final reading on Monday, May 6, at 2 p. m.

Mr. SQUIRES. I do not see how you can do that. This engrossment has got to be done in one hand.

Mr. THURMAN. Mr. President, I would like to know why it should be in one hand if we direct several men to do it.

Mr. SQUIRES. I see a good reason why.

Mr. SNOW. Mr. President, I would like to amend that and make it Tuesday morning, as there are a great many here that would like to vote for it on Tuesday.

Mr. CANNON. Mr. President, I would like to move as an amendment to the gentleman's motion, that the chair appoint now a committee of five to consider this matter and report at once to the Convention.

Mr. KIMBALL (Weber). Mr. President, I raise the point of order that that is not an amendment.

The resolution offered by Mr. Snow was adopted.

Mr. Kimball, of Salt Lake, offered the following resolution and moved its adoption:

Resolved, that the sergeant-at-arms notify, at once, each absentee to be present Monday morning, May 6th.

The resolution was adopted.

The Convention then proceeded to the consideration of Article XIV.

Sections 1 and 2 were read.

Mr. CANNON. Mr. President, I move that the word "for," in the last line of section 2, be stricken out and the word "to" be inserted.

The amendment was rejected.

Mr. WHITNEY. Mr. President, I move that the word "whatever," the last word in that section, be stricken out.

The amendment was agreed to.

Mr. WHITNEY. Mr. President, I move still another amendment in that section, in the second line from the bottom, after the word "applied," I would insert the word "only."

The amendment was agreed to.

Sections 3, 4, 5, 6, and 7 were read.

Mr. THURMAN. Mr. President, before we leave this, I wish to call attention to one thing, section 1, the last three lines, "all moneys arising from loans herein authorized shall be applied solely to the purposes for which they were obtained." The word "solely" and the word "obtained" are used now in the next section. We say, "but the money arising from the contracting of such debts shall be applied only to the purpose for which it was raised." I move to strike out the word "only," in line 4 of section 2, and insert "solely," and strike out the word "raised," in line 5 of section 2, and insert the word "obtained," to harmonize with the language used in the section above.

The motion was agreed to.

Article XV was then taken up.

Section 1 was read.

Mr. RYAN. Mr. President, I would like to get the consent of the Convention to reconsider and change this. Change the word "citizens," occurring first in line 2, to "inhabitants," and strike out "and males who have declared their intention to become citizens." Change "laws" to "law." And strike out "of the United States or of this State."

Mr. THURMAN. If you will change the "forty-five" to "forty-three," I will second the motion.

Mr. RYAN. That follows the requirements of the United States statutes. This section as it is now fixed looks like a raw recruit, you might say, and "inhabitants" now covers everything, because if he is an alien he could not be forced into the service anyway, and if he is exempt under the laws of the United States, he could not be forced into the State service, so that it would then be compact and uniform. I move a suspension of the rules.

The motion to suspend the rules was agreed to.

The amendment was agreed to.

Section 2 was read.

Articles XVI, XVII, and XVIII were read.

Mr. GOODWIN. Mr. President, I want to give notice that if I can formulate anything to satisfy myself, I am going to add a section to the water rights article.

The PRESIDENT. It seems to me there ought to be something whereby the State claims the water.

Mr. Lambert offered the following resolution:

Resolved, That the Convention order 1,000 copies of the Constitution printed, and that a copy be sent to each official in the Territory and five copies to each member of the Convention, and two copies to each newspaper printed in the Territory.

Mr. SQUIRES. Mr. President, I move that be laid on the table.

The motion was rejected.

Mr. CHIDESTER. Mr. President, I do not understand the resolution. Have we passed a resolution heretofore authorizing the printing of the copies?

Mr. SQUIRES. Mr. President, the reason I asked to have it laid on the table was that I wanted a little time to consider whether this distribution was just what we wanted. Five copies to each member would dispose of 535 copies. Now, there are 465 copies to go elsewhere, and it seems to me that the members ought to have more than five copies each. I wanted to find out how many newspapers there were in the Territory, to know how to distribute them.

Mr. CRANE. I would like to ask the chairman of the committee on printing what this will cost?

Mr. LAMBERT. Until we had some authority, we did not feel at liberty to

ask for bids. I intended to ask for bids in paper covers.

Mr. SNOW. Law sheep will not cost more than about three or four cents more.

Mr. LAMBERT. Fifteen cents more.

Mr. SNOW. It won't cost that. I will agree to get them for five cents more.

Mr. CANNON. I move the offer be accepted.

Mr. SQUIRES. Mr. President, my motion to lay on the table having failed, I now move to postpone further consideration until Monday.

Mr. BUTTON. Mr. President, I move to amend that, that the committee find out what they will cost and report Monday.

Mr. RICHARDS. Would you be willing to let the resolution go to the committee on printing until Monday?

Mr. SQUIRES. Certainly.

The motion of Mr. Squires was agreed to.

Mr. SQUIRES. I withdraw the motion to postpone it.

Mr. KIMBALL (Salt Lake). Mr. President, I move as an amendment to the amendment that any surplus copies be divided among the members.

Mr. RICHARDS. Mr. President, I think there is a misapprehension of this motion. I understood Mr. Squires to withdraw his motion to postpone and accept the amendment suggested by the gentleman from Salt Lake, that it go to the committee on printing, to report on Monday the cost of this work.

Mr. SQUIRES. That is correct.

The motion was agreed to.

Mr. SQUIRES. Mr. President, I move we adjourn until Monday at 10 o'clock.

The motion was agreed to, and the Convention then, at 4:35 p. m., adjourned until next Monday at 10 o'clock a. m.

SIXTY-FOURTH DAY.

MONDAY, May 6, 1895.

Convention met pursuant to adjournment. President Smith in the chair.

Prayer was offered by Delegate Clark.

Journal of the sixty-second day's session was read and approved.

Mr. LUND. Mr. President, as the accounts have all been made up to-day, and there is some little question about the stenographer—I did not want to raise it, but it ought to be decided this morning, and I would call the attention of the Convention to the agreement that you made with the stenographer, to have the understanding made complete this morning. You will will find it on pages 23 and 24 of the minutes. I believe the stenographer will state his side of the case.

Mr. CHIDESTER. Mr. President, I would suggest that Mr. Lund explain what the difference is, so that the Convention will understand it.

Mr. LUND. Mr. President, I was not the one who made this agreement, and inasmuch as there is difficulty or a misunderstanding, I think we ought to hear from the Convention at large or else from the committee on stenographer. I have not been able for myself to decide which is right in this case, the Convention or Mr. McGurrin. The chairman, I believe, of this committee would report that the days actually in session do not include Sundays and holidays, and I think that Mr. McGurrin had the other understanding when the arrangements were made.

Mr. CHIDESTER. Mr. President, I move that this matter be referred to the committee on expenses.

Mr. LUND. Mr. President, we have no time to refer this matter.

Mr. HART. Mr. President, I move you that we allow Mr. McGurrin his pay according to his understanding of this matter; that is, that we pay him

for the days' session as recorded on our journal.

Mr. LUND. Mr. President, as I understand it, Mr. McGurrin has had from these sessions more work than his per diem and his transcribing will make, according to the rate at which he was paid, than thirty dollars per day, and I am of the opinion that Mr. Hart is, that he should be paid by the day as the members are paid.

Mr. BOWDLE. How many days difference are there?

Mr. LUND. There will be nine days, I think, difference.

Mr. EVANS (Weber). I would like to ask Mr. McGurrin a question, will the work when transcribed exceed the thirty dollars a day, counting the ten dollars per diem and fifteen cents per folio?

The STENOGRAPHER. Yes, sir.

Mr. EVANS (Weber). Mr. President, as I understand it, as we adjourn to-morrow, that will make sixty-five days that the Convention will have been in session, amounting to $1950, and the only difference would be three hundred dollars, if all the Sundays and holidays would be deducted. If what Mr. McGurrin states is true, and I have no doubt about it, I will support the motion of Mr. Hart.

Mr. SQUIRES. Mr. President, I understand that not only this statement is true, that Mr. McGurrin will not only have to work during the days of the session, but some days afterwards, in order to comply with his agreement with the Convention and the secretary of the Territory.

The motion was agreed to.

Mr. THORESON. Mr. President, I move we accept the invitation of the railway company for a trip to Saltair at 3 p. m. to-day.

The PRESIDENT. The train goes at 2:15.

Mr. EVANS (Weber). Mr. President, if there is work for this Convention to do, I am opposed to going out to Saltair at all to-day. We ought to finish our work before we go on any more junketing tours.

Mr. CHIDESTER. Mr. President, I amend the motion by saying that we decline the invitation.

Mr. WHITNEY. With thanks.

Mr. THORESON. Mr. President, I arise to a point of order on the amendment. We have accepted the invitation. It is a mere fixing of the time, and the only way we can do away with it is to reconsider the motion on which we accepted the invitation.

Mr. SQUIRES. Mr. President, I am going to try to get rid of this motion of Mr. Chidester's by moving to lay upon the table—the motion to decline the invitation. After we have once accepted it, it seems to me a little discourteous.

Mr. PRESIDENT. The chair will sustain the point of order of Mr. Thoreson.

Mr. EVANS (Weber). Mr. President, I move to postpone the fixing of the time indefinitely.

The motion was rejected.

The motion of Mr. Thoreson was agreed to.

Mr. SNOW. Mr. President, I would like to know what the sense of the house is in relation to the report made by Mr. Crane, in reference to the engrossing of the Constitution.

Mr. EVANS (Weber). Mr. President, as I understand it, Mr. Crane notified the Convention that the engrossing clerk had discharged the help. I would like to inquire by what authority the engrossing clerk discharged the help.

Mr. EICHNOR. Mr. President, it appears there is no question before the house, but if the chairman of the committee discharged that man, the question might arise, was the clerk competent, or not? I presume the clerk was not competent, and that was the reason he was discharged.

Mr. ROBERTS. I would like to ask Mr. Crane if by waiting until Wednes-

day morning, the Constitution can be presented to this house, engrossed in one man's handwriting?

Mr. CRANE. Wednesday morning, yes; so I am informed by the engrossing clerk.

Mr. ROBERTS. Mr. President, in order that we might reach a conclusion upon this, I move you, sir, that the house reconsider the resolution of Saturday last, and that the engrossing and enrolling committee be instructed to have that engrossing done by one man and report it here Wednesday morning. The purpose of this engrossed copy is that it shall remain in the archives of the State.

Mr. EICHNOR. Yes, for centuries.

Mr. ROBERTS. Then, Mr. President, whether it is to be sent to the President of the United States in its engrossed form, or is to be preserved in the archives of the future State, I think, sir, that we owe it to ourselves and to all good taste that we have that engrossing done in one man's handwriting, and not make a hotch-potch copy to be preserved by this State for all generations to come. Gentlemen, let us not be in such great haste that we will commit this blunder against good taste, of having that engrossing done in several men's handwriting. Let us wait one day more, I beseech you, and have this work done neatly, that it will be a credit to our good taste, at least, for all time to come.

Mr. WELLS. Have you any information, Mr. Roberts, as to when that may be done?

Mr. ROBERTS. I was so informed, and that was the reason I made the motion, by Mr. Crane, that he had information that the engrossing clerk would complete his work by Wednesday morning.

Mr. SNOW. Mr. President, I want something more definite than that before I vote on this question. We had it definitely stated here yesterday through the same mouthpiece that it would take until Thursday or Friday, and it was upon that view that we passed the resolution that we adopted yesterday.

Mr. SQUIRES. If it will be done Wednesday, I have no objection, but I do object to waiting until next week.

Mr. HART. Mr. President, I am informed by the chairman of the committee on enrollment and engrossment that that work can be finished in the handwriting of the engrossing clerk by Wednesday morning. I am in favor of the motion of Mr. Roberts, and I endorse his position fully. I think we would be committing the greatest blunder of the session if we insisted on having a patchwork made of the engrossing of our Constitution.

The PRESIDENT. The engrossing clerk is here.

Mr. SQUIRES. At what time can you have the Constitution engrossed all in your handwriting?

Engrossing Clerk SMITH. Well, I think that the whole Constitution can be engrossed in my handwriting by 10 o'clock Wednesday morning.

Mr. SNOW. I have no objection to that. I will accept it.

Mr. HART. I move to amend by making the time Wednesday.

The motion of Mr. Roberts was agreed to, as amended.

The following invitation was read:

The delegates and officers of the Convention, including their ladies, are cordially invited to attend a ball and reception, given to them by the citizens of Salt Lake, at Christensen's hall, west First South street, Monday evening, at 8:30.

(Signed) W. H. LETT,
GRANT H. SMITH,
D. C. DUNBAR.

Mr. STOVER. Mr. President, I move that it be accepted with thanks.

The motion was agreed to.

The Convention then proceeded to the final consideration of Article XIX, which was read and passed without amendment.

Article XX was then taken up.

Mr. RICHARDS. Mr. President, I desire to call the attention to the fact that there is a repetition in the second paragraph of the third section. I move to strike out the words "are located," in the second line of the first subdivision.

The motion was agreed to.

Mr. SQUIRES. Mr. President, in this first subdivision, the State prison is located at the city of Salt Lake. The State prison is not situated in the city of Salt Lake. I move it be transposed so as to read like this:

The seat of government and State fair at Salt Lake City, in the county of Salt Lake, and the State prison in the county of Salt Lake.

The amendment was agreed to.

Mr. PETERS. Mr. President, I desire to call attention of the Convention to Article XIX, in line 2. I move to strike out the word "the," before the word "Constitution," and insert the word "this" in lieu thereof.

The amendment was agreed to.

Article XXI was read.

Article XXII was read.

Mr. CRANE. Mr. President, I would like to make a transposition in section 1, so that it should read like this:

The Legislature shall provide by law for the selection by each head of a family of a homestead of the value of at least fifteen hundred dollars, and for its exemption from sale on execution.

It makes it more terse, so any one can understand it.

Mr. THORESON. Mr. President, I notice in the printed matter before us to-day, that there are some changes made that mixed this matter up. I would like to have the original resolution as presented by the gentleman from Salt Lake, and we will find the language constructed probably even better than the motion now before the house.

Mr. SQUIRES. Mr. President, I am in favor of this change suggested by Mr. Crane. I believe it makes the sentence more clear.

Mr. RYAN. I would like to ask Mr. Crane if that would not fix the homestead of one tract or of one town lot as the case might be.

Mr. CRANE. No, I think not. He could have it in dozens, as long as he did not exceed fifteen hundred dollars.

Mr. RYAN. I think it fixes it to one tract.

Mr. THORESON. Mr. President, I agree with the gentleman who has just spoken that by using the pronoun there it is singular, while here as in this section, the homestead might include several pieces of land, and in consideration of that I am opposed to this change, and I move as an amendment to the motion now before the house that the section read as follows:

The Legislature shall provide by law for the selection, by each head of a family, an exemption, of a homestead of the value of at least fifteen hundred dollars, from sale on execution.

Mr. RICHARDS. Mr. President, I think the amendment to the amendment ought to prevail. I think that this language as it was adopted by the Convention expresses exactly what is desired and without any ambiguity, whereas the proposed amendment by the chairman of the committee may possibly cause some confusion.

Mr. EVANS (Weber). Mr. President, I just want to make a suggestion. As it is well known that I opposed this and do now, because I think it is all wrong. I am satisfied the way that reads that the Legislature would not have power to exempt as a homestead more than one piece of property. The word homestead is well understood in law and means where the family reside, where the home is made. If the man happens to have a little piece of property that is only worth about two hundred and fifty dollars and lives upon it, and has a detached piece of property some other place, I think that that

other piece of property detached would not be a homestead. I make this suggestion, so that some friend of the measure might remedy it.

Mr. RICHARDS. Is not it a fact that our present homestead law is in practically the same language as this?

Mr. EVANS (Weber). No, sir. Our present homestead law says that the head of a family shall have a further exemption of lands of the value of one thousand dollars and five hundred dollars for the wife, and two hundred and fifty dollars for each other member of the family. It expressly uses the word lands in the plural. But this says, "a homestead."

Mr. ELDREDGE. To strike out the word homestead and insert the word real property, would that not cover the ground?

Mr. EVANS (Weber). Yes, sir; I think if, after the word "homestead," in line 3, the words were inserted, "consisting of lands," it would then be definite.

Mr. CHIDESTER. Mr. President, I will make that as an amendment, if the gentleman would accept it.

Mr. THORESON. I will accept that, yes, sir.

Mr. CANNON. Mr. President, I am in favor of the amendment offered by the gentleman from Weber County and which is now accepted by Mr. Thoreson. That was the idea of the Convention at the time it was adopted, because a man who might live upon a small tract in town might, in addition to his little town lot, have a few acres of land upon which he might obtain his living.

Mr. FARR. Mr. President, I hope that will not prevail. I do not know why we should say that a homestead will consist of lands. Why not say homestead so that then it will consist of the house and improvements and land?

Mr. VARIAN. Mr. President, I do not see how this amendment betters that. It is not land. Does not the gentleman contemplate also including improvements on land?

Mr. SQUIRES. Does the gentleman think that that would exempt improvements on lands?

Mr. THORESON. It would include improvements on lands.

Mr. SQUIRES. There might be a house on one piece of land where the man resided, and another might have improvements. Now, would these improvements be exempt?

Mr. THORESON. Yes, sir; to the amount of fifteen hundred dollars.

Mr. VARIAN. I would like to ask the gentleman if his idea would not be better expressed in this way: "which may consist of lands not contiguous in location?" I think that is the underlying thought of the gentleman.

Mr. THORESON. Yes; I would be in favor of that.

Mr. VARIAN. Another thought has been suggested by Mr. Richards. It is just as well, if we are going to enact details, to be certain as to the construction there. Now, my attention is called to the statute as it exists, which has been construed in the way desired, "consisting of lands, together with the appurtenances and improvements thereon."

Mr. THORESON. All right; I will have the words written and supplied. Add after the word "homestead," the words, "which may consist of parcels of lands not contiguous, together with the appurtenances and improvements thereon."

The amendment was agreed to.

Mr. BOWDLE. Mr. President, it seems to me the words, "not contiguous," are improper in there.

Mr. EVANS (Weber). Mr. President, in order to get that matter before the Convention, I move a reconsideration of the vote by which the amendment was adopted. I would suggest the following, "which may consist of several parcels of land, together with their ap-

purtenances and improvements thereon."

Mr. VARIAN. Mr. President, I would like to know what the necessity for this tinkering with this article is. I undertake to say that without anything in this Constitution at all on this subject, the Legislature can provide exemption or homestead laws, and by simply making it as we have done, it does not limit the power of the Legislature in any particular.

The motion to reconsider was agreed to.

The PRESIDENT. The question now is upon the amendment of this section.

Mr. EVANS (Weber). I would like to suggest an amendment, after the word "homestead," in line 3 of section 1, I would insert, "which may consist of one or more parcels of land, together with their appurtenances and improvements thereon."

Mr. THORESON. I will accept of that.

Mr. VARIAN. Mr. President, I am going to call for the enforcement of the rule and demand the roll call. It takes a two-thirds vote to amend this section.

Mr. RICHARDS. Let me ask the gentleman from Salt Lake what possible objection there can be to the amendment suggested by the delegate from Weber, If there is any serious objection I would like to know it.

Mr. HART. Mr. President, I am in favor of making this thing certain, for the reason that the word "homestead" has a definite meaning throughout the United States. There are but very few states in the Union—possibly not more than two or three, that exempt a homestead consisting of the value. Most of them exempt the definite homestead, and even with the wording of our present statute, there has been a difference of opinion, some contending that even under our statute, a homestead is meant; that is well understood to be consisting of one tract upon which the domicile is situated. Therefore, in order to make it certain, and place it beyond the possibility of any doubt of cavil, I am in favor of defining the word "homestead," in the way suggested by the gentleman from Weber.

Mr. VARIAN. We withdraw the demand for roll call.

Mr. BOWDLE. Mr. President, this is exactly the position I took the other day upon this. It may be true that the Legislature, under the article as its stands, could give an exemption in different tracts of land, but I very gravely doubt that question. We say what that exemption is for. It is for a homestead. It is not an exemption for the benefit of a family generally, but the home may be kept together, and it has been defined over and over again, and I know of no definition save in one place, the state of Alabama, in which it has been held that a homestead might consist of more than one piece of land, unless they were contiguous, and for the sake of making it plain and certain, I am in favor of this amendment. I move to amend that by inserting after the word "lands" the words "not contiguous."

Mr. EVANS (Weber). It means that. It says one or more parcels of land.

Mr. BOWDLE. Suppose they were different town lots, and were lying right together, might they not then be considered, each lot as a parcel of land.

Mr. EVANS (Weber). If they were town lots lying together, yes; but this permits the head of the family to select one or more parcels, just as he pleases, not exceeding in value fifteen hundred dollars.

The amendment of Mr. Evans, of Weber, was agreed to.

Article XXIII was read.

Article XXIV was taken up.

Sections 1 and 2 were read.

Mr. ALLEN. Mr. President, I move to strike out the words "which are," in line 2.

The motion was agreed to.

Sections 3 and 4 were read.

Sections 5 and 6 were read.

Mr. RALEIGH. Mr. President, I move the word, "be," in the fifth line from the top of page 57, be stricken out, and the words "have been" be inserted in place of it.

The motion was agreed to.

Mr. VARIAN. Mr. President, I move to strike out the words "in this Constitution," in lines 1 and 2 of page 57.

The amendment was agreed to.

Section 7 was read.

Mr. BUYS. Mr. President, it seems to me that the semi-colon after the word "Union" is wrong; this is a part of the logical subject, and I think the subject ought not to be divided by a semi-colon. I think it should be a comma and the word "and."

The amendment was agreed to.

Mr. SQUIRES. Mr. President, in section 5 you have exactly the same condition, in the fifteenth line; you have a semi-colon and then the next sentence begins without a conjunction. I think the semi-colon should remain there, but the conjunction should come in, "and all records and public archives."

The amendment was agreed to.

Sections 8 and 9 were read.

Mr. RICHARDS. Mr. President, in section 8, I move that the words "of Utah" be inserted after the word "Territory," in the fourth line.

The amendment was agreed to.

Section 10 was read.

Mr. VARIAN. Mr. President, I see no use of the third line, "under the authority of the United States." I move to strike out the words. They do not hold offices under the authority of the United States, but under the authority of the Territory of Utah. Their appointments are by the President of the United States.

Mr. RICHARDS. I hope the gentleman will not insist upon that motion. Some of these offices are provided for by the Organic Act and act of Congress.

Mr. VARIAN. Well, I will withdraw the motion.

Mr. THURMAN. Mr. President, I will move upon that an amendment and say, "under authority of law."

The amendment was agreed to.

Mr. VARIAN. Mr. President, it seems to me "by" ought to take the place of "under." I move to insert "by" for "under."

The amendment was agreed to.

Section 11 was read.

Mr. RICHARDS. Mr. President, in the fourth line of the proviso, the words after the word "election," "and are qualified voters," were stricken out. I therefore move that they be stricken out here.

Mr. VARIAN. I understood that the question was raised but it was suggested that that applied to registration.

Mr. RICHARDS. It was raised and discussed and acted upon, and the words were stricken out.

Mr. FARR. Mr. President, I move that they be stricken out.

Mr. SQUIRES. Mr. President, my marked copy as it passed the committee of the whole shows that the words "and are qualified voters," were not there, but in the Convention those words were inserted on the motion, I believe, of Judge Goodwin.

The PRESIDENT. Unless there is objection, the words will be stricken out.

Mr. VARIAN. Mr. President, before we pass from section 11, I want to call the Convention's attention to the fact that as it now reads, it will permit convicts not pardoned by the governor to vote. The question is whether we want to insert something.

Mr. THURMAN. Does not the Enabling Act permit the same class to vote?

Mr. VARIAN. Yes; I think it does.

Mr. RICHARDS. We are required by the Enabling Act to allow more people——

Mr. VARIAN. I simply call attention to the fact that day after day and week after week you are discharging from the penitentiary up here people convicted of

all sorts of offenses under the territorial law. I care nothing about it myself, but it will permit those people to vote.

Mr. RICHARDS. I desire to call attention to the Enabling Act, which says that all persons may vote, possessing certain qualifications not in conflict with this act.

Mr. VARIAN. This conforms with the act.

Sections 12 and 13 were read.

Mr. SQUIRES. Mr. President, I notice that the words "district courts" here are capitalized. We have passed several sections where they were not, this morning.

Mr. THURMAN. Mr. President, in order to test the necessity of this section 13, I move to strike it out. It seems to me it is provided for in other parts of the schedule, and if there is any reason why we should have this—these territorial laws are in force until repealed by the Legislature. They are to be adapted by the State officers until repealed.

Mr. VARIAN. I would like to ask the gentleman if there is any provision for contest of district judges under territorial laws.

Mr. THURMAN. I think the law is general, is it not, and provides for all officers? Well, we have not time. I will withdraw the motion.

Mr. SQUIRES. I move that wherever "district courts" occurs in the Constitution, it be capitalized.

Mr. THORESON. Mr. President, I hope that amendment will not prevail. In a good many places, it was written in the lower case.

Mr. SQUIRES. Mr. President, I submit that is not the statement of the fact as it exists. There are a number of places in the Constitution, where I know they were capitalized.

Mr. RICHARDS. Mr. President, I would suggest, if we are going to have a motion on the subject, I would rather the motion be that it be uniform. Whatever rule they have pursued in the fore part of the document I would like to see carried out.

Mr. HART. Mr. President, as I understand it, the words "district courts" are used in more than one sense. In some instances they are used as a common noun, and others as a proper noun, designating the particular courts, and I don't think we have had this matter uniform thus far, and wherever those words appeared as common nouns, they were not capitalized, and where they designated them more particularly, they were capitalized.

Mr. RICHARDS. I desire to suggest to the gentleman that my amendment will cover just that case. Whatever rule they have adopted so far let them carry that out.

The amendment was agreed to.

Mr. ELDREDGE. Mr. President, in order to sense the Convention on one item in section 13, I would move to strike out all after the word "and," in line 6, down to and including the word "State," in the eighth line, and put in lieu thereof "the supreme court." I notice from this that it makes the secretary, governor, and treasurer, a board, and confers judicial power upon them. I move to suspend the rules.

Mr. EVANS (Weber). Mr. President, I think Mr. Eldredge does not understand that this only applies to the first election, and the judges of course cannot pass upon their own qualifications, and there must be some tribunal by which their election might be determined.

Mr. ELDREDGE. Mr. President, I say in answer to that, it is provided for the judges of the district court, and in placing it before the supreme court, certainly does not include the judges of the district court, because they form no part of it.

Mr. THURMAN. Would not that be depriving them of the right to appeal to that tribunal upon a very important question?

Mr. ELDREDGE. There is no pro-

vision for a court of that kind in any other part of the Constitution.

The motion was rejected.

Mr. THURMAN. Mr. President, I am going to renew my motion to strike out section 13. The district courts as they now exist under the territorial laws will have the right to pass upon the election of their successors, under the State government, and I see no use of having this in here, as if it was necessary to constitute some new tribunal to try this particular question. I move to suspend the rules, with a view to striking out that section.

The motion to suspend the rules was agreed to.

Mr. THURMAN. Mr. President, this section 13 provides for a new tribunal or special tribunal to determine a contest as to one particular office, on the theory that the district judges will not have the right to try their own cases. Now, if I understand it right, the judges of the district court of the Territory to-day will continue their functions long enough to determine contests, under existing laws, between their successors. That is the theory upon which I move to strike it out.

Mr. PETERS. Providing that one of the present incumbents be a candidate for office and he was one of the contestants, he could not very well pass on a case of that kind, could he?

Mr. THURMAN. We have three judges; any one of them is qualified to try a contest case between these candidates. Certainly all of the three judges are not going to be candidates under the new regime.

Mr. SQUIRES. Do not they all constitute a supreme court to which an appeal might be taken?

Mr. THURMAN. Yes; they do; but they will not constitute the supreme courts as it exists to-day, I take it, and be candidates also for district judges.

Mr. EVANS (Weber.) Mr President, my understanding of this section was, that it was to prevent something which might possibly occur in case the Constitution of Utah is not proclaimed before January 1st, 1896. There may be no contest at all between those judges until the proclamation is issued. On the 1st day of January, 1896, all of our present judges go out, and there may be no tribunal before whom these contested officers might try their cases, except before themselves. My idea was, it was the intention of the committee who reported this article to furnish some independent tribunal so that a man would not be a judge in his own case, and I think there is wisdom in the section. I think it does not go far enough, however. I think it ought to include supreme court judges, as well as district judges.

Mr. RICHARDS. Mr. President, I am in some doubt myself, as to the real necessity for this section, but I am not clear that it ought to be stricken out, and I shall therefore vote against striking it out.

The motion was rejected.

Sections 14, 15, and 16 were read.

Mr. ELDREDGE. Mr. President, I would like to have the house indulge in one thing further, that I think will reach their minds generally, and that is go back to article 22. I fear that is not just in the form yet to be entirely satisfactory, and to add after the word "lands" the words "and not contiguous."

Mr. JOLLEY. Mr. President, I think those words should be added to make that plain to the common people of the State.

Mr. RICHARDS. I understand the motion is to reconsider.

The motion was rejected.

The PRESIDENT. The secretary will now read the attesting clause.

The secretary read the same.

Mr. CANNON. Mr. President, I move to strike out the word "year," the last word.

The amendment was agreed to.

Mr. ROBERTS. I think, instead of

saying "done," we ought to say "adopted," and I therefore move that amendment.

The amendment was rejected.

Mr. SQUIRES. Mr. President, I call attention once more to those words upon page 61, "unless otherwise provided for." I understand that we are providing in this very section for these very things. There is no other place where it can be provided for. I move they be stricken out.

The motion was agreed to.

The PRESIDENT. The secretary will now call the roll on the adoption of the Constitution as a whole.

Mr. HART. Mr. President, we have passed this matter into the hands of the committee on engrossment and enrollment, by sections, without calling the roll. It seems to me it would be contrary to the way we have been doing it all along to call the roll at this time.

Mr. VARIAN. Mr. President, to save all question about it, I move the adoption of the Constitution as a whole.

The roll being called on the adoption the Constitution as a whole, the vote was as follows:

AYES—72.

Adams	Lambert
Allen	Larsen, L.
Barnes	Larsen, C. P.
Bowdle	Lemmon
Boyer	Lowe, Wm.
Brandley	Lowe, Peter
Button	Lund
Buys	Maeser
Call	Maughan
Cannon	McFarland
Chidester	Morris
Christiansen	Murdock, Beaver
Clark	Murdock, Summit
Coray	Page
Crane	Partridge
Cunningham	Peters
Cushing	Peterson, Grand
Driver	Peterson, Sanpete
Eichnor	Preston
Eldredge	Richards
Emery	Roberts
Engberg	Robertson
Evans, Weber	Robinson, Kane
Evans, Utah	Robison, Wayne
Farr	Shurtliff
Gibbs	Snow
Hammond	Squires
Hart	Stover
Halliday	Symons
Hill	Thoreson
Howard	Thorne
Hughes	Thurman
Hyde	Varian
Johnson	Whitney
Jolley	Williams

Kimball, Salt Lake Mr. President.

NOES—0.

ABSENT—34.

Anderson	Mackintosh
Corfman	Maloney
Creer	Miller
Francis	Morits
Goodwin	Murdock, Wasatch
Green	Nebeker
Haynes	Pierce
Heybourne	Ricks
Ivins	Ryan
James	Sharp
Kiesel	Spencer
Keith	Strevell
Kearns	Thatcher
Kerr	Thompson
Kimball, Weber	Van Horne
Lewis	Warrum
Low, Cache	Wells.

EXCUSED—1.

Raleigh.

The president declared the Constitution adopted.

During the roll call the following statements were made:

Mr. Raleigh's name being called, and he being present, did not respond.

The PRESIDENT. The gentleman must vote aye or no.

Mr. RALEIGH. I have not voted at all yet.

Mr. BUTTON. Mr. President, has Mr. Raleigh been excused?

The PRESIDENT. Mr. Raleigh has

not been excused, and under the rules should vote aye or no.

Mr. THURMAN. Mr. President, I insist that he vote one way or the other, or give an excuse.

Mr. SQUIRES. Mr. President, I move he be excused.

Mr. ROBERTS. Let him be excused.

Mr. RALEIGH. I ask to be excused.

Mr. VARIAN. I move that the gentleman be excused.

The motion was agreed to.

The committee on printing reported as follows:

Salt Lake City, May 6, 1895.

MR. PRESIDENT:

Your committee on printing have received bids for the printing of 2,000 copies of the Constitution, and the Tribune job office being the lowest, we recommend that the contract be awarded to them.

Two thousand copies, estimated to make fifty-six pages, will cost $173.40. Fifteen hundred copies, $133.55.

We recommend that there be ordered 2,000 copies.

LAMBERT,
Chairman.

Mr. RICHARDS. Mr. President, I am informed by the committee on expenses that no definite action has been taken in regard to the distribution of the funds. I think that that action ought to be taken now, so that the checks may be prepared and the rolls ready when the members are ready to separate. I, therefore, move that the officers be first paid out of the funds remaining, and all the other expenses that have been incurred, and that the balance, if there should be any, be divided among the members for per diem.

Mr. THURMAN. Among all the members present.

Mr. SQUIRES. Mr. President, there is one objection to that motion. If any one has any hopes of Congress passing a deficiency bill to pay those delegates, they will lose all chance of it by dividing the money pro rata. That settles the bill. If we have our roll made, it is all right.

Mr. RICHARDS. Mr. President, I do not think that is so. I do not think that a distribution of the balance, whatever it may be, pro rata, will bar any future claims.

The motion of Mr. Richards was agreed to.

On motion, the Convention then, at 1:05 p. m., adjourned until to-morrow morning at 10 o'clock.

SIXTY-FIFTH DAY.

TUESDAY, May 7, 1895.

The Convention met pursuant to adjournment, at 10 o'clock a. m. President Smith in the chair.

Roll call showed a quorum present.

Prayer was offered by Delegate Thorne.

Journal of the sixty-fourth day's session was read and approved.

Mr. EICHNOR. Mr. President, I move that Mr. Whitney, who is a member of the committee to draft an address to the people of the Territory of Utah, make a verbal report and submit the address as prepared by the committee.

The motion was agreed to.

Mr. WHITNEY. Mr. President, in accordance with the request of the Convention, I submit the report of the committee appointed to draft the address to accompany the Constitution. In this connection, I will make a request in advance that the committee not only have leave to file their written report hereafter, but also to make one or two slight amendments, which we already contemplate in the document itself.

The address was then read as follows:

TO THE PEOPLE OF UTAH:

The Convention assembled to frame a Constitution for the proposed State of Utah, after two months of earnest effort, present the result of their labors

for the consideration of the people of this Territory.

The ruling thought that actuated this Convention, from opening to close, was that under the direction and mandates of the Enabling Act, a Constitution must be framed that would secure to the people of Utah a wise, just and economical State government.

In this we believe we have succeeded, and we confidently submit to our fellow citizens the fruit of our deliberations, knowing that they will bear in mind the impossibility of our presenting any instrument that would not contain imperfections, inasmuch as the more than one hundred delegates who constructed it came together understanding little of each other, all more or less influenced by local ideas, and by impressions which the peculiar situation in this Territory for years past could not help but create and intensify. Nevertheless, it has been gratifying to note that there has probably been less partisan feeling and more unselfish unanimity of sentiment in this Convention than in any other political body of like character.

The inspiration behind the declaration of rights came from the great parent bill of rights framed by the fathers of our country.

The article on the proposed educational system has absorbed the best thoughts and efforts of the Convention, and draws around the public schools such protection and defense as will secure for them, it is believed, the steady upward progress which is the enthusiastic desire of this people.

The legislative article, while permitting future lawmakers to perform any needed thing, circumscribes their powers in a way to prevent either extravagance or the misuse of legislative authority.

The executive article defines clearly the prerogatives and powers of the several State officers, places all necessary authority in the hands of the executive, and at the same time supplies all needed checks to prevent usurpation of power.

The judiciary article makes possible the conducting of the courts effectively by competent judges. It seeks to exalt the judiciary and yet bring the system within a reasonable expenditure of the people's money. The probate system has been abolished, but power is given the Legislature to restore it, if deemed necessary, or to adopt any other plan that may be wise or expedient.

The salaries of all officials have been marked down close to the danger line of extravagant economy.

We have provided to give equal suffrage to women.

We have inhibited for all time polygamous or plural marriages.

We have placed within safe limits the maximum of future taxation.

We have guarded against the possibility of any future great indebtedness of the State.

We have provided for the full development of our manifold industries, in such a way that in their expansion they will not feel any harsh friction from unjust laws.

We have provided for the correction of possible defects in the Constitution, either by amendments or by the enactment of statutes.

We have guaranteed perfect liberty of speech, freedom to the press, and absolute freedom of conscience.

We recommend our work to the gracious and generous consideration of the men and women of Utah, believing they will esteem it a fitting foundation on which to rear the structure of a glorified State.

If with statehood there will be a slight increase in taxes, the compensating advantages will cause that increased expense to be forgotten. We will be able to utilize the magnificent gift of over seven million acres of land from our generous government; we will be

able to secure capital for our mines; under the shield of statehood thousands of people will seek homes in our climate, assist to develop our wondrous and varied resources, and rejoice in the manifold blessings bestowed by nature upon our highly favored commonwealth.

When we reflect that this instrument will secure to us in its highest sense local self-government with State officers of our own selection, and courts for the swift, capable and economical administration of the laws by judges of the people's choosing; that it will give us a school system abreast of the foremost in the Union, with power to utilize the lands donated to our educational institutions; give us a voice in the election of Presidents, also two senators and one representative to present the claims of our new State in the Congress of the nation, and the star of Utah to the hallowed ensign of the Republic, bestow upon us full sovereignty with all that this majestic term implies, and thus draw to us capital and population and invest us with a dignity that can never attach to a territorial condition, with steady swelling confidence we submit this Constitution to the consideration of the people of Utah, in the certain belief that they will, by an overwhelming majority, endorse and ratify our work.

Mr. SQUIRES. Mr. President, I move the address be adopted.

Mr. WHITNEY. Mr. President, I trust the gentleman will include in his motion the granting of the request that I made, that the committee have power to make one or two slight amendments, before formally submitting the report.

Mr. SQUIRES. I will modify it in that way.

The motion was agreed to.

Mr. CANNON. Mr. President and gentlemen of the Convention, I think there is one item that we should attend to in connection with the publication of the proceedings of the Convention. I believe that it would be well to have this done in good shape, and for that reason, and because I believe it should be edited by a man who is able to present the matter in a clear and intelligent way, I move the adoption of the following resolution:

Resolved, that Arthur Stayner, Esquire, be employed to take transcript furnished by the stenographer, and the minutes of the secretary, and from these compile for publication a volume or volumes, that shall be concise, comprehensive, and clear, at a compensation of $500, to be paid in case Congress shall make an additional appropriation for the expenses of this Convention.

I will state, Mr. President and gentlemen, that I believe that is ordinarily done in conventions. There are many matters, that if we were to take them without arranging, they would not be clear; and if we have a volume published at all, I think it should be done in such a way that the public would get the benefit of it. I believe that Mr. Stayner is as well qualified for this work as any man whom we could employ, and I favor the adoption of the resolution for the reasons stated.

Mr. EICHNOR. Is it your idea to compress the debates into one small volume?

Mr. CANNON. Well, I have not gone over the debates. I have listened to them. I do not know whether we could get them into one volume or not, but I suppose you could.

Mr. EICHNOR. I should judge it would take about four.

Mr. CANNON. I think that there are a good many things that have been repeated that the editor would be perfectly justified in throwing out, and yet no material point would be lost. The purpose of having a stenographer was to get all the material points, and get them just exactly as they were presented.

Mr. BOWDLE. Where will the funds come from for obtaining the printing of these volumes?

Mr. CANNON. Mr. President, I believe that we cannot possibly publish these volumes unless Congress shall make an appropriation. It has been, I believe, the case in nearly every convention that has been held, that Congress has granted an additional appropriation, and I think that later on we should have a committee appointed, or possibly our committee on expenses, to investigate exactly the amount that has been incurred of the indebtedness and expense, so that if Congress ever does make an appropriation, the records will show to whom the funds should go. I think that should be done, but it will come in later, and this item, and also the expense of publication, binding, etc., would be included in that, doubtless.

Mr. BOWDLE. Does that include the the journal, or is the journal a separate matter?

Mr. CANNON. As I understand it, this would be the journal. The secretary's minutes would be taken and compared with the stenographer's notes, and from the two a volume would be compiled that would explain clearly that which went on in the Convention.

Mr. BOWDLE. Then, as I understand it, this is not the printing of the debates at all?

Mr. CANNON. Yes, sir; that will include the debates.

Mr. BOWDLE. My understanding of the proceeding in these matters is that the journal is printed in a separate volume almost invariably.

Mr. CANNON. It may be that that might be printed separately, but the whole matter would be under his supervision, and would be compiled for publication.

Mr. BOWDLE. Nothing would be published then, unless there is a new appropriation?

Mr. CANNON. No, sir; it could not be published without. I think that Mr. Stayner might possibly be willing to undertake the work with the understanding of what the custom has been in the past, of Congress appropriating, especially as I understand that at the present time he is not employed.

Mr. HART. Mr. President, this is certainly one of the most remarkable propositions that we have had presented to us during the session. I must confess that it is surprising to me to have a plan of this kind come in in this shape. If the gentleman's notion was that such work should be done by some one single individual, aside from the membership of this Convention, he might at least have left a blank there, and let the Convention fill the blank, instead of proposing to do the whole thing by his resolution. I am not in favor of giving to any one man any such power as is proposed by that resolution. If we have any one to revise and compile this work, I am in favor of a committee consisting of more than one man, and of having those men appointed from the membership of this Convention. The gentleman says that Mr. Stayner is out of employment. That may be true. I saw him around the building yesterday. I do not know the particular business or qualification of the gentleman for this work. He may be qualified for all I know, but it seems to me, Mr. President, that this work, if done at all, should be done by a committee of members of this Convention. Here they propose by this resolution to place it in the power of one man to say what shall go into that record and what shall not, what speeches shall be included and what speeches shall be omitted. I am opposed to the resolution in its present shape.

Mr. KIMBALL (Salt Lake.) I would like to ask, is it contemplated that Mr. Stayner would go ahead with this work, trusting to the appropriation being made, and in the event of there being no appropriation, that he would trust to getting his compensation from

the sale of the book, having a copyright or something of that kind?

Mr. CANNON. On that point I would simply state that the purpose is as explained here, not to have Mr. Stayner go ahead, except with the expectation of getting it from Congress.

Mr. CHIDESTER. Mr. President, I hardly think that the resolution covers the ground. I think there will be more than one volume; at least there will be a volume of the proceedings and then a volume of the debates, and perhaps more. I favor the proposition, though, in the main, that one can do it cheaper than to have a committee do it. I believe, however, it would be proper to have it under the supervision of a committee, appointed from members of this Convention, but one man would do it cheaper than a committee would do the work, therefore, I would favor this resolution, with such modifications as would meet the circumstances of the case.

Mr. RALEIGH. I will ask if it is not contemplated publishing the journal of our proceedings?

The PRESIDENT. It has been the custom in other states.

Mr. CRANE. Mr. President, there seems to be a misunderstanding or misapprehension in regard to this matter. The debates here are an entirely different matter from the journal of the Convention. The journal of the Convention has been published here every morning. I hold in my hand the journal of the day's proceedings of South Dakota, the constitution, the enabling act, etc. That makes a very small book. We have had a good many debates here, and while I believe that Mr. Stayner is thoroughly competent to do this work, it seems to me that it should be under the supervision of a committee appointed or elected from this body. I do do not think the journals and debates should be placed in the hands of any one individual. It would be an exercise of authority not contemplated by this Convention. So far as an appropriation by Congress, I feel confident that if this Convention should ask our delegate to have an appropriation to cover the deficiency, we would get it. It has been done frequently by states which have adopted constitutions, and Utah would receive the same consideration at the hands of Congress.

Mr. CANNON. Mr. President, with the consent of my second, I would like to amend this resolution, adding to the end of that the words, "the work to be done under the supervision of the committee on compilation and arrangement."

Mr. EVANS (Utah). Mr. President, so far as I am concerned, I am not prepared to vote, and by that vote to say that we have not men in this Convention who are competent to transact that business for us, and I am opposed to going upon the outside, as long as we can get men in this Convention, who are members of this Convention, to do that work. I shall vote against that resolution, even with the amendment. I am in favor, however, of some provision being made for the publishing of the proceedings of this Convention.

Mr. KERR. Mr. President, it seems to me it would be much better to so amend that resolution as to provide for the publication of the journal and proceedings of the Convention, under the supervision of a committee named by this Convention, leaving it with that committee as to what assistance should be employed in this work. I do not think that it is proper that we should name a particular individual to do this work under the supervision of any committee even, named by the Convention.

Mr. WHITNEY. I would like to ask if Mr. Stayner has agreed to take his compensation in that way—conditionally?

Mr. CANNON. Mr. President, I will state that nobody has been authorized to negotiate with Mr. Stayner. I under-

stood from talking with several members of the Convention that Mr. Stayner was capable of performing such work.

Mr. WHITNEY. There is no doubt of that.

Mr. CANNON. And I asked Mr. Stayner how he was situated, and he stated that at the present time he was not employed and he could undertake the work. I told him the probability was that if the work were authorized to be performed, it would be as stated here, conditionally, and nothing would be paid unless it was appropriated by Congress.

Mr. HART. I would like to ask the gentleman where he gets the estimate of five hundred dollars, as a proper compensation for this work?

Mr. CANNON. Mr. President, I would state that that was fixed by conversing with the stenographer, who is very well posted on that kind of work, and he told me that he estimated it would take at least ninety days to perform the work, and if the gentleman should work ninety days, and have the ability that Mr. Stayner possesses, he would be worth at least six dollars a day, which would amount to five hundred and forty dollars, but taking it in a lump sum, I thought if five hundred dollars were appropriated, it would probably cover the amount.

Mr. FARR. Mr. President, my understanding of the duties of the stenographer was that he furnishes a copy of what he has drawn off of the day's transaction, and has kept an account of everything that has transpired of the whole session, and we have a copy of the journal already on hand. The duty of a man to arrange this matter would be to take them and get them in proper shape to be printed. I do not understand that this five hundred dollars is going to pay the printer for the publishing of all these books. If that is the case it is very cheap. I understand there isn't anyone who will undertake this job unless they take the risk of getting it out of Congress. I cannot conceive that it is going to be a very expensive job to take the stenographer's report that is all down plain, that we pay him for—that is a part of his duty, that we pay him for from day to day. Of course, if they want a committee appointed from this body of men, the committee suggested by Mr. Cannon is a very appropriate committee. It can be done without much expense. I am certainly in favor of this work being done as it should be done. Every member would like a copy of the doings of this Convention, and a good many gentlemen here would like a copy of their speeches, no doubt, and I would like to have them all gratified, but I am not willing to put my hand in my pocket to pay for it. I am willing that Congress should do it, if they will. I think we have got as good a Constitution as there is anywhere. I am not ashamed of it. I would like to see it published. I want to say in regard to Mr. Stayner, I am perfectly acquainted with him. I know him to be a competent man. I do not know a man more competent than he is, and he would get it out in good shape, and if he is willing to take the risk of getting his pay from Congress, why, I should say, he is the man to employ under the supervision of this committee.

Mr. CHIDESTER. Mr. President, I wish to amend the resolution by adding after the word "volume," the words "or volumes of the whole of the stenographer's report."

Mr. CANNON. I accept that amendment.

Mr. THORESON. Mr. President, I wish to offer the following as a substitute for this resolution and the amendments:

Resolved, That a committee of five be appointed by this Convention to compile and publish, as early as appropriations for that purpose can be obtained from Congress, the journal, Constitution, and debates in full, of the Convention, and

the secretary and stenographer are hereby ordered to furnish a correct transcript of their work to said committee.

Mr. SQUIRES. I would like to ask the mover of that substitute, if he contemplates any compensation to this committee?

Mr. THORESON. An appropriation for that purpose can be obtained.

Mr. FARR. Mr. President, I propose if Congress does not pay them, we put our hands in our pockets and pay them.

Mr. RALEIGH. Mr. President, I have an amendment to that, that the words "from Congress" be inserted after the word "appropriation."

Mr. THORESON. I accept of that amendment. I believe Congress will do it, but I think that even if Congress did not the members of this Convention would, even if they had to go down in their own individual pockets—at least the journal and the Constitution should be published.

Mr. IVINS. I make the suggestion that the committee be appointed by the president.

Mr. HART. Mr. President, I move as an amendment to the substitute offered by the gentleman from Cache, to strike out the words, "a committee of five," and insert in lieu thereof "the committee on compilation and arrangement."

Mr. THORESON. I accept that amendment.

Mr. Evans, of Utah, offered the following substitute:

Resolved, that a committee of three be appointed to supervise the printing of the journal and proceedings of this Convention, to be paid for out of any moneys that may be appropriated by Congress to pay any deficit incurred by this Convention.

Mr. VARIAN. Mr. President, I want to suggest to these gentlemen that they ought to fix the compensation in there, in order that the precise amount of the deficiency may be ascertained. If this Convention does not decide what its expenses shall be definitely and certainly, no Congress will make any appropriation, because it will be uncertain how much is needed. A convention should, in passing a resolution of this kind, fix the sum, and then it goes in to swell the aggregate of the deficiency.

Mr. SQUIRES. Mr. President, I move that the sum of one thousand dollars be inserted as compensation.

Mr. EVANS (Utah). I will accept that.

Mr. BOWDLE. Mr. President, I will move as an amendment, that the sum of five hundred dollars be inserted, the same as in Mr. Cannon's motion.

Mr. HART. Mr. President, I prefer the substitute offered by the gentleman from Cache, for the reason that that provides for the committee on compilation and arrangement to supervise this work. I think that a good solution of this whole thing would be to pass the suggestion or amendment that Mr. Varian proposes with Mr. Thoreson's amendment, making the committee on compilation authorized to supervise this work. Let them employ whom they may, and then fix the compensation in there at five hundred or a thousand, or whatever sum we may agree upon.

Mr. EVANS (Utah). Mr. President, if the substitute shall prevail, offered by myself, the president, under our rules, will make the appointment of that committee. I think three is plenty to do that work. I believe they will be able to do it just as well, and do it at less expense, and there is no reason why the president could not appoint the number from them.

Mr. PARTRIDGE. Mr. President, I do not understand that the substitute of Mr. Evans provides specifically for the accomplishment of the work, only a committee to supervise the work. It should state specifically that it is to include the printing and publishing.

Mr. EVANS (Utah). Mr. President,

that is true, but they would naturally have to arrange it before they would do that.

Mr. FARR. I would inquire how many copies the gentleman wants to have printed.

Mr. EVANS (Utah). Whatever they may deem proper.

Mr. FARR. It will make quite a difference in the expense. I have not seen anything in all the speaking yet that will be any improvement on Mr. Cannon's resolution. It is concise, and it places it in the hands of a man that I know is competent, and one man can arrange all that under the supervision of the committee, with less expense than to have that committee doing it.

Mr. CANNON. Mr. President and gentlemen of the Convention, in bringing this matter up, I had no special desire to name any particular man. As far as I am personally concerned, I do not care a fig whether Mr. Stayner is employed or not, but I believe it would be better to place it in the hands of a man who is pretty well known to the Convention. Whichever committee is appointed to take charge of the work can simply supervise it. They must leave it to some one man who will go over the matter and present it in the best possible form. I believe that we cannot select a man better qualified for this work than Mr. Arthur Stayner. The idea, however, would not be repugnant to me at all to leave it entirely to the committee on compilation and arrangement. I shall certainly vote against the substitute of the gentleman from Utah County and in favor of the Thoreson amendment, if I cannot carry the orignal proposition, but I believe on the score of economy it would be better to use that, because it only appropriates five hundred dollars. I think the work can be done for that, and will be done quite as well as if we leave it to a committee of five, and it will be then under the supervision of that committee anyway.

Mr. HART. Would not the committee on compilation and arrangement, if Mr. Thoreson's amendment should prevail, have the authority to engage Mr. Stayner?

Mr. CANNON. They certainly would, but we have the same authority. The part is not greater than the whole.

Mr. HART. You concede that some committee should have supervision of this matter?

Mr. CANNON. Yes, sir.

Mr. HART. Supposing we name here some man and his work is not satisfactory to the committee, what kind of a situation are you in then? Will your supervising committee have the right to discharge the man the Convention names?

Mr. CANNON. Mr. President, I believe if anything should happen that the gentleman did not do his work or happen to die, the committee would have full power to act.

Mr. KERR. Mr. President, if Mr. Thoreson's amendment should prevail and this matter is left to the committee on compilation and arrangement, that committee could use such portion of the thousand dollars appropriated as may be necessary. I certainly believe that we should leave it entirely with the committee on compilation. I have the greatest confidence in the committee and do not believe they would use more than necessary.

Mr. RALEIGH. Mr. President, I do not hear any number of copies specified in any of those.

Mr. SQUIRES. This proposition does not go to the printing, as I understand it, and I was going to suggest, to make that plain it should say that one thousand dollars is hereby appropriated for the labor to be performed by the committee.

The amendment of Mr. Bowdle was rejected.

The substitute of Mr. Evans, of Utah, was rejected.

The PRESIDENT. The question now

recurs on the substitute of Mr. Thoreson.

Mr. THORESON. Mr. President, in offering my resolution I originally had a committee of five to be appointed, and I would fix the amount for the expense of said committee and their work at one thousand dollars, and would like that to be added to the resolution.

Mr. EVANS (Utah). Mr. President, if I remember correctly, we provided yesterday for the publishing of the Constitution. I move that that be stricken out.

Mr. THORESON. The journal would not be complete without the Constitution being published with it.

Mr. CHIDESTER. Mr. President, as I understand it, by that resolution, we propose to pay them now. There is nothing said in that with reference to any future appropriation.

Mr. SQUIRES. Mr. President, before a vote is taken on this proposition, I must call attention to one thing. In employing the stenographer, we employed him to furnish a transcript of his notes to the secretary of the Territory. He is not expected, for the compensation we have already agreed to give him, to furnish an extra copy for the use of this committee. Now, it may require a large share of that thousand dollars for him to furnish an extra copy for the committee. Now, some provision ought to be made for extra compensation if he is to furnish that copy.

Mr. THORESON. Mr. President, if I remember the wording correctly, the transcript was to be furnished for the use of the committee. Afterward the same transcript can be used.

The substitute of Mr. Thoreson, as amended, was adopted.

Mr. GOODWIN. Mr. President, I move the reconsideration of that vote, and that the amount be put at fifteen hundred dollars, to include the copy to be furnished by the stenographer.

Mr. VARIAN. Mr. President, as I understand it, that thousand dollars only applies to the compensation of the committee.

The PRESIDENT. That is all.

Mr. VARIAN. The preceding paragraph in the resolution contemplates the publishing and printing, and of necessity, I presume, must include the expense of getting the copy for the printer.

Mr. GOODWIN. Mr. President, the reason of my motion was that the Convention has seemed to think that the stenographer would naturally supply this copy. It was only in his contract to supply a copy for the secretary of the Territory.

The PRESIDENT. The explanation was made, Judge, that the committee could use the copy that went to the secretary of state.

Mr. GOODWIN. Yes, if he will permit it. If that copy goes through the hands of the printer, it will not be a very lovely looking document to file away.

Mr. HART. Mr. President, I understood there were two copies contracted for. The stenographer says not. He says there was the one copy only.

The motion to reconsider was agreed to.

The motion to fix the sum at fifteen hundred dollars was agreed to.

Mr. THURMAN. Mr. President, I ask unanimous consent to offer one word in addition as an amendment to the miscellaneous article. In section 2, "real and personal estate of every female acquired before marriage, and all property to which she may afterwards become entitled by purchase, gift, grant, inheritance, or devise, shall be and remain the estate and property of such female, and shall not be liable for the debts, obligations, or engagements of her husband, and may be devised or bequeathed by her as if she were unmarried." I move after the words "may be" to insert the word "conveyed." The effect of the amendment is

to give married women the right to convey their property by a deed as well as to bequeath or devise it by a will. "Convey" is omitted in the article as it stands.

The PRESIDENT. There is no objection, so we will accept it.

Mr. EICHNOR. Mr. President, I offer the following resolution and move its adoption:

Resolved, that the chairman of the committee on printing is hereby authorized to supervise the printing of two thousand copies of the Constitution, and that the said chairman shall send fifteen copies to each member of the Convention, five copies to each county court, one copy to each territorial officer, and two copies to each newspaper in the Territory, and the remaining copies to be deposited with the secretary of state, subject to the order of the president of the Constitutional Convention.

Mr. L. LARSEN. Mr. President, I would made an amendment to the motion, that copies be sent to the municipalities.

Mr. KERR. I would like to ask the chairman of the committee on printing if he knows what three thousand copies of the Constitution would cost?

Mr. LAMBERT. We did not ask for more than two thousand, and that was the amount set apart and appropriated. It is too late now to change it.

Mr. LARSEN. Mr. President, I would make an amendment that two copies be sent to each municipality.

Mr. LAMBERT. Mr. President, I am opposed to the amendment of Mr. Larsen, because it is contemplated in there that the members, being distributed all over the Territory, could furnish copies to the municipalities, and there are not copies enough, unless we change the arrangements, to do so.

Mr. Eichnor accepted the amendment of Mr. Larsen.

Mr. LUND. Mr. President, I believe the copy of the Constitution, as the secretary will present it to the Tribune job printing office, is perfect, and they can print that without making any mistakes, and then they could express it collect on delivery to the members without any additional expense. We closed up our books yesterday, and if you do this, we would like to have you tax yourselves to pay the little bill.

Mr. KIMBALL (Salt Lake). Mr. President, I move an amendment to this resolution, to allow the chairman of this committee, Mr. Lambert, for five days' compensation, in the event of appropriation from Congress that he be paid.

Mr. CANNON. Mr. President, I hope Mr. Larsen will withdraw that amendment, for the reason stated by the chairman of the committee on printing. I do not think we will have copies enough. Each member has fifteen copies, and with those fifteen copies he can certainly distribute them to his neighboring towns, and all the towns around it.

Mr. LARSEN. Mr. President, I would prefer that the members have less copies, and have the municipalities have two.

Mr. HART. Mr. President, I will say that no arrangements have been made for the printing of the address with the Constitution.

Mr. LAMBERT. It was included in the estimate as a part of the Constitution.

Mr. EICHNOR. Mr. President, with the consent of my second, I will change the number from fifteen to each delegate to ten. Then there will be enough.

Mr. HART. Mr. President, I move an amendment to that, that ten be changed to fifteen. I think the members of this Convention can distribute that Constitution as well as some one individual. They live in all parts of the Territory, and they can better distribute it.

The amendment of Mr. Hart was agreed to.

The resolution as amended was adopted.

Mr. Thurman offered the following resolution, and moved its adoption:

Resolved, that the committee on compilation and arrangements ascertain and report to this Convention, as soon as possible, the full amount necessary in addition to the sum already appropriated by Congress, to complete the work of this Convention, as provided by its orders and resolutions, and that said committee draft a memorial to Congress for the amount of said deficiency, and present the same with their report herein.

Mr. GOODWIN. Mr. President, I move to transfer that to the committee on finance.

Mr. HART. Mr. President, I am opposed to the amendment of Judge Goodwin. The committee on compilation and arrangement consists of a greater number of members than this other committee, and being stronger in numbers, I think that an important piece of work of this kind might better be transacted by them. I am, therefore, in favor of the original resolution.

Mr. CRANE. I would like to ask if this resolution contemplates the immediate report to the Convention of the expenses that are to be incurred.

Mr. THURMAN. Not necessarily. I suppose any time before we adjourn. That was what was in my mind when I wrote it. Now, I favor the resolution as offered by myself. I had in mind that there are gentlemen upon that committee of compilation and arrangement, who can write so elegantly, and present matters so plausibly, that even Congress could not resist any appeal that might be made by those gentlemen, and in saying that, I mean no disparagement to the able committee on contingent expenses.

Mr. GOODWIN. Mr. President, if that is to go, I move that Mr. Thurman be also added to that committee. Mr. President, the resolution is an impossibility. This Convention will probably adjourn within the next three weeks, and the amount cannot possibly be ascertained. They might fix the resolution, and leave it with the committee, when finally completed, to publish the amount, and draft a memorial. That is all right, but we cannot get it in time to report to this Convention.

Mr. THURMAN. I would like to ask Judge Goodwin why they cannot?

Mr. GOODWIN. Will the secretary please read the resolution again?

Mr. THURMAN. It says the amount as provided by the orders and resolutions of this body. Now, certainly, we will make those orders and resolutions before we adjourn, and it only has to be approximated by that committee.

Mr. WHITNEY. Mr. President, it seems to me that the business mentioned in this resolution should be divided between two committees, or else that the two committees undertake it—the committee on compilation and arrangement, and the committee on expense. There are two different matters, and the committee on compilation and arrangement have already one report on their hands which is not yet completed. We have not time to report by to-morrow in this matter.

Mr. RALEIGH. Mr. President, I would suggest that Mr. Lund be connected with that committee.

Mr. GOODWIN. Mr. President, I suggest that it be changed, that the committee on finance make this report, and then if it is desired to have the other committee draft a memorial, why, if Mr. Thurman is added, there will be no trouble.

Mr. BOWDLE. Mr. President, I do not understand how they are going to arrive at how much this printing will be. As I understand the resolution that we have passed, the printing of the debates and of the journal will all have to be provided for, and all put in the same appeal that we want to send to Congress. I do not see how they can know just how much that is going to be.

Mr. RICHARDS. Mr. President, I

move as an amendment that this duty be required of the two committees, the committee on compilation and revision and the committee on expenses, that they be associated for that purpose.

The amendment was agreed to.

The resolution as amended was adopted.

Mr. Cannon offered the following resolution and moved its adoption:

Resolved, That the committee on printing obtain and report to this Convention, bids for printing and binding two thousand copies of the proceedings of this Convention.

Mr. CANNON. Mr. President, this was offered before the resolution of Mr. Thurman had been read. I think the information should be obtained by the committee on printing and turned over to the other committee. I do not know whether it is necessary to present it here or not.

Mr. LAMBERT. Mr. President, this resolution, instructing the committee on printing to report to this Convention, cannot be complied with. We would have to have all the notes of the stenographer and have to measure all those notes and find out how much matter there is, before any estimate of the amount of expenses could be made. That thing would be impossible by to-morrow night.

Mr. SQUIRES. I would like to inquire if Mr. Cannon's resolution points to the printing of two thousand copies of the debates? That will just swamp Congress. It is in a pretty hard hole now to pay its running expenses.

Mr. RICHARDS. I desire to ask the gentleman from Salt Lake who offered this resolution, if it is not all covered by the resolution we have just adopted? I think it is.

Mr. CANNON. I stated it might probably be covered. I will withdraw it.

Mr. SQUIRES. Mr. President, I trust that the figures stated in this resolution will not be used as a guide by the committee on compilation and expenses in estimating the cost of printing. Two thousand copies of that journal, will be a pretty expensive luxury—of the debates.

Mr. CANNON. I would like to ask the gentleman if he is going to have any copies at all.

Mr. SQUIRES. I expect we will have some copies.

Mr. CANNON. The expense of paper and printing after the press work is set up is an inconsiderable amount.

Mr. CRANE. Mr. President, we have here a lady to-day who is well known, not only through the western portion of the Union, but throughout the nation as one of the most gifted orators in the country. She kindly consented to address this Convention for fifteen or twenty minutes with their permission. I refer to Miss Clara Foltz, of San Francisco. I move that the lady be requested by the chair to do so.

The PRESIDENT. Mr. Crane and Mr. Thurman will please lead the lady to the platform.

The lady was escorted to the platform by Delegates Crane and Thurman, and delivered an address.

The Convention then, at 12:20 p. m., adjourned until 9 o'clock to-morrow morning.

SIXTY-SIXTH DAY.

WEDNESDAY, May 8, 1895.

Convention assembled pursuant to adjournment at 9 o'clock a. m., President Smith in the chair.

Roll call showed a quorum present.

Prayer was offeredby Delegate Farr.

The journal of the sixty-fifth day's session was read and approved.

The PRESIDENT. Gentlemen, what will you do with the report of the committee on address?

Mr. BUTTON. Mr. President, I move it be perfected in the minutes of to-day,

with the committee's report, striking it out of yesterday's minutes.

The motion was agreed to.

The report of the committee on engrossment and enrollment was read as follows:

Convention Hall, May 8, 1895.

MR. PRESIDENT:

Your committee on engrossment and enrollment beg leave to report that we have completed our labors and submit the Constitution as engrossed, with the recommendation that the clerk who wrote it be permitted to read the same.

Respectfully,
MONS PETERSON,
Chairman.

Adopted.

Mr. Cannon moved that the secretary be instructed to call upon any members who have not handed him their contributions for relief sufferers from Wyoming coal mine disaster, and to forward amount collected at once, under direction of the President of the Convention, to those for whom the contributions were intended.

Carried.

Special committee on drafting an address to the people of Utah, to accompany the Constitution, reported as follows:

TO THE CONVENTION:

Gentlemen: — Your committee appointed to draft an address to accompany the Constitution, report respectfully the following.

JOHN HENRY SMITH,
C. C. GOODWIN,
O. F. WHITNEY,
CHARLES CRANE,
W. J. KERR,
HEBER M. WELLS,
SAMUEL R. THURMAN,
THEO. BRANDLEY.

TO THE PEOPLE OF UTAH:

The Convention assembled to frame a Constitution for the proposed State of Utah, after two months of earnest effort, present the result of their labors for the consideration of the people of this Territory.

The ruling thought that actuated this Convention, from opening to close, was that under the direction and mandates of the Enabling Act, a Constitution must be framed that would secure to the people of Utah a wise, just and economical State government.

In this we believe we have succeeded, and we confidently submit to our fellow citizens the fruit of our deliberations, knowing that they will bear in mind the impossibility of our presenting any instrument that would not contain imperfections, inasmuch as the more than one hundred delegates who constructed it came together understanding little of each other, all more or less influenced by local ideas, and by impressions which the peculiar situation of this Territory for years past could not help but create and intensify. Nevertheless, it has been gratifying to note that there has been less partisan feeling and more unselfish unanimity of sentiment in this Convention than in any other political body of like character.

The inspiration behind the declaration of rights came from the great parent bill of rights framed by the fathers of our country.

The article on the proposed educational system has absorbed the best thoughts and efforts of the Convention, and draws around the public schools such protection and defense as will secure for them, it is believed, the steady upward progress which is the enthusiastic desire of this people.

The legislative article, while permitting future lawmakers to perform any needed thing, circumscribes their powers in a way to prevent either extravagance or the misuse of legislative authority.

The executive article defines clearly the prerogatives and powers of the several State officers, places all necessary authority in the hands of the executive, and at the same time supplies all needed checks to prevent usurpation of power.

The judiciary article makes possible

the conducting of the courts effectively by competent judges. It seeks to exalt the judiciary and yet bring the system within a reasonable expenditure of the people's money. The probate system has been abolished, but power is given the Legislature to restore it, if deemed necessary, or to adopt any other plan that may be wise or expedient.

The salaries of all officials have been marked down close to the danger line of extravagant economy.

We have provided to give equal suffrage to women.

We have inhibited for all time polygamous or plural marriages.

We have placed within safe limits the maximum of future taxation.

We have guarded against the possibility of any future great indebtedness of the State.

We have provided for the full development of our manifold industries, in such a way that in their expansion they will not feel any harsh friction from unjust laws.

We have provided for the correction of possible defects in the Constitution, either by amendments or by the enactment of statutes.

We have guaranteed perfect liberty of speech, freedom to the press, and absolute freedom of conscience.

We recommend our work to the gracious and generous consideration of the men and women of Utah, believing they will esteem it a fitting foundation on which to rear the structure of a glorified State.

If with statehood there will be a slight increase in taxes, the compensating advantages will cause the increased expense to be forgotten. We will be able to utilize the magnificent gift of over seven million acres of land from our generous government; we will be able to secure capital for our mines; under the shield of statehood thousands of people will seek homes in our climate, assist to develop our wondrous and varied resources, and rejoice in the manifold blessings bestowed by nature upon our highly favored commonwealth.

When we reflect that this instrument will secure to us in its highest sense local self-government with State officers of our own selection, and courts for the swift, capable and economical administration of the laws by judges of the people's choosing; that it will give us a school system abreast of the foremost in the Union, with power to utilize the lands donated to our educational institutions; give us a voice in the election of Presidents, also two senators and one representative to present the claims of our new State in the Congress of the nation, add the star of Utah to the hallowed ensign of the Republic, bestow upon us full sovereignty with all that this majestic term implies, and thus draw to us capital and population and invest us with a dignity that can never attach to a territorial condition, with steady swelling confidence we submit this Constitution to the consideration of the people of Utah, in the certain belief that they will, by an overwhelming majority, endorse and ratify our work.

The PRESIDENT. I will say to the Convention that the silver congress is to be held in this room, and it has been asked of me if the Convention were willing that this bunting and the flags that are here should remain during that time.

Mr. GOODWIN. Mr. President, as I understand it, the county and city of Salt Lake tendered this hall to this Convention free of rent, and I think it would be a graceful thing for the Convention, if they have an ownership in the decorations, to tender them to the city and county as a little mark of appreciation, and I make a motion to that effect.

Mr. BOWDLE. Mr. President, I was talking with the sergeant-at-arms about the decorations. He says that there are none of the decorations belonging

to the Convention, excepting the small flags.

Mr. CANNON. Mr. President, Mr. Chidester has a resolution, which if read and slightly amended, would cover the ground of Mr. Goodwin's motion.

Mr. Chidester offered the following resolution:

Be it resolved, that the Convention tender a vote of thanks to the county officials of Salt Lake County for their kindness in granting to the Convention the use of the county building during the session of the Convention.

Mr. RICHARDS. Mr. President, I move to amend that resolution by inserting the words "and city," after the word "county."

Mr. CHIDESTER. I accept that amendment.

Mr. HART. Mr. President, if there was any way of thanking them in a more substantial manner, I would be in favor of doing so. I do not know whether this appropriation anticipated from Congress could be made broad enough to include compensation for the use of this building or not. If it could, I would be in favor of it.

The resolution was adopted.

Mr. Crane offered the following resolution and moved its adoption:

Resolved, that the Convention present to our honorable president, John Henry Smith, the large flag in the center of the Convention hall, as a token of the high esteem in which we, as delegates, hold him.

The PRESIDENT. We have just disposed of it. That is all right.

Mr. RICHARDS. I move that the president take the will for the deed.

The PRESIDENT. What will you do with this resolution of Mr. Crane?

Mr. CRANE. Mr. President, if you have disposed of these ornaments, I will withdraw my resolution. It has been suggested by a number of the delegates here that they would like to have some little souvenir of the moments that they have spent in this building. There are just 108 flags and there are 107 delegates. I thought it nothing more than proper to give this large flag to the president and the small ones to the members.

Mr. ROBERTS. Mr. President, I hope they will manage to give us a cake of ginger bread with it, or a bunch of firecrackers.

The committee on engrossment and enrollment reported as follows:

MR. PRESIDENT:

Your committee on engrossment and enrollment beg leave to report that we have completed our labors, and submit the Constitution as engrossed, with the recommendation that the clerk who wrote it be permitted to read the same.

The report was adopted.

At 9:40 a. m. the engrossed copy of the Constitution was taken up for final reading, which reading was completed at 11:55 a. m.

During the reading the following proceedings took place:

Mr. HART. Mr. President, I would like to ask if the clerk has the corrections suggested for section 9 of Article IV? As I have the section it is this way: "Municipal and school officers shall be elected at such times as may be provided by law."

Mr. RICHARDS. That is the way it passed the Convention.

Mr. KERR. The secretary's copy gives the amendment as follows: "Municipal and school officers, as may be provided by law."

Mr. RICHARDS. Mr. President, that is not the way it passed the Convention. Mr. Thurman proposed the amendment, and I made a note of it at the time.

Mr. HART. I took the amendment down as it was given.

The PRESIDENT. Have you any motion to make?

Mr. RICHARDS. No, we will be governed by the fact.

Mr. BUTTON. Mr. President, I do

not see as it makes any difference. I move that it be as the clerk has it written.

Mr. RICHARDS. Mr. President, it does make a difference. There is a difference in the meaning and in the sense, and it should be enrolled as it passed this Convention, and I offer as an amendment, that it be made to read: "Be elected at such times as may be provided by law." That is the way it did pass the Convention.

Mr. MURDOCK (Summit). Mr. President, in my copy I have it as stated by Mr. Hart; "at such times," is not here.

Mr. CHRISTIANSEN. Mr. President, I have it "at such times as may be provided by law."

Mr. ROBERTS. Mr. President, it occurs to me that the difference is so slight that it amounts to nothing, and I do not think it amounts to enough to change that engrossed copy. I think the words "as may be provided by law," will relate to the time as well as any other detail, and I do not think it is necessary to go to work and require that part to be written over again.

The PRESIDENT. We evidently have not unanimous consent, so that the secretary will continue reading.

Mr. THURMAN. Mr. President, just let me say one word on this. There is a vital distinction between the way this was passed and the way it was written. "Municipal and school officers shall be elected as may be provided by law." Now, that leaves the whole question of election, by whom they may be elected, the qualifications of the voters, and everything to the Legislature. That is not what this Convention meant. They only meant to leave the time of the election, because it was the time of elections that we were dealing with on the other officers. As to these other officers, it was intended that the time of their election should be left to the Legislature, and that only. Now, if the Convention will think a moment, you will remember that that is the truth of it.

Mr. RICHARDS. Mr. President, I insist that it does not require unanimous consent. If the chair so holds, I desire to take an appeal from that. A majority of this Convention, or certainly two-thirds, have a right to change the rule.

The PRESIDENT. It will take two-thirds.

Mr. SQUIRES. Mr. President, I agree that this article should be changed to read as it passed in the Convention, because the meaning is undoubtedly different from that contained in the original matter. There is no blame to charge to the clerk, because he followed the copy, but I do not see why any suspension of the rules is needed to make this correction, because the intention is to have the engrossed copy conform to the section as passed.

The motion was agreed to.

The PRESIDENT. The change will be made.

The reading of the Constitution being completed, the following proceedings took place:

Mr. RICHARDS. Mr. President, I move that the Constitution be now adopted, and the roll be called and each delegate sign the Constitution as his name is called, and that absent members be permitted to sign at any time before the 15th day of October, 1895.

The motion was agreed to.

The roll being called on the final adoption of the Constitution, the result was as follows, each member signing the Constitution as his name was called:

AYES—99.

Adams	Larsen, C. P.
Allen	Lemmon
Anderson	Lewis
Barnes	Lowe, Wm.
Bowdle	Lowe, Peter
Boyer	Low, Cache
Brandley	Lund
Button	Maeser

Buys	Mackintosh
Call	Maloney
Cannon	Maughan
Chidester	McFarland
Christiansen	Morris
Clark	Moritz
Coray	Murdock, Beaver
Corfman	Murdock, Wasatch
Crane	Murdock, Summit
Creer	Nebeker
Cunningham	Page
Cushing	Partridge
Driver	Peterson, Grand
Eichnor	Peterson, Sanpete
Eldredge	Pierce
Emery	Preston
Engberg	Raleigh
Evans, Utah	Richards
Farr	Roberts
Francis	Robertson
Gibbs	Robinson, Kane
Goodwin	Robison, Wayne
Green	Ryan
Hammond	Shurtliff
Hart	Smith
Haynes	Snow
Holladay	Spencer
Hill	Squires
Howard	Stover
Hughes	Strevell
Hyde	Symons
Ivins	Thompson
Johnson	Thoreson
Jolley	Thorne
Kiesel	Thurman
Keith	Van Horne
Kearns	Varian
Kerr	Warrum
Kimball, Salt Lake	Wells
Kimball, Weber	Whitney
Lambert	Williams.
Larsen, L.	

ABSENT—8.

Evans, Weber	Peters
Heybourne	Ricks
James	Sharp
Miller	Thatcher.

The committee on accounts and expenses presented the following report, which was adopted:

Convention Hall, May 8, 1895.

Mr. President and Members of the Convention:

We, your committee on accounts and expenses, beg leave to make our final report. Herewith we present a detailed statement showing expenditure of the thirty thousand dollars appropriated by Congress:

Mileage	$ 2,522.25
Per diem of members	11,856.00
Per diem of members	6,360.00
Per diem of members	1,872.50
Per diem of officers	2,222.00
Per diem of officers	1,275.00
Per diem of officers	1,863.00
Special per diem, Christensen, Rapp, Smith	87.00
Stationery, printing, etc.	1,941.15
Total	$29,998.90
Balance	1.10
	$30,000.00

Revising and preparing the stenographer's notes for the printer will cost as per yesterday's resolution	$ 1,500.00
The amount yet due to the members	8,009.50

We are unable to find what will be the cost of printing the journal of proceedings. We, therefore, recommend that this matter be left to the committee on compilation and arrangement, with power to act. It might be advisable for the Convention to say how many copies shall be published.

We suggest that the Convention might pass a resolution asking Congress for an appropriation to cover this deficiency.

A. C. LUND, Chairman,
A. J. CUSHING,
JOHN R. BARNES.

Mr. JOLLEY. Mr. President, I now move you that we hear from our honorable governor.

The motion was agreed to.

Governor West then addressed the Convention as follows:

Mr. President and gentlemen of the Convention, I assure you that when I came to this house this morning I did not expect to be called upon to say a word, and in fact if I had known that I should, while it is a very great and distinguished pleasure to be here, to see the last act in the making of this Constitution, I believe I would have been deterred. I do not recall just this min-

ute how many days you gentlemen have been here engaged in the making and listening to speeches. Sixty-six, I am informed. It seems to me that in that time you certainly have got enough of talking, but as you have done me the honor to call upon me, for which I thank you very much indeed, I do wish to say now, that your labors, in my judgment, have been brought to a successful conclusion.

While I might not agree with everything that is incorporated into the Constitution, as I have no doubt many of you do not, still, as a whole, I fully and cordially, as the ninety-eight gentlemen, who have been engaged in making it, vote aye, and in voting aye, I believe I voice the sentiments of the people of Utah almost unanimously. [Applause.] As you had differences of opinion as to what ought to go into the Constitution, as you discussed those questions, there was heat and animation in the discussion, and some probably thought at the time, "I will not vote for a Constitution, if such a principle is put into it." But as time has gone on, as you have gone from this house, and at night upon your pillows thought of the great work that you were doing, I am glad that when you come here upon the final vote you come with a unanimity that bespeaks the adoption of the Constitution, and the successful inauguration of Utah as one of the great States of the Union. And as opposition and as the differences disappear, as the frost does by the bright glance of the sun, in your mind, so it will throughout the Territory, with the people, and they will rally to your support, they will endorse your work, as well and faithfully done. And there will go up from the anxious hearts of this great people one great acclaim of rejoicing, that Utah is disenthralled, that she is clothed with the full power of a great, free, American State, and a full, complete, perfect, and strong part of the greatest Republic that the history of the world has ever known. [Applause.]

The secretary of the Territory then attested the Constitution.

Mr. Richards offered the following resolution and moved its adoption:

Resolved, That the Constitution having been adopted and signed by a majority of all the members of the Convention, and duly attested, be now delivered to the secretary of the Territory, who is present in the Convention, to be filed in his office.

The resolution was adopted.

Mr. Hart offered the following resolution and moved its adoption:

That the original files and documents of this Convention be filed by the secretary hereof with the secretary of Utah, to be preserved by him with the files of his office.

The resolution was adopted.

Mr. VARIAN. Mr. President, I suggest, if the Constitution is now ready, that it be delivered, in accordance with the order of the Convention, by the presiding officer to the secretary of the Territory, in open Convention.

The president then delivered the engrossed copy of the Constitution to the secretary of the Territory, in open Convention.

Mr. VARIAN. Mr. President, I move that the minutes of this day's proceedings be declared approved, when the president shall finally sign the same.

Mr. RICHARDS. Mr. President, I move as an amendment to that, that the minutes show that the Constitution was delivered by the president of the Convention to the secretary, in open Convention.

The motion was agreed to.

Mr. VARIAN. Is there anything remaining to be done by this Convention, before the final motion for adjournment?

The PRESIDENT. The business of the Convention, I believe, is done, and

the Constitution has been placed in the hands of the secretary.

Mr. VARIAN. Mr. President, I simply want to say, before that motion shall be made, which I shall withhold, if necessary, for other gentlemen to present any remarks that they may have to make, that in my judgment, we may well take a minute of time before finally concluding our labors, by adopting the order of final adjournment in congratulating each other because of the fact that this Convention has demonstrated, beyond the peradventure of a doubt, that all that was needed here in this Territory of Utah, in order to unify its people, was to bring together its representatives from every section and locality in the commonwealth, that they might look into each other's faces, ascertain each other's motives, learn to judge and believe in each other, as members of one common family. I believe that this result has been accomplished by this Convention. I believe that every man who has been a member here, has been liberalized in his views, has been taught by his fellowmen that, after all, we are very much alike, that the same passions, and the same motives, actuate us all.

We have been taught also that underlying everything here has been the one idea of duty—duty born of the circumstances, fraught with great consequences, which has impelled every man on this floor, during the past two months, to give his best endeavors toward the sought-for result. I do not believe that any gentleman that has participated in the labors of this Convention can possibly carry away with him any other conviction than that it is his bounden duty to stand by and support the results of the joint labors of the Convention. Called together for this especial purpose, building up and lifting up a commonwealth, all the dead past has been buried, nothing remains but to set our faces toward the rising sun of the future, using all our endeavors to carry on the work set before us, conscious that if we fail in the end, nevertheless that we at least can say, we have labored diligently and faithfully, we have fought the good fight, we have kept the faith. In this fraternal spirit towards all of you, gentlemen, I now move that this Convention do adjourn sine die.

Mr. CANNON. Mr. President, if the gentleman would withdraw that motion a moment——

Mr. VARIAN. I announced, Mr. President, that I would consider it in abeyance.

Mr. CANNON. I believe I express the wish of most of the delegates, if not all present, when I request you, Mr. President, to address the Convention before it shall finally adjourn.

The PRESIDENT. Gentlemen of the Convention, in these, the closing moments, I can but express my regard for every one of you. I thank you for your kindly treatment of myself, and I trust that the result of the experience through which we have gone will indeed accomplish in every sense in the breast of every one of us, the ideas embodied in the remarks of Mr. Varian. We came together as strangers, no doubt with views diverse in many respects from each other, and many of us but little acquainted with the transaction of public business of this character. We have fought the fight, we have finished this work, so far as it has been entrusted to our care. We have placed it in the hands of the proper officers and I have no doubt that the results of the labors that you have performed will be all that you desire, and that in the future commonwealth, when it shall be established, a body of freemen who have loved liberty, and who have labored in preparing and presenting to the people the instrument under which they shall live, will look with pride upon the labors that they have performed. I feel to invoke the Divine blessing upon you, that wherever you may go or wherever you may live,

the blessing of Heaven may attend you, and that its peace may be around you, and that you may be guarded and directed in the paths of uprightness, and that you ever may be enabled to maintain and sustain the principles of government established in our nation, and have joy and satisfaction in seeing your children appreciate the blessings that you have sought to bestow upon them.

Thanking you for your kindness again, and praying that Heaven's blessing may ever attend you and yours, I will give way. I think it is the design now to close by calling upon the oldest member of the house to offer benediction—Mr. Raleigh.

Mr. Raleigh then offered the benediction, and the Convention then, at 2:35 p. m., adjourned sine die.

CONSTITUTION

OF THE

STATE OF UTAH.

PREAMBLE.

Grateful to Almighty God for life and liberty, we, the people of Utah, in order to secure and perpetuate the principles of free government, do ordain and establish this

CONSTITUTION.

ARTICLE I.

DECLARATION OF RIGHTS.

SECTION 1. All men have the inherent and inalienable right to enjoy and defend their lives and liberties; to acquire, possess and protect property; to worship according to the dictates of their consciences; to assemble peaceably, protest against wrongs, and petition for redress of grievances; to communicate freely their thoughts and opinions, being responsible for the abuse of that right.

SEC. 2. All political power is inherent in the people; and all free governments are founded on their authority for their equal protection and benefit, and they have the right to alter or reform their government as the public welfare may require.

SEC. 3. The State of Utah is an inseparable part of the Federal Union, and the Constitution of the United States is the supreme law of the land.

SEC. 4. The rights of conscience shall never be infringed. The State shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; no religious test shall be required as a qualification for any office of public trust or for any vote at any election; nor shall any person be incompetent as a witness or juror on account of religious belief or the absence thereof. There shall be no union of church and State, nor shall any church dominate the State or interfere with its functions. No public money or property shall be appropriated for or applied to any religious worship, exercise or instruction, or for the support of any ecclesiastical establishment. No property qualification shall be required of any person to vote or hold office, except as provided in this Constitution.

SEC. 5. The privilege of the writ of habeas corpus shall not be suspended, unless, in case of rebellion or invasion, the public safety requires it.

SEC. 6. The people have the right to bear arms for their security and defense, but the Legislature may regulate the exercise of this right by law.

SEC. 7. No person shall be deprived of life, liberty or property, without due process of law.

SEC. 8. All prisoners shall be bailable by sufficient sureties, except for capital offenses when the proof is evident or the presumption strong.

SEC. 9. Excessive bail shall not be required; excessive fines shall not be imposed; nor shall cruel and unusual punishments be inflicted. Persons arrested or imprisoned shall not be treated with unnecessary rigor.

SEC. 10. In capital cases the right of trial by jury shall remain inviolate. In courts of general jurisdiction, except in capital cases, a jury shall consist of eight jurors. In courts of inferior jurisdiction a jury shall consist of four jurors. In criminal cases the verdict shall be unanimous. In civil cases three-fourths of the jurors may find a verdict. A jury in civil cases shall be waived unless demanded.

SEC. 11. All courts shall be open, and every person, for an injury done to him in his person, property or reputation, shall have remedy by due course of law, which shall be administered without denial or unnecessary delay; and no person shall be barred from prosecuting or defending before any tribunal in this State, by himself or counsel, any civil cause to which he is a party.

SEC. 12. In criminal prosecutions the accused shall have the right to appear and defend in person and by counsel, to demand the nature and cause of the accusation against him, to have a copy thereof, to testify in his own behalf, to be confronted by the witnesses against him, to have compulsory process to compel the attendance of witnesses in his own behalf, to have a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed, and the right to appeal in all cases. In no instance shall any accused person, before final judgment, be compelled to advance money or fees to secure the rights herein guaranteed. The accused shall not be compelled to give evidence against himself; a wife shall not be compelled to testify against her husband, nor a husband against his wife, nor shall any person be twice put in jeopardy for the same offense.

SEC. 13. Offenses heretofore required to be prosecuted by indictment, shall be prosecuted by information after examination and commitment by a magistrate, unless the examination be waived by the accused with the consent of the State, or by indictment, with or without such examination and commitment. The grand jury shall consist of seven persons, five of whom must concur to find an indictment; but no grand jury shall be drawn or summoned unless in the opinion of the judge of the district, public interest demands it.

SEC. 14. The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated; and no warrant shall issue but upon probable cause supported by oath or affirmation, particularly describing the place to be searched and the person or thing to be seized.

SEC. 15. No law shall be passed to abridge or restrain the freedom of speech or of the press. In all criminal prosecutions for libel the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives, and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

SEC. 16. There shall be no imprisonment for debt, except in cases of absconding debtors.

SEC. 17. All elections shall be free, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage. Soldiers, in time of war, may vote at their post of duty, in or out of the State, under regulations to be prescribed by law.

SEC. 18. No bill of attainder, ex post

facto law, or law impairing the obligation of contracts shall be passed.

SEC. 19. Treason against the State shall consist only in levying war against it, or in adhering to its enemies or in giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act.

SEC. 20. The military shall be in strict subordination to the civil power, and no soldier in time of peace, shall be quartered in any house without the consent of the owner; nor in time of war except in a manner to be prescribed by law.

SEC. 21. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within this State.

SEC. 22. Private property shall not be taken or damaged for public use without just compensation.

SEC. 23. No law shall be passed granting irrevocably any franchise, privilege or immunity.

SEC. 24. All laws of a general nature shall have uniform operation.

SEC. 25. This enumeration of rights shall not be construed to impair or deny others retained by the people.

SEC. 26. The provisions of this Constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise.

SEC. 27. Frequent recurrence to fundamental principles is essential to the security of individual rights and the perpetuity of free government.

ARTICLE II.

STATE BOUNDARIES.

SECTION 1. The boundaries of the State of Utah shall be as follows:

Beginning at a point formed by the intersection of the thirty-second degree of longitude west from Washington, with the thirty-seventh degree of north atitude; thence due west along said thirty-seventh degree of north latitude to the intersection of the same with the thirty-seventh degree of longitude west from Washington; thence due north along said thirty-seventh degree of west longitude to the intersection of the same with the forty-second degree of north latitude; thence due east along said forty-second degree of north latitude to the intersection of the same with the thirty-fourth degree of longitude west from Washiugton; thence due south along said thirty-fourth degree of west longitude to the intersection of the same with the forty-first degree of north latitude; thence due east along said forty-first degree of north latitude to the intersection of the same with the thirty-second degree of longitude west from Washington; thence due south along said thirty-second degree of west longitude to the place of beginning.

ARTICLE III.

ORDINANCE.

The following ordinance shall be irrevocable without the consent of the United States and the people of this State:

First:—Perfect toleration of religious sentiment is guaranteed. No inhabitant of this State shall ever be molested in person or property on account of his or her mode of religious worship; but polygamous or plural marriages are forever prohibited.

Second:—The people inhabiting this State do affirm and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries hereof, and to all lands lying within said limits owned or held by any Indian or Indian tribes, and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction

and control of the Congress of the United States. The lands belonging to citizens of the United States, residing without this State shall never be taxed at a higher rate than the lands belonging to residents of this State; nor shall taxes be imposed by this State on lands or property herein, belonging to or which may hereafter be purchased by the United States or reserved for its use; but nothing in this ordinance shall preclude this State from taxing as other lands are taxed any lands owned or held by any Indian who has severed his tribal relations, and has obtained from the United States or from any person, by patent or other grant, a title thereto, save and except such lands as have been or may be granted to any Indian or Indians under any act of Congress, containing a provision exempting the land thus granted from taxation, which last mentioned lands shall be exempt from taxation so long, and to such extent, as is or may be provided in the act of Congress granting the same.

Third:—All debts and liabilities of the Territory of Utah, incurred by authority of the Legislative Assembly thereof, are hereby assumed and shall be paid by this State.

Fourth:—The Legislature shall make laws for the establishment and maintenance of a system of public schools, which shall be open to all the children of the State and be free from sectarian control.

ARTICLE IV.

ELECTIONS AND RIGHT OF SUFFRAGE.

SECTION 1. The rights of citizens of the State of Utah to vote and hold office shall not be denied or abridged on account of sex. Both male and female citizens of this State shall enjoy equally all civil, political and religious rights and privileges.

SEC. 2. Every citizen of the United States, of the age of twenty-one years and upwards, who shall have been a citizen for ninety days, and shall have resided in the State or Territory one year, in the county four months, and in the precinct sixty days next preceding any election, shall be entitled to vote at such election except as herein otherwise provided.

SEC. 3. In all cases except those of treason, felony or breach of the peace, electors shall be privileged from arrest on the days of election, during their attendance at elections, and going to and returning therefrom.

SEC. 4. No elector shall be obliged to perform militia duty on the day of election except in time of war or public danger.

SEC. 5. No person shall be deemed to be a qualified elector of this State unless such person be a citizen of the United States.

SEC. 6. No idiot, insane person or person convicted of treason, or crime against the elective franchise, unless restored to civil rights, shall be permitted to vote at any election, or be eligible to hold office in this State.

SEC. 7. Except in elections levying a special tax or creating indebtedness, no property qualification shall be required for any person to vote or hold office.

SEC. 8. All elections shall be by secret ballot. Nothing in this section shall be construed to prevent the use of any machine or mechanical contrivance for the purpose of receiving and registering the votes cast at any election: Provided, That secrecy in voting be preserved.

SEC. 9. All general elections, except for municipal and school officers, shall be held on the Tuesday next following the first Monday in November of the year in which the election is held. Special elections may be held as provided by law. The terms of all officers elected at any general election shall commence on the first Monday in January next following the date of their election. Municipal and school officers shall be elected at such time as may be provided by law.

SEC. 10. All officers made elective or appointive by this Constitution or by the laws made in pursuance thereof, before entering upon the duties of their respective offices, shall take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support, obey and defend the Constitution of the United States and the Constitution of this State, and that I will discharge the duties of my office with fidelity."

ARTICLE V.

DISTRIBUTION OF POWERS.

SECTION 1. The powers of the government of the State of Utah shall be divided into three distinct departments, the Legislative, the Executive, and the Judicial; and no person charged with the exercise of powers properly belonging to one of these departments, shall exercise any functions appertaining to either of the others, except in the cases herein expressly directed or permitted.

ARTICLE VI.

LEGISLATIVE DEPARTMENT.

SECTION 1. The Legislative power of this State shall be vested in a Senate and a House of Representatives, which shall be designated the Legislature of the State of Utah.

SEC. 2. Regular sessions of the Legislature shall be held biennially at the seat of government; and except the first session thereof shall commence on the second Monday in January next after the election of members of the House of Representatives.

SEC. 3. The members of the House of Representatives, after the first election, shall be chosen by the qualified electors of the respective representative districts, on the first Tuesday after the first Monday in November, 1896, and biennially thereafter. Their term of office shall be two years, from the first day of January next after their election.

SEC. 4. The senators shall be chosen by the qualified electors of the respective senatorial districts, at the same times and places as members of the House of Representatives, and their term of office shall be four years from the first day of January next after their election: Provided, That the senators elected in 1896 shall be divided by lots into two classes as nearly equal as may be; seats of senators of the first class shall be vacated at the expiration of two years, those of the second class at the expiration of four years; so that one-half, as near as possible, shall be chosen biennially thereafter. In case of increase in the number of senators, they shall be annexed by lot to one or the other of the two classes, so as to keep them as nearly equal as practicable.

SEC. 5. No person shall be eligible to the office of senator or representative, who is not a citizen of the United States, twenty-five years of age, a qualified voter in the district from which he is chosen, a resident for three years of the State, and for one year of the district from which he is elected.

SEC. 6. No person holding any public office of profit or trust under authority of the United States, or of this State, shall be a member of the Legislature: Provided, That appointments in the State militia, and the offices of notary public, justice of the peace, United States commissioner, and postmaster of the fourth class, shall not, within the meaning of this section, be considered offices of profit or trust.

SEC. 7. No member of the Legislature, during the term for which he was elected, shall be appointed or elected to any civil office of profit under this State, which shall have been created, or the emoluments of which shall have been increased, during the term for which he was elected.

SEC. 8. Members of the Legislature, in all cases except treason, felony or

breach of the peace, shall be privileged from arrest during each session of the Legislature, for fifteen days next preceding each session, and in returning therefrom; and for words used in any speech or debate in either house, they shall not be questioned in any other place.

SEC. 9. The members of the Legislature shall receive such per diem and mileage as the Legislature may provide, not exceeding four dollars per day, and ten cents per mile for the distance necessarily traveled going to and returning from the place of meeting on the most usual route, and they shall receive no other pay or perquisite.

SEC. 10. Each house shall be the judge of the election and qualifications of its members, and may punish them for disorderly conduct, and with the concurrence of two-thirds of all the members elected, expel a member for cause.

SEC. 11. A majority of the members of each house shall constitute a quorum to transact business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as each house may prescribe.

SEC. 12. Each house shall determine the rules of its proceedings, and choose its own officers and employes.

SEC. 13. The Governor shall issue writs of election to fill vacancies that may occur in either house of the Legislature.

SEC. 14. Each house shall keep a journal of its proceedings, which, except in case of executive sessions, shall be published, and the yeas and nays on any question, at the request of five members of such house, shall be entered upon the journal.

SEC. 15. All sessions of the Legislature, except those of the Senate while sitting in executive session, shall be public; and neither house, without the consent of the other, shall adjourn for more than three days, nor to any other place than that in which it may be holding session.

SEC. 16. No regular session of the Legislature (except the first, which may sit ninety days) shall exceed sixty days, except in cases of impeachment. No special session shall exceed thirty days, and in such special session, or when a regular session of the Legislature trying cases of impeachment exceeds sixty days, the members shall receive for compensation only the usual per diem and mileage.

SEC. 17. The House of Representatives shall have the sole power of impeachment, but in order to impeach, two-thirds of all the members elected must vote therefor.

SEC. 18. All impeachments shall be tried by the Senate, and senators, when sitting for that purpose, shall take oath or make affirmation to do justice according to the law and the evidence. When the Governor is on trial, the Chief Justice of the Supreme Court shall preside. No person shall be convicted without the concurrence of two-thirds of the Senators elected.

SEC. 19. The Governor and other State and Judicial officers, except justices of the peace, shall be liable to impeachment for high crimes, misdemeanors, or malfeasance in office; but judgment in such cases shall extend only to removal from office and disqualification to hold any office of honor, trust or profit in the State. The party, whether convicted or acquitted, shall, nevertheless, be liable to prosecution, trial and punishment according to law.

SEC. 20. No person shall be tried on impeachment, unless he shall have been served with a copy of the articles thereof, at least ten days before the trial, and after such service he shall not exercise the duties of his office until he shall have been acquitted.

SEC. 21. All officers not liable to impeachment shall be removed for any of the offenses specified in this article, in

such manner as may be provided by law.

SEC. 22. The enacting clause of every law shall be: "Be it enacted by the Legislature of the State of Utah," and no bill or joint resolution shall be passed, except with the assent of a majority of all the members elected to each house of the Legislature, and after it has been read three times. The vote upon the final passage of all bills shall be by yeas and nays; and no law shall be revised or amended by reference to its title only; but the act as revised, or section as amended, shall be re-enacted and published at length.

SEC. 23. Except general appropriation bills, and bills for the codification and general revision of laws, no bill shall be passed containing more than one subject, which shall be clearly expressed in its title.

SEC. 24. The presiding officer of each house, in the presence of the house over which he presides, shall sign all bills and joint resolutions passed by the Legislature, after their titles have been publicly read immediately before signing, and the fact of such signing shall be entered upon the journal.

SEC. 25. All acts shall be officially published, and no act shall take effect until so published, nor until sixty days after the adjournment of the session at which it passed, unless the Legislature by vote of two-thirds of all the members elected to each house, shall otherwise direct.

SEC. 26. The Legislature is prohibited from enacting any private or special laws in the following cases:

1.—Granting divorce.

2.—Changing the names of persons or places, or constituting one person the heir at law of another.

3.—Locating or changing county seats.

4.—Regulating the jurisdiction and duties of justices of the peace.

5.—Punishing crimes and misdemeanors.

6.—Regulating the practice of courts of justice.

7.—Providing for a change of venue in civil or criminal actions.

8.—Assessing and collecting taxes.

9.—Regulating the interest on money.

10.—Changing the law of descent or succession.

11.—Regulating county and township affairs.

12.—Incorporating cities, towns or villages; changing or amending the charter of any city, town or village; laying out, opening, vacating or altering town plats, highways, streets, wards, alleys or public grounds.

13.—Providing for sale or mortgage of real estate belonging to minors or others under disability.

14.—Authorizing persons to keep ferries across streams within the State.

15.—Remitting fines, penalties or forfeitures.

16.—Granting to an individual, association or corporation any privilege, immunity or franchise.

17.—Providing for the management of common schools.

18.—Creating, increasing or decreasing fees, percentages or allowances of public officers during the term for which said officers are elected or appointed.

The Legislature may repeal any existing special law relating to the foregoing subdivisions.

In all cases where a general law can be applicable, no special law shall be enacted.

Nothing in this section shall be construed to deny or restrict the power of the Legislature to establish and regulate the compensation and fees of county and township officers; to establish and regulate the rates of freight, passage, toll and charges of railroads, toll roads, ditch, flume and tunnel companies, in-

corporated under the laws of the State or doing business therein.

SEC. 27. The Legislature shall have no power to release or extinguish, in whole or in part, the indebtedness, liability or obligation of any corporation or person to the State, or to any municipal corporation therein.

SEC. 28. The Legislature shall not authorize any game of chance, lottery or gift enterprise under any pretense or for any purpose.

SEC. 29. The Legislature shall not delegate to any special commission, private corporation or association, any power to make, supervise or interfere with any municipal improvement, money, property or effects, whether held in trust or otherwise, to levy taxes, to select a capitol site, or to perform any municipal functions.

SEC. 30. The Legislature shall have no power to grant, or authorize any county or municipal authority to grant, any extra compensation, fee or allowance to any public officer, agent, servant, or contractor, after service has been rendered or a contract has been entered into and performed in whole or in part, nor pay nor authorize the payment of any claim hereafter created against the State, or any county or municipality of the State, under any agreement or contract made without authority of law; Provided, That this section shall not apply to claims incurred by public officers in the execution of the laws of the State.

SEC. 31. The Legislature shall not authorize the State, or any county, city, town, township, district or other political subdivision of the State to lend its credit or subscribe to stock or bonds in aid of any railroad, telegraph or other private individual or corporate enterprise or undertaking.

ARTICLE VII.

EXECUTIVE.

SECTION 1. The Executive Department shall consist of Governor, Secretary of State, State Auditor, State Treasurer, Attorney-General, and Superintendent of Public Instruction, each of whom shall hold his office for four years, beginning on the first Monday of January next after his election, except that the terms of office of those elected at the first election shall begin when the State shall be admitted into the Union, and shall end on the first Monday in January, A. D. 1901. The officers of the Executive Department, during their terms of office, shall reside at the seat of government, where they shall keep the public records, books and papers. They shall perform such duties as are prescribed by this Constitution and as may be prescribed by law.

SEC. 2. The officers provided for in section one of this article, shall be elected by the qualified electors of the State at the time and place of voting for members of the Legislature, and the persons respectively having the highest number of votes cast for the office voted for shall be elected; but if two or more shall have an equal and the highest number of votes for any one of said offices, the two houses of the Legislature, at its next regular session, shall elect forthwith by joint ballot one of such persons for said office.

SEC. 3. No person shall be eligible to the office of Governor or Secretary of State unless he shall have attained the age of thirty years at the time of his election, nor to the office of Attorney-General unless he shall have attained the age of twenty-five years at the time of his election, and have been admitted to practice in the Supreme Court of the Territory or of the State of Utah, nor unless he shall be in good standing at the bar at the time of his election. No person shall be eligible to any of the offices provided for in section one of this article, unless at the time of his election he shall be a qualified elector, and shall have been a resident citizen of the State or Territory for five years next preced-

ing his election. The State Auditor and State Treasurer shall be ineligible to election as their own successors.

SEC. 4. The Governor shall be commander-in-chief of the military forces of the State, except when they shall be called into the service of the United States. He shall have the power to call out the militia to execute the laws, to suppress insurrection, or to repel invasion.

SEC 5. The Governor shall see that the laws are faithfully executed; he shall transact all executive business with the officers of the government, civil and military, and may require information in writing from the officers of the Executive Department, and from the officers and managers of State Institutions upon any subject relating to the condition, management, and expenses of their respective offices and institutions, and at any time when the Legislative Assembly is not in session, may, if he deem it necessary, appoint a committee to investigate and report to him upon the condition of any executive office or State institution. He shall communicate by message the condition of the State to the Legislature at every regular session, and recommend such measures as he may deem expedient.

SEC. 6. On extraordinary occasions, the Governor may convene the Legislature by proclamation, in which shall be stated the purpose for which the Legislature is to be convened, and it shall transact no legislative business except that for which it was especially convened, or such other legislative business as the Governor may call to its attention while in session. The Legislature, however, may provide for the expenses of the session and other matters incidental thereto. The Governor may also by proclamation convene the Senate in extraordinary session for the transaction of executive business.

SEC. 7. In case of a disagreement between the two houses of the Legislature at any special session, with respect to the time of adjournment, the Governor shall have power to adjourn the Legislature to such time as he may think proper: Provided, it be not beyond the time fixed for the convening of the next Legislature.

SEC. 8. Every bill passed by the Legislature, before it becomes a law, shall be presented to the Governor; if he approve, he shall sign it, and thereupon it shall become a law; but if he do not approve, he shall return it with his objections to the house in which it originated, which house shall enter the objections at large upon its journal and proceed to reconsider the bill. If, after such reconsideration, it again passes both houses by a yea and nay vote of two-thirds of the members elected to each house, it shall become a law, notwithstanding the Governor's objections. If any bill be not returned within five days after it shall have been presented to him (Sunday and the day on which he received it excepted), the same shall be a law in like manner as if he had signed it, unless the Legislature by its final adjournment prevent such return, in which case it shall be filed with his objections in the office of the Secretary of State, within ten days after such adjournment (Sunday excepted) or become a law. If any bill presented to the Governor contains several items of appropriations of money, he may object to one or more such items, while approving other portions of the bill; in such case he shall append to the bill at the time of signing it a statement of the item or items which he declines to approve, together with his reason therefor, and such item or items shall not take effect unless passed over the Governor's objection as in this section provided.

SEC. 9. When any State or district office shall become vacant, and no mode is provided by the Constitution and laws for filling such vacancy, the Governor shall have the power to fill the same by granting a commission, which shall ex-

pire at the next election, and upon qualification of the person elected to such office.

SEC. 10. The Governor shall nominate, and by and with the consent of the Senate, appoint all State and district officers whose offices are established by this Constitution, or which may be created by law and whose appointment or election is not otherwise provided for. If, during the recess of the Senate, a vacancy occur in any State or district office, the Governor shall appoint some fit person to discharge the duties thereof until the next meeting of the Senate, when he shall nominate some person to fill such office. If the office of Justice of the Supreme or District Court, Secretary of State, State Auditor, State Treasurer, Attorney-General or Superintendent of Public Instruction be vacated by death, resignation or otherwise, it shall be the duty of the Governor to fill the same by appointment, and the appointee shall hold his office until his successor shall be elected and qualified, as may be by law provided.

SEC. 11. In case of the death of the Governor, or his impeachment, removal from office, inability to discharge the duties of his office, resignation or absence from the State, the powers and duties of said office shall devolve upon the Secretary of State until the disability shall cease, or until the next general election, when the vacancy shall be filled by election. If, during a vacancy in the office of the Governor, the Secretary of State resign, die or become incapable of performing the duties of the office, or be displaced, or be absent from the State, the President pro tempore of the Senate shall act as Governor until the vacancy be filled or the disability cease. While performing the duties of the Governor as in this section provided, the Secretary of State, or the President pro tempore of the Senate, as the case may be, except in cases of temporary disability, or absence from the State, shall be entitled to the salary and emoluments of the Governor.

SEC. 12. Until otherwise provided by law, the Governor, Justices of the Supreme Court and Attorney-General shall constitute a Board of Pardons, a majority of whom, including the Governor, upon such conditions, and with such limitations and restrictions as they deem proper, may remit fines and forfeitures, commute punishments, and grant pardons after convictions, in all cases except treason and impeachments, subject to such regulations as may be provided by law, relative to the manner of applying for pardons; but no fine or forfeiture shall be remitted, and no commutation or pardon granted, except after a full hearing before the Board, in open session, after previous notice of the time and place of such hearing has been given. The proceedings and decisions of the Board, with the reasons therefor in each case, together with the dissent of any member who may disagree, shall be reduced to writing, and filed with all papers used upon the hearing, in the office of the Secretary of State.

The Governor shall have power to grant respites or reprieves in all cases of convictions for offenses against the State, except treason or conviction on impeachment; but such respites or reprieves shall not extend beyond the next session of the Board of Pardons; and such Board, at such session, shall continue or determine such respite or reprieve, or they may commute the punishment, or pardon the offense as herein provided. In case of conviction for treason, the Governor shall have the power to suspend execution of the sentence, until the case shall be reported to the Legislature at its next regular session, when the Legislature shall either pardon, or commute the sentence, or direct its execution; he shall communicate to the Legislature at each regular session, each case of remission of fine or forfeiture, reprieve, commutation or par

don granted since the last previous report, stating the name of the convict, the crime for which he was convicted, the sentence and its date, the date of remission, commutation, pardon or reprieve, with the reasons for granting the same, and the objections, if any, of any member of the Board made thereto.

SEC. 13. Until otherwise provided by law, the Governor, Secretary of State and Attorney-General shall constitute a Board of State Prison Commissioners, which board shall have such supervision of all matters connected with the State prison as may be provided by law. They shall, also, constitute a Board of Examiners, with power to examine all claims against the State except salaries or compensation of officers fixed by law, and perform such other duties as may be prescribed by law, and no other claim against the State, except for salaries and compensation of officers fixed by law, shall be passed upon by the Legislature without having been considered and acted upon by the said Board of Examiners.

SEC. 14. Until otherwise provided by law, the Governor, State Treasurer and State Auditor shall constitute a Board of Insane Asylum Commissioners. Said Board shall have such supervision of all matters connected with the State Insane Asylum as may be provided by law.

SEC. 15. Until otherwise provided by law, the Governor, Attorney-General and Superintendent of Public Instruction shall constitute a Board of Reform School Commissioners. Said board shall have such supervision of all matters connected with the State Reform School as may be provided by law.

SEC. 16. The Secretary of State shall keep a record of the official acts of the Legislative and Executive Department of the State, and, when required, shall lay the same and all matters relative thereto before either branch of the Legislature, and shall perform such other duties as may be provided by law.

SEC. 17. The Auditor shall be Auditor of Public Accounts, and the Treasurer shall be the custodian of public moneys, and each shall perform such other duties as may be provided by law.

SEC. 18. The Attorney-General shall be the legal adviser of the State officers, and shall perform such other duties as may be provided by law.

SEC. 19. The Superintendent of Public Instruction shall perform such duties as may be provided by law.

SEC. 20. The Governor, Secretary of State, Auditor, Treasurer, Attorney-General, Superintendent of Public Instruction and such other State and district officers as may be provided for by law, shall receive for their services quarterly, a compensation as fixed by law, which shall not be diminished or increased so as to affect the salary of any officer during his term, or the term next ensuing after the adoption of this Constitution, unless a vacancy occur, in which case the successor of the former incumbent shall receive only such salary as may be provided by law at the time of his election or appointment. The compensation of the officers provided for by this article, until otherwise provided by law, is fixed as follows:

Governor, two thousand dollars per annum.

Secretary of State, two thousand dollars per annum.

State Auditor, fifteen hundred dollars per annum.

State Treasurer, one thousand dollars per annum.

Attorney-General, fifteen hundred dollars per annum.

Superintendent of Public Instruction, fifteen hundred dollars per annum.

The compensation for said officers as prescribed in this section, and in all laws enacted pursuant to this Constitution, shall be in full for all services rendered by said officers, respectively, in any official capacity or employment during their respective terms of office. No such officer shall receive for the per-

formance of any official duty any fee for his own use, but all fees fixed by law for the performance by either of them of any official duty, shall be collected in advance and deposited with the State Treasurer quarterly to the credit of the State. The Legislature may provide for the payment of actual and necessary expenses of said officers while traveling in the State in the performance of official duty.

SEC. 21. All grants and commissions shall be in the name and by the authority of the State of Utah, sealed with the Great Seal of the State, signed by the Governor, and countersigned by the Secretary of State.

SEC. 22. There shall be a seal of the State, which shall be kept by the Secretary of State, and used by him officially. Said seal shall be called "The Great Seal of the State of Utah." The present seal of the Territory of Utah shall be the seal of the State until otherwise provided by law.

SEC. 23. No person, while holding any office under the United States government, shall hold any office under the State government of Utah, and the Governor shall not be eligible for election to the Senate of the United States during the term for which he shall have been elected Governor.

ARTICLE VIII.

JUDICIAL DEPARTMENT.

SECTION 1. The Judicial power of the State shall be vested in the Senate sitting as a court of impeachment, in a supreme court, in district courts, in justices of the peace, and such other courts inferior to the Supreme Court as may be established by law.

SEC. 2. The Supreme Court shall consist of three judges; but after the year A. D. 1905, the Legislature may increase the number thereof to five. A majority of the judges constituting the court shall be necessary to form a quorum or render a decision. If a justice of the Supreme Court shall be disqualified from sitting in a cause before said court, the remaining judges shall call a district judge to sit with them on the hearing of such cause. The Judges of the Supreme Court shall be elected by the electors of the State at large. The term of office of the Judges of the Supreme Court, excepting as in this article otherwise provided, shall be six years. The Judges of the Supreme Court, immediately after the first election under this Constitution, shall be selected by lot, so that one shall hold office for the term of three years, one for five years, and one for the term of seven years. The lots shall be drawn by the Judges of the Supreme Court, who, for that purpose, shall assemble at the seat of government; and they shall cause the result thereof to be certified by the Secretary of State, and filed in his office. The judge having the shortest term to serve, not holding his office by appointment or election to fill a vacancy, shall be the Chief Justice, and shall preside at all terms of the Supreme Court, and in case of his absence, the judge, having in like manner, the next shortest term, shall preside in his stead.

SEC. 3. Every Judge of the Supreme Court shall be at least thirty years of age, and, before his election, shall be a member of the bar, learned in the law, and a resident of the Territory or State of Utah for five years next preceding his election.

SEC. 4. The Supreme Court shall have original jurisdiction to issue writs of mandamus, certiorari, prohibition, quo warranto and habeas corpus. Each of the justices shall have power to issue writs of habeas corpus, to any part of the State, upon petition by or on behalf of any person held in actual custody, and may make such writs returnable before himself or the Supreme Court, or before any district court or judge thereof in the State. In other cases the Supreme Court shall have

appellate jurisdiction only, and power to issue writs necessary and proper for the exercise of that jurisdiction. The Supreme Court shall hold at least three terms every year, and shall sit at the capital of the State.

SEC. 5. The State shall be divided into seven judicial districts, for each of which, at least one, and not exceeding three judges, shall be chosen by the qualified electors thereof. The term of office of the district judges shall be four years, except that the district judges elected at the first election shall serve until the first Monday in January, A. D. 1901, and until their successors shall have qualified. Until otherwise provided by law, a district court at the county seat of each county shall be held at least four times a year. All civil and criminal business arising in any county, must be tried in such county, unless a change of venue be taken, in such cases as may be provided by law. Each judge of the District Court shall be at least twenty-five years of age, a member of the bar, learned in the law, a resident of the Territory or State of Utah three years next preceding his election, and shall reside in the district for which he shall be elected. Any District Judge may hold a District Court in any county at the request of the judge of the district, and upon a request of the Governor, it shall be his duty to do so. Any cause in the District Court may be tried by a judge pro tempore, who must be a member of the bar, sworn to try the cause, and agreed upon by the parties, or their attorneys of record.

SEC. 6. The Legislature may change the limits of any judicial district, or increase or decrease the number of districts, or the judges thereof. No alteration or increase shall have the effect of removing a judge from office. In every additional district established, a judge shall be elected by the electors thereof, and his term of office shall continue as provided in section five of this article.

SEC. 7. The District Court shall have original jurisdiction in all matters civil and criminal, not excepted in this Constitution, and not prohibited by law; appellate jurisdiction from all inferior courts and tribunals, and a supervisory control of the same. The District Courts or any judge thereof, shall have power to issue writs of habeas corpus, mandamus, injunction, quo warranto, certiorari, prohibition and other writs necessary to carry into effect their orders, judgments and decrees, and to give them a general control over inferior courts and tribunals within their respective jurisdictions.

SEC. 8. The Legislature shall determine the number of justices of the peace to be elected, and shall fix by law their powers, duties and compensation. The jurisdiction of justices of the peace shall be as now provided by law, but the Legislature may restrict the same.

SEC. 9. From all final judgments of the District Courts, there shall be a right of appeal to the Supreme Court. The appeal shall be upon the record made in the court below, and under such regulations as may be provided by law. In equity cases the appeal may be on questions of both law and fact; in cases at law the appeal shall be on questions of law alone. Appeals shall also lie from the final orders and decrees of the Court in the administration of decedent estates, and in cases of guardianship, as shall be provided by law. Appeals shall also lie from the final judgment of justices of the peace in civil and criminal cases to the District Courts on both questions of law and fact, with such limitations and restrictions as shall be provided by law; and the decision of the District Courts on such appeals shall be final, except in cases involving the validity or constitutionality of a statute.

SEC. 10. A County Attorney shall be elected by the qualified voters of each county who shall hold his office for a term of two years. The powers and

duties of County Attorneys and such other attorneys for the State as the Legislature may provide, shall be prescribed by law. In all cases where the attorney for any county, or for the State, fails or refuses to attend and prosecute according to law, the court shall have power to appoint an attorney pro tempore.

SEC. 11. Judges may be removed from office by the concurrent vote of both houses of the Legislature, each voting separately; but two-thirds of the members to which each house may be entitled must concur in such vote. The vote shall be determined by yeas and nays, and the names of the members voting for or against a judge, together with the cause or causes of removal, shall be entered on the journal of each house. The judge against whom the house may be about to proceed shall receive notice thereof, accompanied with a copy of the cause alleged for his removal, at least ten days before the day on which either house of the Legislature shall act thereon.

SEC. 12. The Judges of the Supreme and District Courts shall receive at stated times compensation for their services, which shall not be increased or diminished during the time for which they are elected.

SEC. 13. Except by consent of all the parties, no judge of the supreme or inferior courts shall preside in the trial of any cause where either of the parties shall be connected with him by affinity or consanguinity within the degree of first cousin, or in which he may have been of counsel, or in the trial of which he may have presided in any inferior court.

SEC. 14. The Supreme Court shall appoint a clerk, and a reporter of its decisions, who shall hold their offices during the pleasure of the Court. Until otherwise provided, County Clerks shall be ex officio clerks of the District Courts in and for their respective counties, and shall perform such other duties as may be provided by law.

SEC. 15. No person related to any judge of any court by affinity or consanguinity within the degree of first cousin, shall be appointed by such court or judge to, or employed by such court or judge in any office or duty in any court of which such judge may be a member.

SEC. 16. Until otherwise provided by law, the Judicial Districts of the State shall be constituted as follows:

First District: The Counties of Cache, Box Elder and Rich.

Second District: The Counties of Weber, Morgan and Davis.

Third District: The Counties of Summit, Salt Lake and Tooele, in which there shall be elected three district judges.

Fourth District: The Counties of Utah, Wasatch and Uintah.

Fifth District: The Counties of Juab, Millard, Beaver, Iron and Washington.

Sixth District: The Counties of Sevier, Piute, Wayne, Garfield and Kane.

Seventh District: The Counties of Sanpete, Carbon, Emery, Grand and San Juan.

SEC. 17. The Supreme and District Courts shall be courts of record, and each shall have a seal.

SEC. 18. The style of all process shall be "The State of Utah," and all prosecutions shall be conducted in the name and by the authority of the same.

SEC. 19. There shall be but one form of civil action, and law and equity may be administered in the same action.

SEC. 20. Until otherwise provided by law, salaries of supreme and district judges, shall be three thousand dollars per annum and mileage, payable quarterly out of the State treasury.

SEC. 21. Judges of the Supreme Court, District Court, and justices of the peace, shall be conservators of the peace, and may hold preliminary examinations in cases of felony.

SEC. 22. District Judges may, at any

time, report defects and omissions in the law to the Supreme Court, and the Supreme Court, on or before the first day of December of each year, shall report in writing to the Governor any seeming defect or omission in the law.

SEC. 23. The Legislature may provide for the publication of decisions and opinions of the Supreme Court, but all decisions shall be free to publishers.

SEC. 24. The terms of office of Supreme and District Judges may be extended by law, but such extension shall not affect the term for which any judge was elected.

SEC. 25. When a judgment or decree is reversed, modified or affirmed by the Supreme Court, the reasons therefor shall be stated concisely in writing, signed by the judges concurring, filed in the office of the Clerk of the Supreme Court, and preserved with a record of the case. Any judge dissenting therefrom, may give the reasons of his dissent in writing over his signature.

SEC. 26. It shall be the duty of the court to prepare a syllabus of all the points adjudicated in each case, which shall be concurred in by a majority of the judges thereof, and it shall be prefixed to the published reports of the case.

SEC. 27. Any judicial officer who shall absent himself from the State or district for more than ninety consecutive days, shall be deemed to have forfeited his office: Provided, That in case of extreme necessity, the Governor may extend the leave of absence to such time as the necessity therefor shall exist.

ARTICLE IX.

CONGRESSIONAL AND LEGISLATIVE APPORTIONMENT.

SECTION 1. One representative in the Congress of the United States shall be elected from the State at large on the Tuesday next after the first Monday in November, A. D. 1895, and thereafter at such times and places, and in such manner as may be prescribed by law. When a new apportionment shall be made by Congress, the Legislature shall divide the State into congressional districts accordingly.

SEC. 2. The Legislature shall provide by law for the enumeration of the inhabitants of the State, A. D. 1905, and every tenth year thereafter, and at the session next following an enumeration made by the authority of the United States, shall revise and adjust the apportionment for Senators and Representatives on the basis of such enumeration according to ratios to be fixed by law.

SEC. 3. The Senate shall consist of eighteen members, and the House of Representatives of forty-five members. The Legislature may increase the number of Senators and Representatives, but the Senators shall never exceed thirty in number, and the number of Representatives shall never be less than twice nor greater than three times the number of Senators.

SEC. 4. When more than one county shall constitute a Senatorial District, such counties shall be contiguous, and no county shall be divided in the formation of such districts unless such county contains sufficient population within itself to form two or more districts, nor shall a part of any county be united with any other county in forming any district.

REPRESENTATIVE DISTRICTS.

Until otherwise provided by law, Representatives shall be apportioned among the several counties of the State as follows:

Provided, That in any future apportionment made by the Legislature, each county shall be entitled to at least one representative.

The County of Box Elder shall constitute the First Representative District, and be entitled to one representative.

The County of Cache shall constitute the Second Representative District, and be entitled to three representatives.

The County of Rich shall constitute the Third Representative District, and be entitled to one representative.

The County of Weber shall constitute the Fourth Representative District, and be entitled to four representatives.

The County of Morgan shall constitute the Fifth Representative District, and be entitled to one representative.

The County of Davis shall constitute the Sixth Representative District, and be entitled to one representative.

The County of Tooele shall constitute the Seventh Representative District, and be entitled to one representative.

The County of Salt Lake shall constitute the Eighth Representative District, and be entitled to ten representatives.

The County of Summit shall constitute the Ninth Representative District, and be entitled to one representative.

The County of Wasatch shall constitute the Tenth Representative District, and be entitled to one representative.

The County of Utah shall constitute the Eleventh Representative District, and be entitled to four representatives.

The County of Uintah shall constitute the Twelfth Representative District, and be entitled to one representative.

The County of Juab shall constitute the Thirteenth Representative District, and be entitled to one representative.

The County of Sanpete shall constitute the Fourteenth Representative District, and be entitled to two representatives.

The County of Carbon shall constitute the Fifteenth Representative District, and be entitled to one representative.

The County of Emery shall constitute the Sixteenth Representative District, and be entitled to one representative.

The County of Grand shall constitute the Seventeenth Representative District, and be entitled to one representative.

The County of Sevier shall constitute the Eighteenth Representative District, and be entitled to one representative.

The County of Millard shall constitute the Nineteenth Representative District, and be entitled to one representative.

The County of Beaver shall constitute the Twentieth Representative District, and be entitled to one representative.

The County of Piute shall constitute the Twenty-first Representative District, and be entitled to one representative.

The County of Wayne shall constitute the Twenty-second Representative District, and be entitled to one representative.

The County of Garfield shall constitute the Twenty-third Representative District, and be entitled to one representative.

The County of Iron shall constitute the Twenty-fourth Representative District, and be entitled to one representative.

The County of Washington shall constitute the Twenty-fifth Representative District, and be entitled to one representative.

The County of Kane shall constitute the Twenty-sixth Representative District, and be entitled to one representative.

The County of San Juan shall constitute the Twenty-seventh Representative District, and be entitled to one representative.

SENATORIAL DISTRICTS.

Until otherwise provided by law, the Senatorial Districts shall be constituted and numbered as follows:

The Counties of Box Elder and Tooele shall constitute the First District, and be entitled to one senator.

The County of Cache shall constitute the Second District, and be entitled to one senator.

The Counties of Rich, Morgan and Davis shall constitute the Third District, and be entitled to one senator.

The County of Weber shall constitute

the Fourth District, and be entitled to two senators.

The Counties of Summit and Wasatch shall constitute the Fifth District, and be entitled to one senator.

The County of Salt Lake shall constitute the Sixth District, and be entitled to five senators.

The County of Utah shall constitute the Seventh District, and be entitled to two senators.

The Counties of Juab and Millard shall constitute the Eighth District, and be entitled to one senator.

The County of Sanpete shall constitute the Ninth District, and be entitled to one senator.

The Counties of Sevier, Wayne, Piute, and Garfield shall constitute the Tenth District, and be entitled to one senator.

The Counties of Beaver, Iron, Washington, and Kane shall constitute the Eleventh District, and be entitled to one senator.

The Counties of Emery, Carbon, Uintah, Grand, and San Juan shall constitute the Twelfth District, and be entitled to one senator.

ARTICLE X.

EDUCATION.

SECTION 1. The Legislature shall provide for the establishment and maintenance of a uniform system of public schools, which shall be open to all the children of the State, and be free from sectarian control.

SEC. 2. The Public School System shall include kindergarten schools; common schools, consisting of primary and grammar grades; high schools; an Agricultural College; a University, and such other schools as the Legislature may establish. The common school shall be free. The other departments of the system shall be supported as provided by law: Provided, That high schools may be maintained free in all cities of the first and second class now constituting school districts, and in such other cities and districts as may be designated by the Legislature. But where the proportion of school moneys apportioned or accruing to any city or district shall not be sufficient to maintain all the free schools in such city district, the high schools shall be supported by local taxation.

SEC. 3. The proceeds of all lands that have been, or may be granted by the United States to this State, for the support of the common schools; the proceeds of all property that may accrue to the State by escheat or forfeiture; all unclaimed shares and dividends of any corporation incorporated under the laws of this State; the proceeds of the sale of timber, minerals or other property from school and State lands, other than those granted for specific purposes; and five per centum of the net proceeds of the sales of public lands lying within the State, which shall be sold by the United States, subsequent to the admission of this State into the Union, shall be and remain a perpetual fund, to be called the State School Fund, the interest of which only, together with such means as the Legislature may provide, shall be distributed among the several school districts according to the school population residing therein.

SEC. 4. The location and establishment by existing laws of the University of Utah, and the Agricultural College are hereby confirmed, and all the rights, immunities, franchises and endowments heretofore granted or conferred, are hereby perpetuated unto said University and Agricultural College respectively.

SEC. 5. The proceeds of the sale of lands reserved by an Act of Congress, approved February 21st, 1855, for the establishment of the University of Utah, and of all the lands granted by an Act of Congress, approved July 16th, 1894, shall constitute permanent funds, to be safely invested and held by the

State; and the income thereof shall be used exclusively for the support and maintenance of the different institutions and colleges, respectively, in accordance with the requirements and conditions of said acts of Congress.

SEC. 6. In cities of the first and second class, the public school system shall be maintained and controlled, by the Board of Education of such cities, separate and apart from the Counties in which said cities are located.

SEC. 7. All public school funds shall be guaranteed by the State against loss or diversion.

SEC. 8. The general control and supervision of the Public School System shall be vested in a State Board of Education, consisting of the Superintendent of Public Instruction, and such other persons as the Legislature may provide.

SEC. 9. Neither the Legislature nor the State Board of Education shall have power to prescribe text books to be used in the common schools.

SEC. 10. Institutions for the Deaf and Dumb, and for the Blind, are hereby established. All property belonging to the School for the Deaf and Dumb, heretofore connected with the University of Utah, shall be transferred to said Institution for the Deaf and Dumb. All the proceeds of the lands granted by the United States for the support of a Deaf and Dumb Asylum, and for an Institution for the Blind, shall be a perpetual fund for the maintenance of said Institutions. It shall be a trust fund, the principal of which shall remain inviolate, guaranteed by the State against loss or diversion.

SEC. 11. The Metric System shall be taught in the public schools of the State.

SEC. 12. Neither religious nor partisan test or qualification shall be required of any person as a condition of admission, as teacher or student, into any public educational institution of the State.

SEC. 13. Neither the Legislature nor any county, city, town, school district or other public corporation, shall make any appropriation to aid in the support of any school, seminary, academy, college, university or other institution, controlled in whole, or in part by any church, sect or denomination whatever.

ARTICLE XI.

COUNTIES, CITIES AND TOWNS.

SECTION 1. The several counties of the Territory of Utah, existing at the time of the adoption of this Constitution, are hereby recognized as legal subdivisions of this State, and the precincts, and school districts, now existing in the said counties, as legal subdivisions thereof, and they shall so continue until changed by law in pursuance of this article.

SEC. 2. No County Seat shall be removed unless two-thirds of the qualified electors of the county, voting on the proposition at a general election, shall vote in favor of such removal, and two-thirds of the votes cast on the proposition shall be required to re-locate a county seat. A proposition of removal shall not be submitted in the same county more than once in four years.

SEC. 3. No territory shall be stricken from any county unless a majority of the voters living in such territory, as well as of the county to which it is to be annexed, shall vote therefor, and then only under such conditions as may be prescribed by general law.

SEC. 4. The Legislature shall establish a system of county government, which shall be uniform throughout the State, and by general laws shall provide for precinct and township organizations.

SEC. 5. Corporations for municipal purposes shall not be created by special laws; the Legislature, by general laws, shall provide for the incorporation, organization, and classification of cities

and towns in proportion to population; which laws may be altered, amended or repealed.

SEC. 6. No municipal corporation, shall directly or indirectly, lease, sell, alien or dispose of any waterworks, water-rights, or sources of water supply now, or hereafter to be owned or controlled by it, but all such waterworks, water-rights and sources of water supply now owned or hereafter to be acquired by any municipal corporation, shall be preserved, maintained and operated by it for supplying its inhabitants with water at reasonable charges: Provided, That nothing herein contained shall be construed to prevent any such municipal corporation from exchanging water-rights, or sources of water supply, for other water-rights or sources of water supply of equal value, and to be devoted in like manner to the public supply of its inhabitants.

ARTICLE XII.

CORPORATIONS.

SECTION 1. Corporations may be formed under general laws, but shall not be created by special acts. All laws relating to corporations may be altered, amended or repealed by the Legislature, and all corporations doing business in this State, may, as to such business, be regulated, limited or restrained by law.

SEC. 2. All existing charters, franchises, special or exclusive privileges, under which an actual and bona fide organization shall not have taken place, and business been commenced in good faith, at the time of the adoption of this Constitution, shall thereafter have no validity; and no corporation in existence at the time of the adoption of this Constitution shall have the benefit of future legislation without first filing in the office of the Secretary of State, an acceptance of the provisions of this Constitution.

SEC. 3. The Legislature shall not extend any franchise or charter, nor remit the forfeiture of any franchise or charter of any corporation now existing, or which shall hereafter exist under the laws of this State.

SEC. 4. The term "Corporation," as used in this article, shall be construed to include all associations and joint stock companies having any powers or privileges of corporations not possessed by individuals or partnerships, and all corporations shall have the right to sue, and shall be subject to be sued, in all courts, in like cases as natural persons.

SEC. 5. Corporations shall not issue stock, except to bona fide subscribers thereof or their assignee, nor shall any corporation issue any bond, or other obligation, for the payment of money, except for money or property received, or labor done. The stock of corporations shall not be increased, except in pursuance of general law, nor shall any law authorize the increase of stock without the consent of the person or persons holding the larger amount in value of the stock, or without due notice of the proposed increase having previously been given in such manner as may be prescribed by law. All fictitious increase of stock or indebtedness shall be void.

SEC. 6. No corporations organized outside of this State, shall be allowed to transact business within the State, on conditions more favorable than those prescribed by law to similar corporations, organized under the laws of this State.

SEC. 7. No corporation shall lease or alienate any franchise, so as to relieve the franchise or property held thereunder from the liabilities of the lessor, or grantor, lessee, or grantee, contracted or incurred in operation, use or enjoyment of such franchise or any of its privileges.

SEC. 8. No law shall be passed granting the right to construct and operate a street railroad, telegraph,

telephone or electric light plant within any city or incorporated town, without the consent of the local authorities who have the control of the street or highway proposed to be occupied for such purposes.

SEC. 9. No corporation shall do business in this State, without having one or more places of business, with an authorized agent or agents, upon whom process may be served; nor without first filing a certified copy of its articles of incorporation with the Secretary of State.

SEC. 10. No corporation shall engage in any business other than that expressly authorized in its charter, or articles of incorporation.

SEC. 11. The exercise of the right of eminent domain shall never be so abridged or construed, as to prevent the Legislature from taking the property and franchises of incorporated companies, and subjecting them to public use the same as the property of individuals.

SEC. 12. All railroad and other transportation companies are declared to be common carriers, and subject to legislative control; and such companies shall receive and transport each other's passengers and freight, without discrimination or unnecessary delay.

SEC. 13. No railroad corporation shall consolidate its stock, property or franchises with any other railroad corporation owning a competing line.

SEC. 14. The rolling stock, and other moveable property, belonging to any railroad company or corporation in this State, shall be considered personal property, and shall be liable to taxation and to execution and sale, in the same manner as the personal property of individuals, and such property shall not be exempted from execution and sale.

SEC. 15. The Legislature shall pass laws establishing reasonable maximum rates of charges, for the transportation of passengers and freight, for correcting abuses, and preventing discrimination and extortion in rates of freight and passenger tariffs by the different railroads, and other common carriers in the State, and shall enforce such laws by adequate penalties.

SEC. 16. No corporation or association shall bring any armed person or bodies of men into this State for the preservation of the peace, or the suppression of domestic troubles without authority of law.

SEC. 17. No officer, employe, attorney or agent of any corporation, company or association doing business under, or by virtue of any municipal charter or franchise, shall be eligible to or permitted to hold any municipal office, in the municipality granting such charter or franchise.

SEC. 18. The stockholders in every corporation, and joint stock association for banking purposes, in addition to the amount of capital stock subscribed and fully paid by them, shall be individually responsible for an additional amount, equal to the amount of their stock in such corporation, for all its debts and liabilities of every kind.

SEC. 19. Every person in this State shall be free to obtain employment whenever possible, and any person, corporation, or agent, servant or employe thereof, maliciously interfering or hindering in any way, any person from obtaining, or enjoying employment already obtained, from any other corporation or person, shall be deemed guilty of a crime. The Legislature shall provide by law for the enforcement of this section.

SEC. 20. Any combination by individuals, corporations, or associations, having for its object or effect the controlling of the price of any products of the soil, or of any article of manufacture or commerce, or the cost of exchange or transportation, is prohibited, and hereby declared unlawful, and against

public policy. The Legislature shall pass laws for the enforcement of this section by adequate penalties, and in case of incorporated companies, if necessary for that purpose, it may declare a forfeiture of their franchise.

ARTICLE XIII.

REVENUE AND TAXATION.

SECTION 1. The fiscal year shall begin on the first day of January, unless changed by the Legislature.

SEC. 2. All property in the State, not exempt under the laws of the United States, or under this Constitution, shall be taxed in proportion to its value, to be ascertained as provided by law. The word property, as used in this article, is hereby declared to include moneys, credits, bonds, stocks, franchises and all matters and things (real, personal and mixed) capable of private ownership; but this shall not be so construed as to authorize the taxation of the stocks of any company or corporation, when the property of such company or corporation represented by such stocks, has been taxed. The Legislature shall provide by law for an annual tax sufficient, with other sources of revenue, to defray the estimated ordinary expenses of the State for each fiscal year. For the purpose of paying the State debt, if any there be, the Legislature shall provide for levying a tax annually, sufficient to pay the annual interest, and principal of such debt, within twenty years from the final passage of the law creating the debt.

SEC. 3. The Legislature shall provide by law a uniform and equal rate of assessment and taxation on all property in the State, according to its value in money, and shall prescribe by general law such regulations as shall secure a just valuation for taxation of all property; so that every person and corporation shall pay a tax in proportion to the value of his, her or its property; Provided, That a deduction of debts from credits may be authorized; Provided further, That the property of the United States, of the State, counties, cities, towns, school districts, municipal corporations and public libraries, lots with the buildings thereon used exclusively for either religious worship or charitable purposes, and places of burial not held or used for private or corporate benefit, shall be exempt from taxation. Ditches, canals, and flumes owned and used by individuals or corporations for irrigating lands owned by such individuals or corporations, or the individual members thereof, shall not be separately taxed so long as they shall be owned and used exclusively for such purpose.

SEC. 4. All mines and mining claims, both placer and rock in place, containing or bearing gold, silver, copper, lead, coal or other valuable mineral deposits, after purchase thereof from the United States, shall be taxed at the price paid the United States therefor, unless the surface ground, or some part thereof, of such mine or claim, is used for other than mining purposes, and has a separate and independent value for such other purposes; in which case said surface ground, or any part thereof, so used for other than mining purposes, shall be taxed at its value for such other purposes, as provided by law; and all the machinery used in mining, and all property and surface improvements upon or appurtenant to mines and mining claims, which have a value separate and independent of such mines or mining claims, and the net annual proceeds of all mines and mining claims, shall be taxed as provided by law.

SEC. 5. The Legislature shall not impose taxes for the purpose of any county, city, town or other municipal corporation, but may, by law, vest in the corporate authorities thereof, respectively, the power to assess and collect taxes for all purposes of such corporation.

SEC. 6. An accurate statement of the

receipts and expenditures of the public moneys, shall be published annually in such manner as the Legislature may provide.

SEC. 7. The rate of taxation on property, for State purposes, shall never exceed eight mills on each dollar of valuation; and whenever the taxable property within the State shall amount to two hundred million dollars, the rate shall not exceed five mills on each dollar of valuation; and whenever the taxable property within the State shall amount to three hundred million dollars, the rate shall never thereafter exceed four mills on each dollar of valuation; unless a proposition to increase such rate, specifying the rate proposed, and the time during which the same shall be levied, be first submitted to a vote of such of the qualified electors of the State as, in the year next preceding such election, shall have paid a property tax assessed to them within the State, and the majority of those voting thereon shall vote in favor thereof, in such manner as may be provided by law.

SEC. 8. The making of profit out of public moneys, or using the same for any purpose not authorized by law, by any public officer, shall be deemed a felony, and shall be punished as provided by law, but part of such punishment shall be disqualification to hold public office.

SEC. 9. No appropriation shall be made, or any expenditure authorized by the Legislature, whereby the expenditure of the State, during any fiscal year, shall exceed the total tax then provided for by law, and applicable for such appropriation or expenditure, unless the Legislature making such appropriation, shall provide for levying a sufficient tax, not exceeding the rates allowed in section seven of this article, to pay such appropriation or expenditure within such fiscal year. This provision shall not apply to appropriations or expenditures to suppress insurrections, defend the State, or assist in defending the United States in time of war.

SEC. 10. All corporations or persons in this State, or doing business herein, shall be subject to taxation for State, county, school, municipal or other purposes, on the real and personal property owned or used by them within the Territorial limits of the authority levying the tax.

SEC. 11. Until otherwise provided by law, there shall be a State Board of Equalization, consisting of the Governor, State Auditor, State Treasurer, Secretary of State and Attorney-General; also, in each county of this State, a County Board of Equalization, consisting of the Board of County Commissioners of said county. The duty of the State Board of Equalization shall be to adjust and equalize the valuation of the real and personal property among the several counties of the State. The duty of the County Board of Equalization shall be to adjust and equalize the valuation of the real and personal property within their respective counties. Each Board shall also perform such other duties as may be prescribed by law.

SEC. 12. Nothing in this Constitution shall be construed to prevent the Legislature from providing a stamp tax, or a tax based on income, occupation, licenses, franchises or mortgages.

ARTICLE XIV.

PUBLIC DEBT.

SECTION 1. To meet casual deficits or failures in revenue, and for necessary expenditures for public purposes, including the erection of public buildings, and for the payment of all Territorial indebtedness assumed by the State, the State may contract debts, not exceeding in the aggregate at any one time, the sum of two hundred thousand dollars over and above the amount of the Territorial indebtedness assumed by the State. But when the said

Territorial indebtedness shall have been paid, the State shall never contract any indebtedness, except as in the next section provided, in excess of the sum of two hundred thousand dollars, and all moneys arising from loans herein authorized, shall be applied solely to the purposes for which they were obtained.

SEC. 2. The State may contract debts to repel invasion, suppress insurrection, or defend the State in war, but the money arising from the contracting of such debts shall be applied solely to the purposes for which it was obtained.

SEC. 3. No debt in excess of the taxes for the current year shall be created by any county or subdivision thereof, or by any school district therein, or by any city, town or village, or any subdivision thereof in this State; unless the proposition to create such debt, shall have been submitted to a vote of such qualified electors as shall have paid a property tax therein, in the year preceding such election, and a majority of those voting thereon shall have voted in favor of incurring such debt.

SEC. 4. When authorized to create indebtedness as provided in Section three of this Article, no county shall become indebted to an amount, including existing indebtedness, exceeding two per centum. No city, town, school district or other municipal corporation, shall become indebted to an amount, including existing indebtedness, exceeding four per centum of the value of the taxable property therein, the value to be ascertained by the last assessment for State and county purposes, previous to the incurring of such indebtedness; except that in incorporated cities the assessment shall be taken from the last assessment for city purposes; Provided, That no part of the indebtedness allowed in this section, shall be incurred for other than strictly county, city, town or school district purposes: Provided, further, That any city or town when authorized as provided in section three of this article, may be allowed to incur a larger indebtedness, not exceeding four per centum additional, for supplying such city or town with water, artificial light or sewers, when the works for supplying such water, light and sewers, shall be owned and controlled by the municipality.

SEC. 5. All moneys borrowed by, or on behalf of the State, or any legal subdivision thereof, shall be used solely for the purpose specified in the law authorizing the loan.

SEC. 6. The State shall not assume the debt, or any part thereof, of any county, city, town or school district.

SEC. 7. Nothing in this article shall be so construed as to impair or add to the obligation of any debt heretofore contracted, in accordance with the laws of Utah Territory, by any county, city, town or school district, or to prevent the contracting of any debt, or the issuing of bonds therefor, in accordance with said laws, upon any proposition for that purpose, which, according to said laws, may have been submitted to a vote of the qualified electors of any county, city, town or school district before the day on which this Constitution takes effect.

ARTICLE XV.

MILITIA.

SECTION 1. The militia shall consist of all able-bodied male inhabitants of the State, between the ages of eighteen and forty-five years, except such as are exempt by law.

SEC. 2. The Legislature shall provide by law for the organization, equipment and discipline of the militia, which shall conform as nearly as practicable to the regulations for the government of the armies of the United States.

ARTICLE XVI.

LABOR.

SECTION 1. The rights of labor shall have just protection through laws calculated to promote the industrial welfare of the State.

SEC. 2. The Legislature shall provide by law, for a Board of Labor, Conciliation and Arbitration, which shall fairly represent the interests of both capital and labor. The Board shall perform duties, and receive compensation as prescribed by law.

SEC. 3. The Legislature shall prohibit:

1. The employment of women, or of children under the age of fourteen years, in underground mines.

2. The contracting of convict labor.

3. The labor of convicts outside prison grounds, except on public works under the direct control of the State.

4. The political and commercial control of employes.

SEC. 4. The exchange of black lists by railroad companies or other corporations, associations or persons is prohibited.

SEC. 5. The right of action to recover damages for injuries resulting in death, shall never be abrogated, and the amount recoverable shall not be subject to any statutory limitation.

SEC. 6. Eight hours shall constitute a day's work on all works or undertakings carried on or aided by the State, county or municipal governments; and the Legislature shall pass laws to provide for the health and safety of employes in factories, smelters and mines.

SEC. 7. The Legislature, by appropriate legislation, shall provide for the enforcement of the provisions of this article.

ARTICLE XVII.

WATER RIGHTS.

SECTION 1. All existing rights to the use of any of the waters in this State for any useful or beneficial purpose, are hereby recognized and confirmed.

ARTICLE XVIII.

FORESTRY.

SECTION 1. The Legislature shall enact laws to prevent the destruction of and to preserve the forests on the lands of the State, and upon any part of the public domain, the control o. which may be conferred by Congress upon the State.

ARTICLE XIX.

PUBLIC BUILDINGS AND STATE INSTITUTIONS.

SECTION 1. All institutions and other property of the Territory, upon the adoption of this Constitution, shall become the institutions and property of the State of Utah.

SEC. 2. Reformatory and penal institutions, and those for the benefit of the insane, blind, deaf and dumb, and such other institutions as the public good may require, shall be established and supported by the State in such manner, and under such boards of control as may be prescribed by law.

SEC. 3. The Public Institutions of the State are hereby permanently located at the places hereinafter named, each to have the lands specifically granted to it by the United States, in the Act of Congress, approved July 16th, 1894, to be disposed of and used in such manner as the Legislature may provide:

First. The Seat of Government, and the State Fair at Salt Lake City, and the State Prison in the County of Salt Lake.

Second. The Institutions for the Deaf and Dumb, and the Blind, and the State Reform School at Ogden City, in the County of Weber.

Third. The State Insane Asylum at Provo City, in the County of Utah.

ARTICLE XX.

PUBLIC LANDS.

SECTION 1. All lands of the State that have been, or may hereafter be granted to the State by Congress, and all lands acquired by gift, grant or devise, from any person or corporation, or that may otherwise be acquired, are hereby accepted, and declared to be the public lands of the State; and shall be held in trust for the people, to be disposed of as may be provided by law, for the respective purposes for which they have been or may be granted, donated, devised or otherwise acquired.

ARTICLE XXI.

SALARIES.

SECTION 1. All State, district, city, county, town and school officers, excepting notaries public, boards of arbitration, court commissioners, justices of the peace and constables, shall be paid fixed and definite salaries: Provided, That city justices may be paid by salary when so determined by the mayor and council of such cities.

SEC. 2. The Legislature shall provide by law, the fees which shall be collected by all officers within the State. Notaries public, boards of arbitration, court commissioners, justices of the peace, and constables paid by fees, shall accept said fees as their full compensation. But all other State, district, county, city, town and school officers, shall be required by law to keep a true and correct account of all fees collected by them, and to pay the same into the proper treasury, and the officer whose duty it is to collect such fees shall be held responsible under his bond for the same.

ARTICLE XXII.

MISCELLANEOUS.

SECTION 1. The Legislature shall provide by law, for the selection by each head of a family, an exemption of a homestead, which may consist of one or more parcels of land, together with the appurtenances and improvements thereon, of the value of at least fifteen hundred dollars, from sale on execution.

SEC. 2. Real and personal estate of every female, acquired before marriage, and all property to which she may afterwards become entitled by purchase, gift, grant, inheritance or devise, shall be and remain the estate and property of such female, and shall not be liable for the debts, obligations or engagements of her husband, and may be conveyed, devised or bequeathed by her as if she were unmarried.

ARTICLE XXIII.

AMENDMENTS.

SECTION 1. Any amendment or amendments to this Constitution may be proposed in either house of the Legislature, and if two-thirds of all the members elected to each of the two houses, shall vote in favor thereof, such proposed amendment or amendments shall be entered on their respective journals with the yeas and nays taken thereon; and the Legislature shall cause the same to be published in at least one newspaper in every county of the State, where a newspaper is published, for two months immediately preceding the next general election, at which time the said amendment or amendments shall be submitted to the electors of the State, for their approval or rejection, and if a majority of the electors voting thereon shall approve the same, such amendment or amendments shall become part of this Constitution. If two or more amendments are proposed, they shall be so submitted as to enable the electors to vote on each of them separately.

SEC. 2. Whenever two-thirds of the members, elected to each branch of the Legislature, shall deem it necessary to call a convention to revise or amend

this Constitution, they shall recommend to the electors to vote at the next general election for or against a convention, and, if a majority of all the electors, voting at such election, shall vote for a convention, the Legislature, at its next session, shall provide by law for calling the same. The convention shall consist of not less than the number of members in both branches of the Legislature.

SEC. 3. No Constitution, or amendments adopted by such convention, shall have validity until submitted to and adopted by a majority of the electors of the State voting at the next general election.

ARTICLE XXIV.

SCHEDULE.

SECTION 1. In order that no inconvenience may arise, by reason of the change from a Territorial to a State government, it is hereby declared that all writs, actions, prosecutions, judgments, claims and contracts, as well of individuals as of bodies corporate, both public and private, shall continue as if no change had taken place; and all process which may issue, under the authority of the Territory of Utah, previous to its admission into the Union, shall be as valid as if issued in the name of the State of Utah.

SEC. 2. All laws of the Territory of Utah now in force, not repugnant to this Constitution, shall remain in force until they expire by their own limitations, or are altered or repealed by the Legislature. The act of the Governor and Legislative Assembly of the Territory of Utah, entitled, "An Act to punish polygamy and other kindred offenses," approved February 4th, A. D. 1892, in so far as the same defines and imposes penalties for polygamy, is hereby declared to be in force in the State of Utah.

SEC. 3. Any person, who, at the time of the admission of the State into the Union, may be confined under lawful commitments, or otherwise lawfully held to answer for alleged violations of any of the criminal laws of the Territory of Utah, shall continue to be so held or confined, until discharged therefrom by the proper courts of the State.

SEC. 4. All fines, penalties and forfeitures accruing to the Territory of Utah, or to the people of the United States in the Territory of Utah, shall inure to this State, and all debts, liabilities and obligations of said Territory, shall be valid against the State, and enforced as may be provided by law.

SEC. 5. All recognizances heretofore taken, or which may be taken before the change from a Territorial to a State government, shall remain valid, and shall pass to and be prosecuted in the name of the State; and all bonds executed to the Governor of the Territory, or to any other officer or court in his or their official capacity, or to any official board for the benefit of the Territory of Utah, or the people thereof, shall pass to the Governor or other officer, court or board, and his or their successors in office, for the uses therein, respectively expressed, and may be sued on, and recovery had, accordingly. Assessed taxes and all revenue, property, real, personal or mixed, and all judgments, bonds, specialties, choses in action, claims and debts, of whatsoever description; and all records and public archives of the Territory of Utah, shall issue and vest in the State of Utah, and may be sued for and recovered, in the same manner, and to the same extent by the State of Utah, as the same could have been by the Territory of Utah; and all fines, taxes, penalties and forfeitures, due or owing to any county, municipality or school district therein, at the time the State shall be admitted into the Union, are hereby respectively assigned and transferred, and the same shall be payable to the county, municipality or school district, as the case may be, and payment

thereof be enforced under the laws of the State.

SEC. 6. All criminal prosecutions, and penal actions, which may have arisen, or which may arise before the change from a Territorial to a State Government, and which shall then be pending, shall be prosecuted to judgment and execution in the name of the State, and in the court having jurisdiction thereof. All offenses committed against the laws of the Territory of Utah, before the change from a Territorial to a State government, and which shall not have been prosecuted before such change, may be prosecuted in the name, and by the authority of the State of Utah, with like effect as though such change had not taken place, and all penalties incurred shall remain the same, as if this Constitution had not been adopted.

SEC. 7. All actions, cases, proceedings and matters, pending in the Supreme and District Courts of the Territory of Utah, at the time the State shall be admitted into the Union, and all files, records and indictments relating thereto, except as otherwise provided herein, shall be appropriately transferred to the Supreme and District Courts of the State respectively; and thereafter all such actions, matters and cases, shall be proceeded with in the proper State courts. All actions, cases, proceedings and matters which shall be pending in the District Courts of the Territory of Utah, at the time of the admission of the State into the Union, whereof the United States Circuit or District Courts might have had jurisdiction had there been a State government at the time of the commencement thereof respectively, shall be transferred to the proper United States Circuit and District Courts respectively; and all files, records, indictments and proceedings relating thereto, shall be transferred to said United States Courts: Provided, That no civil actions, other than causes and proceedings of which the said United States courts shall have exclusive jurisdiction, shall be transferred to either of said United States Courts except upon motion or petition by one of the parties thereto, made under and in accordance with the act or acts of the Congress of the United States, and such motion and petition not being made, all such cases shall be proceeded with in the proper State courts.

SEC. 8. Upon a change from Territorial to State government, the seal in use by the Supreme Court of the Territory of Utah, until otherwise provided by law, shall pass to and become the seal of the Supreme Court of the State, and the several District Courts of the State may adopt seals for their respective courts, until otherwise provided by law.

SEC. 9. When the State is admitted into the Union, and the District Courts in the respective districts are organized, the books, records, papers and proceedings of the probate court in each county, and all causes and matters of administration pending therein, upon the expiration of the term of office of the Probate Judge, on the second Monday in January, 1896, shall pass into the jurisdiction and possession of the District Court, which shall proceed to final judgment or decree, order or other determination in the several matters and causes, as the Territorial Probate Court might have done, if this Constitution had not been adopted. And until the expiration of the term of office of the Probate Judges, such Probate Judges shall perform the duties now imposed upon them by the laws of the Territory. The District Court shall have appellate and revisory jurisdiction over the decisions of the Probate Courts, as now provided by law, until such latter courts expire by limitation.

SEC. 10. All officers, civil and military, now holding their offices and appointments in this Territory by authority of law, shall continue to hold and

exercise their respective offices and appointments, until superseded under this Constitution: Provided, That the provisions of this section shall be subject to the provisions of the Act of Congress, providing for the admission of the State of Utah, approved by the President of the United States on July 16th, 1894.

SEC. 11. The election for the adoption or rejection of this Constitution, and for State officers herein provided for, shall be held on the Tuesday next after the first Monday in November, 1895, and shall be conducted according to the laws of the Territory, and the provisions of the Enabling Act; the votes cast at said election shall be canvassed, and returns made, in the same manner as was provided for in the election for delegates to the Constitutional Convention.

Provided, That all male citizens of the United States, over the age of twenty-one years, who have resided in the Territory for one year prior to such election, are hereby authorized to vote for or against the adoption of this Constitution, and for the State Officers herein provided for. The returns of said election shall be made to the Utah Commission, who shall cause the same to be canvassed, and shall certify the result of the vote for or against the Constitution, to the President of the United States, in the manner required by the Enabling Act; and said Commission shall issue certificates of election to the persons elected to said offices severally, and shall make and file with the Secretary of the Territory, an abstract, certified to by them, of the number of votes cast for each person for each of said offices, and of the total number of votes cast in each county.

SEC. 12. The State officers to be voted for at the time of the adoption of this Constitution, shall be a Governor, Secretary of State, State Auditor, State Treasurer, Attorney-General, Superintendent of Public Instruction, members of the Senate and House of Representatives, three Supreme Judges, nine District Judges, and a Representative to Congress.

SEC. 13. In case of a contest of election between candidates, at the first general election under this Constitution, for Judges of the District Courts, the evidence shall be taken in the manner prescribed by the Territorial laws, and the testimony so taken shall be certified to the Secretary of State, and said officer, together with the Governor and the Treasurer of the State, shall review the evidence, and determine who is entitled to the certificate of election.

SEC. 14. This Constitution shall be submitted for adoption or rejection, to a vote of the qualified electors of the proposed State, at the general election to be held on the Tuesday next after the first Monday in November, A. D. 1895. At the said election the ballot shall be in the following form:

For the Constitution. Yes. No.

As a heading to each of said ballots there shall be printed on each ballot the following Instructions to Voters:

All persons desiring to vote for the Constitution must erase the word "No."

All persons desiring to vote against the Constitution must erase the word "Yes."

SEC. 15. The Legislature, at its first session, shall provide for the election of all officers, whose election is not provided for elsewhere in this Constitution, and fix the time for the commencement and durations of their terms.

SEC. 16. The provisions of this Constitution shall be in force from the day on which the President of the United States shall issue his proclamation, declaring the State of Utah admitted into the Union; and the terms of all officers elected at the first election under the provisions of this Constitution, shall commence on the first Monday, next succeeding the issue of said proclamation. Their terms of office

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shall expire when their successors are elected and qualified under this Constitution.

Done in Convention at Salt Lake City, in the Territory of Utah, this eighth day of May, in the year of our Lord one thousand eight hundred and ninety-five, and of the Independence of the United States the one hundred and nineteenth.

JOHN HENRY SMITH,
President.

Attest:
PARLEY P. CHRISTENSEN,
Secretary.

LOUIS BERNHARDT ADAMS,
RUFUS ALBERN ALLEN,
ANDREW SMITH ANDERSON,
JOHN RICHARD BARNES,
JOHN RUTLEDGE BOWDLE,
JOHN SELL BOYER,
THEODORE BRANDLEY,
HERBERT GUION BUTTON,
WILLIAM BUYS,
CHESTER CALL,
GEORGE MOUSLEY CANNON,
JOHN FOY CHIDESTER,
PARLEY CHRISTIANSEN,
THOMAS H. CLARK, JR.,
LOUIS LAVILLE CORAY,
ELMER ELLSWORTH CORFMAN,
CHARLES CRANE,
WILLIAM CREER,
GEORGE CUNNINGHAM,
ARTHUR JOHN CUSHING,
WILLIAM DRIVER,
DENNIS CLAY EICHNOR,
ALMA ELDREDGE,
GEORGE RHODES EMERY,
ANDREAS ENGBERG,
DAVID EVANS,
ABEL JOHN EVANS,
LORIN FARR,
SAMUEL FRANCIS,
WILLIAM HENRY GIBBS,
CHARLES CARROL GOODWIN,
JAMES FREDERIC GREEN,
FRANCIS ASBURY HAMMOND,
CHARLES HENRY HART,
HARRY HAYNES,
JOHN DANIEL HOLLADAY,
ROBERT W. HEYBOURNE,
SAMUEL HOOD HILL,
WILLIAM HOWARD,
HENRY HUGHES,
JOSEPH ALONZO HYDE,
ANTHONY WOODWARD IVINS,
WM. F. JAMES,
LYCURGUS JOHNSON,
JOSEPH LOFTIS JOLLEY,
FREDERICK JOHN KIESEL,
DAVID KEITH,
THOMAS KEARNS,
WILLIAM JASPER KERR,
ANDREW KIMBALL,
JAMES NATHANIEL KIMBALL,
RICHARD G. LAMBERT,
LAURITZ LARSEN,
CHRISTEN PETER LARSEN,
HYRUM LEMMON,
THEODORE BELDEN LEWIS,
WILLIAM LOWE,
PETER LOWE,
JAMES PATON LOW,
ANTHONY CANUTE LUND,
KARL G. MAESER,
RICHARD MACKINTOSH,
THOMAS MALONEY,
WILLIAM H. MAUGHAN,
ROBERT MCFARLAND,
GEO. P. MILLER,
ELIAS MORRIS,
JACOB MORITZ,
JOHN RIGGS MURDOCK,
JOSEPH ROYAL MURDOCK,
JAMES DAVID MURDOCK,
AQUILA NEBEKER,
JEREMIAH DAY PAGE,
EDWARD PARTRIDGE,
J. D. PETERS,
MONS PETERSON,
JAMES CHRISTIAN PETERSON,
FRANKLIN PIERCE,
WM. B. PRESTON,
ALONZO HAZELTON RALEIGH,
FRANKLIN SNYDER RICHARDS,
JOEL RICKS,
BRIGHAM HENRY ROBERTS,
JASPER ROBERTSON,
JOSEPH ELDREDGE ROBINSON,
WILLIS EUGENE ROBISON,
GEORGE RYAN,

JOHN HENRY SMITH,
GEORGE B. SQUIRES,
WILLIAM GILSON SHARP,
HARRISON TUTTLE SHURTLIFF,
EDWARD HUNTER SNOW,
HYRUM HUPP SPENCER,
DAVID BRAINERD STOVER,
CHARLES NETTLETON STREVELL,
CHARLES WILLIAM SYMONS,
DANIEL THOMPSON,
MOSES THATCHER,
INGWALD CONRAD THORESEN,
JOSEPH EPHRAIM THORNE,
SAMUEL R. THURMAN,
WILLIAM GRANT VAN HORNE,
CHARLES STETSON VARIAN,
HEBER M. WELLS,
NOBLE WARRUM, JR.,
ORSON FERGUSON WHITNEY,
JOSEPH JOHN WILLIAMS.

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proposition for insertion in Constitution on labor, 208.
petition for suffrage to go into Constitution, 889, 1143.
petition for separate submission of suffrage, 993.

Remarks—
on suffrage, 571.

ALLEN, R. A. (Continued.)

Remarks—

on motion to strike out section 10, elections and suffrage, 602, 613, 614.
on motion to amend section 14, elections and suffrage, 783, 784, 785, 1479, 1492, 1493.
on motion to amend section 13, legislative, 872.
on motion to adopt section 4, minority report, legislative, 893, 894.
on motion to strike out section 35, legislative, 948, 949.
on motion to amend section 4, taxation and revenue, 1078.
on motion to amend section 12, taxation and revenue, 1109, 1110.
on motion to amend section 3, public debt, 1129.
on motion to amend section 4, public debt, 1193.
on motion to amend section 5, judiciary, 1315.
on voting on amendment to section 20, judiciary, 1518.
on article on public lands, 1609.
on section 38, corporations, 1679.
on public lands, 1694.
on revision, 1811.

Withdraws motion to strike out, 1769.

ANDERSON, ANDREW S., Member from Frisco, Beaver County.

Appointed—

on committee to name standing committees, 38.
on committee on elections and suffrage, 66.
on committee on public lands, 66.

Moves—

for chairmen of different committees to announce meetings, 116.
to lay amendment to section 4, bill of rights, on table, 248.
to amend section 8, legislative, 935.
to amend section 4, bill of rights, 231.
to amend section 11, bill of rights, 304.
to amend section 12, bill of rights, 312.
to amend section 1, public lands, 813.

ANDERSON, ANDREW S. (Continued.)

Moves—

to amend section 8, legislative, 935.
to amend rules, 1006.
to amend section 12, executive, 1014.
to amend section 3, taxation and revenue, 1074.
to amend the amendment to section 5, education, 1238, 1283, 1340.
to strike out section 21, corporations, 1563, 1603.
for a recess, 1584.
to strike out section 29, corporations 1597.
to amend section 38, corporations, 1603.
to amend section 3, public buildings, 1614.
to strike out section 5, public buildings, 1627.
to strike out and amend section 21, corporations, 1667.
to amend motion to section 4, public lands, 1703.
the previous question, 1727.

Presents—

proposition relating to rights for insertion in Constitution, 111.
petition for separate submission of suffrage, 976.

Remarks—

on seconding nomination of Joseph A. Smith, 50.
on report of committee on site, 61.
on correcting of minutes, 106.
on per diem of minute clerk, 149.
on motion regarding propositions, 219.
on motion to amend section 4, bill of rights, 231, 233, 234.
on motion to make report of committee on elections and suffrage special order, 267.
on motion to amend section 11, bill of rights, 304, 305.
on motion to amend section 12, bill of rights, 306, 312.
on motion to strike out section 21, bill of rights, 326.

ANDERSON, ANDREW S. (Continued.)

Remarks—

on motion to amend section 24, bill of rights, 346.
on motion to amend section 2, education and school land, 377, 1335.
on motion to take up bill of rights for third reading, 406.
on motion to print report of minority on suffrage, 410, 415.
on suffrage, 431, 568.
on motion to postpone action on elections and suffrage, 694.
on motion to recommit elections and suffrage, 783.
on motion to amend section 3, elections and suffrage, 774.
on motion to strike out section 5, elections and suffrage, 778.
on motion to amend section 14, elections and suffrage, 798.
on motion to go into committee of the whole, 812.
on motion to amend section 1, public lands, 813.
on motion to amend section 4, apportionment, 840.
on point of order on Roberts, 895.
on Roberts's amendment to legislative article, 922.
on motion to amend section 12, executive, 1006, 1010.
on motion to strike out section 3, labor and arbitration, 1056.
on article on labor, 1164, 1171.
on motion to amend section 4, education, 1248, 1311, 1337, 1360.
on motion to amend section 2, education, 1335.
on motion to amend section 20, judiciary, 1375.
on motion to strike out section 3, mines and mining, 1414.
on motion to amend section 2, judiciary, 1497.
on motion to reconsider section 9, judiciary, 1522.
on mines and mining, 1414, 1524, 1528, 1529, 1544, 1546.
on section 21, corporations, 1567, 1568.

ANDERSON, ANDREW S. (Continued.)

Remarks—

on section 23, corporations, 1572.
on resolution for final reading of articles, 1587.
on section 1, public lands, 1605.
on public lands, 1609, 1690, 691, 1693, 1697.
on section 3, public buildings, 1615.
on schedule, 1633, 1742, 1746.
on section 2, corporations, 1657.
on section 9, corporations, 1661.
on section 38, corporations, 1678.
on voting on corporations, 1705.
on section 6, public buildings, 1714.
on point of order, 1718.
on voting on schedule, 1766.
on miscellaneous, 1768.

Seconding nomination of Parley P. Christensen, 47.
Seconding nomination of Joseph A. Smith, 50.
Withdraws amendment to section 4, education, 1360.

ASHTON, E. M.

nominated for committee clerk, 120, 124.
nomination withdrawn, 121.

BARNES JOHN R., Member from Kaysville, Davis County.

Appointed—

on executive committee, 66.
on committee on apportionment and boundary, 66.
on committee on accounts and expenses, 67.

Moves—

to adjourn to a set time, 78.
a substitute to section 14, elections and suffrage, 796.
to strike out section 4, water rights, 1217.
to amend section 1, corporations, 1467.
to strike out section 27, corporations, 1592.
to strike out section 28, corporations, 1594.

BARNES, JOHN R. (Continued.)
Opened by prayer, 1413.
Remarks—
on correcting minutes, 106.
on referring motion to committee on accounts and expenses, 116.
on report of committee on accounts, 149, 152, 153.
on report of accounts and expenses, 272.
on motion to refer expenses to committee, 273.
on motion to fine absent members, 304.
on motion to amend section 2, education and school land, 390.
on suffrage, 520.
on motion to postpone elections and suffrage, 702.
on motion to recommit elections and suffrage, 753.
on motion to amend section 14, elections and suffrage, 796.
on motion to amend section 31, legislative, 975.
on motion to amend section 20, executive, 1021, 1027.
on resolution instructing committee on accounts, 1184.
on water rights, 1214.
on motion to reconsider accounts, 1236.
on motion to amend section 15, judiciary, 1394, 1395.
on motion to amend section 11, corporations, 1174.
on section 20, judiciary, 1516.
on section 25, corporations, 1580, 1672, 1674, 1675.
on section 29, corporations, 1594.
on section 34, corporations, 1599, 1600.
on schedule, 1648, 1649.
on invitation to reception, 1654.

BENNETT, J. H., general agent R. G. W. Ry.
letter from, 175.

BROWN, REV. CLARENCE F., of the Congregational Church.
offered prayer, 105, 1032.

BOWDLE J. R., Member from Salt Lake County.

Appointed—
on committee on education and school lands, 66.
on committee on municipal corporations, 66.
on committee on printing, 67.

Excused, 162.

Moves—
to amend resolution relating to stenographer, 48.
that nominations for pages close, 55.
relating to printing, 103.
to suspend rules in relation to propositions, 299.
to amend section 13, bill of rights, 313.
to rise and report, 392, 534, 819.
moves a substitute to section 1, public debt, 1119, 1120.
to strike out section 8, labor and arbitration, 1066.
to close debate, 571.
to amend section 1, militia, 815.
to strike out section 4, apportionment, 852.
to strike out section 12, legislative, 869.
to amend section 20, legislative, 881.
to return communication, 976.
to lay amendment to section 20, executive, on table, 1017.
to amend section 20, executive, 1024.
to amend section 3, education, 1228.
to amend section 5, judiciary, 1316.
to amend section 8, schedule, 1633.
to amend section 2, corporations, 1657.
the previous question, 188, 1715.

Presents—
petition for separate submission of suffrage, 851.
petition on prohibition, 263, 272.
proposition for insertion in Constitution on lotteries, 244.
proposition for insertion in Constitution on corporate control, 193.

BOWDLE, J. R. (Continued).

Presents—

proposition for insertion in Constitution on exemptions and homesteads, 201.

proposition for insertion in Constitution on mechanic's liens, 201.

proposition for insertion in Constitution, 244.

memorials praying for prohibition, 457.

Remarks—

on election of stenographer, 53.

on amendment to section 4, bill of rights, 234.

on proposition on prohibition, 263, 272.

on report of committee on rules to increase committee on schedule, 268.

on motion to amend section 10, bill of rights, 282, 291.

on motion to amend section 13, bill of rights, 313.

on motion to amend section 2, education and school lands, 371.

on motion to close debate on suffrage, 571.

on motion to amend section 2, elections and suffrage, 601.

on motion to amend section 22, bill of rights, 637.

on motion to amend section 1, executive, 658.

on motion to amend section 3, executive, 660.

on motion to amend section 6, municipal corporations, 670.

on report of chairman of committee on accounts and expenses, 712.

on motion to recommit elections and suffrage, 714, 715, 716, 726.

on voting on section 1, suffrage, 767, 769.

on voting on elections and suffrage, 804.

on motion to amend section 1, public lands, 813.

on motion to amend section 1, militia, 816, 818.

BOWDLE, J. R. (Continued).

Remarks—

on motion to go into committee of the whole, 819.

on motion to strike out section 1 apportionment, 823.

on motion to amend section 4, apportionment, 845.

on motion to amend section 4, apportionment, 852, 853, 854.

on motion to strike out section 12, legislative, 869.

on motion to amend section 13, legislative, 872, 873.

on motion to adopt section 1, minority report, legislative, 894.

on substitute to section 12, executive, 932.

on motion to strike out section 33, legislative, 937.

on point of order on Evans, 968.

on motion to reconsider section 36, legislative, 981, 982.

on voting to reconsider section 36, legislative, 1003.

on voting on legislative article, 1004.

on Anderson's motion to amend rules, 1006.

on motion to amend section 20, executive, 1025.

on motion to amend section 1, labor and arbitration, 1037, 1038, 1039.

on motion to amend section 3, labor and arbitration, 1055.

on motion to strike out section 5, labor and arbitration, 1058.

on motion to amend section 1, public debt, 1120, 1122.

on motion to amend section 3, public debt, 1130.

on motion to receive and file petitions, 1182.

on motion to amend section 4, public debt, 1189, 1192.

on motion to amend section 3, education, 1229, 1230, 1231, 1236.

on motion to amend section 5, education, 1273, 1277, 1308.

on motion to amend section 7, education, 1290, 1291.

BOWDLE, J. R. (Continued.)

Remarks—

on motion to amend section 10, education, 1292.
on motion to amend section 2, education, 1303.
on motion to amend section 5, judiciary, 1317.
on motion to amend section 8, judiciary, 1323.
on motion to amend section 20, judiciary, 1326, 1379.
on motion to amend section 15, judiciary, 1396.
on mines and mining, 1415, 1416, 1417, 1425, 1426, 1428, 1525, 1532, 1533.
on motion to adopt majority report on prohibition, 1451, 1460.
on corporations, 1464, 1549.
on section 2, corporations, 1467, 1468.
on motion to amend section 9, corporations, 1468.
on motion to reconsider section 14, elections, 1484, 1490.
on point of order on section 5, judiciary, 1502.
on motion to amend section 5, judiciary, 1519.
on motion to strike out section 14, corporations, 1558, 1663, 1665.
on section 21, corporations, 1564, 1565.
on section 23, corporations, 1573.
on section 25, corporations, 1582.
on section 26, corporations, 1589, 1590, 1591.
on section 1, public lands, 1605.
on section 3, public lands, 1607, 1610.
on schedule, 1635, 1637, 1644.
on section 38, corporations, 1679, 1680.
on miscellaneous, 1768, 1769, 1779, 1784, 1795, 1799.
on committee on address, 1787.
on revision, 1789, 1806, 1829, 1830.
on voting on miscellaneous, 1801.
on compensation of stenographer, 1826.
on printing record, 1837, 1838, 1841, 1845.
on decorations in hall, 1848.

BOWDLE, J. R. (Continued.)

Seconds Kimball's motion on printing rules, 80.

BOYER, J. S., Member from Springville, Utah County.

Appointed—

on committee on federal relations, 65.
on committee on salaries of public officers, 67.

Asks privilege of floor for Mayor Gale, of Springville, 602.

Moves—

to amend, relating to clerk's salaries, 150.
to rise and report, 513.
to strike out section 2, amendments, 674.
to amend section 20, legislative, 883, 936.
to amend section 2, taxation and revenue, 1177.
to amend section 7, public debts, 1199.
to amend section 8, judiciary, 1505.
to amend section 2, salaries, 1613.
to amend section 9, corporations, 1658, 1661.
to amend section 37, corporations, 1680.
to amend section 3, public buildings, 1706.
to amend section 1, miscellaneous, 1769, 1797.
to amend on revision, 1805.

Presents—

petition on prohibition from citizens of Springville, 316.
petition for separate submission of suffrage, 1084.
petition for suffrage to go in the Constitution, 1084.

Remarks—

on Christianson reporting death of his brother, 52.
on motion to adopt report of committee on stenographer, 92.
on reading report of committee on expense, 146.

BOYER, J. S. (Continued.)

Remarks—

on election of committee clerk, 160, 161.
on proposition on boundaries, 165.
on reading of motion on Coray, 221.
on motion on Coray, 222.
on motion to amend section 12, bill of rights, 312.
on motion to amend section 23, bill of rights, 331.
on section 1, elections and rights of suffrage, 486, 487.
on motion to rise and report, 513.
on suffrage, 561, 563, 576.
on motion to amend section 22, bill of rights, 636, 637.
on voting on bill of rights, 651, 652.
on voting on elections and suffrage, 803.
on motion to strike out section 11, legislative, 868.
on motion to amend section 20, executive, 1020.
on motion to strike out section 5, taxation and revenue, 1102.
on motion to amend section 3, public debt, 1129.
on motion to amend section 4, public debt, 1188, 1189, 1191.
on motion to amend section 20, judiciary, 1326.
on motion to adopt majority report on prohibition, 1454, 1464.
on section 3, public buildings, 1619.
on public lands, 1700.
on voting on corporations, 1705.
on section 3, public buildings, 1707, 1717.
on miscellaneous, 1779.

BRANDLEY, THEODORE, Member from Richfield, Sevier County.

Appointed—

on legislative committee, 65.
on committee on water rights and irrigation, 66.
on committee on engrossment and enrollment, 67.
on committee to prepare address, 1802.

Opened by prayer, 1476.

BRANDLEY, THEO. (Continued.)

Presents—

proposition for insertion in Constitution on referendum, 203.
petition for separate submission of suffrage, 809, 934.
resolution to relieve sufferers in mine disaster, Wyoming, 319.

Remarks on voting on legislative article, 1004.

BACHMAN, BEN.

nominated as committee clerk, 120, 124.
nomination withdrawn, 121.

BARTLETT, REV. DANA W.

of the Congregational Church, offered prayer, 180, 456.

BEATES, REV. JAMES F.

of the Lutheran Church, offered prayer, 65.

BUTTON, H. G., Member from Second Precinct, Salt Lake City.

Appointed—

on committee on public lands, 66.
on committee on ordinance, 67.

Moves—

to lay motion on seats on table, 72.
to suspend rules and elect Clawson by acclamation, 49.
to amend motion to elect committee clerk, 123.
to rise and report, 577.
for recess, 513, 600, 784, 1818.
to reject portion of report, 147.
that it be read by title and referred, 162.
to amend motion to adjourn, 168.
to read report of committee on boundaries, 191.
to pass section 5, bill of rights, 257.
to increase fine of absent members, 304.
an amendment to rule 20, 393.
to adjourn, 766, 1682.

BUTTON, H. G. (Continued).

Moves—

to amend section 8, elections and suffrage, 783.
to amend section 20, executive, 1017.
to amend labor and arbitration, 1068.
to lay section 14, taxation and revenue, on table, 1178.
the previous question on mines and mining, 1529.
to rise and report progress, 1583, 1584.
to lay Corny's resolution on table, 1587.
to suspend rules and limit debate, 1588.
to amend section 29, corporations, 1594.
to strike out section 4, public buildings, 1626.
to pass to third reading, article on public buildings, 1629.
to amend section 9, corporations, 1658.
a new section to corporations, 1677.
the previous question, 1758.
to amend motion for committee on address, 1787.
on revision, 1817, 1818.
to put address in minutes, 1846.

Presents—

petition for separate submission of suffrage, 711, 976.
petition in favor of prohibition, 1232.

Remarks—

on motion for committee to select stenographer, 46.
on election of committee clerks, 48.
on Goodwin's appointment as chairman of judiciary committee, 67.
on adopting report of committee on site, 68.
on hiring janitor, 69.
on desks, 71.
on question of selecting seats, 72, 73.
on election of committee clerks, 121, 123.
on report of committee on expenses, 147, 149, 151.
on motion to suspend rules, 164, 165.

BUTTON, H. G. (Continued).

Remarks—

on motion to adjourn, 168, 169, 170.
on chairman announcing committee meetings, 173.
on call for previous question, 196.
on resolution on stenographer, 224.
on section 4, bill of rights, 247.
on motion to set time to report on elections and suffrage, 317.
on motion to amend section 2, education and school lands, 380, 381,
on suffrage, 553, 579.
on motion to take a recess, 599, 600, 601.
on point of order on chair, 620.
on motion to amend section 22, bill of rights, 640.
on motion to amend section 1, executive, 658.
on motion to amend section 6, executive, 664.
on motion to postpone action on elections and suffrage, 692.
on Wells's motion to amend section 1, elections and suffrage, 711.
on motion to recommit elections and suffrage, 717, 764.
on point of order on Cannon, 724.
on rules, 751.
on voting on section 1, elections and suffrage, 767.
on voting on elections and suffrage, 804.
on motion to amend section 1, militia, 816.
on motion to adopt section 4, minority report on legislative, 892.
on a point of order on Maloney, 903.
on Roberts's amendment to legislative article, 920.
on motion to strike out section 35, legislative, 947.
on point of order, 958, 1727.
on motion to amend section 8, legislative, 1004.
on voting on legislative article, 1005.
on motion to amend section 20, executive, 1020.

BUTTON, H. G. (Continued.)

Remarks—

on motion to amend section 1, labor and arbitration, 1034, 1038.
on motion to amend section 3, labor and arbitration, 1054.
on motion to reconsider section 1, elections and suffrage, 1145.
on amendment to labor, 1172.
on motion to amend section 4, public debt, 1189.
on water right, 1204, 1205.
on motion to amend section 3, education, 1231.
on motion to amend section 10, education, 1294.
on motion to amend section 5, judiciary, 1318.
on motion to strike out section 2, education, 1332.
on motion to amend section 4, education, 1354.
on mines and mining, 1424, 1527, 1528, 1533, 1536.
on motion for night sessions, 1477.
on motion to take consideration of section 14 from table, 1481, 1489, 1490, 1491.
on section 21, corporations, 1565.
on section 26, corporations, 1590, 1591.
on section 29, corporations, 1595.
on section 6, public buildings, 1627.
on section 6, schedule, 1632.
on section 9, schedule, 1636.
on section 9, corporations, 1660.
on revision, 1788, 1806, 1822, 1849.
on printing Constitution, 1825.
on voting on Constitution, 1834.

Seconds nomination of R. Clawson, sergeant-at-arms, 49.

BURLEY, D. E., general agent U. P. Ry. letter from, 175.

BUYS, WILLIAM, Member from Heber, Wasatch County.

Appointed—

on committee to name standing committees, 38.
on committee on federal relations, 65.

BUYS, WILLIAM (Continued.)

Appointed—

on committee on corporations, 66.
on committee on ordinance, 67.
chairman of committee of the whole, 496.

Moves—

to amend section 4, bill of rights, 249, 365.
to amend section 5, bill of rights, 252.
to amend section 3, counties, cities and towns, 399.
to amend substitute to section 14, elections and suffrage, 793, 800.
to amend section 14, legislative, 879.
to amend section 15, legislative, 879.
to amend section 27, legislative, 885.
to amend section 31, legislative, 886.
to strike out section 35, legislative, 887.
to amend section 31, legislative, 975.
to amend on revision, 1831.

Presents—

proposition for insertion in Constitution on income tax, 244.
proposition for insertion in Constitution on protection of dairy products, 260.

Remarks—

on resolution on Corey, 220.
on motion to amend section 4, bill of rights, 245, 249.
on motion to amend section 5, bill of rights, 252.
on petition on prohibition, 268.
on motion to amend section 13, bill of rights, 315.
on motion to amend section 23, bill of rights, 338.
on motion to amend section 24, bill of rights, 355.
on motion to amend section 6, municipal corporations, 673.
on motion to strike out or amend section 3, elections and suffrage, 776, 777.
on motion to amend section 14, elections and suffrage, 788, 795.

BUYS, WILLIAM (Continued.)

Remarks—

on motion to amend section 4, apportionment, 845, 846, 854, 858.

on motion to amend section 27, legislative, 885.

on motion to amend section 31, legislative, 974, 975.

on section 4, taxation and revenue, 1177.

on motion to amend section 10, education, 1297, 1299.

on motion to amend section 5, judiciary, 1319.

on motion to amend section 1, judiciary, 1403, 1412.

CALL, CHESTER, Member from Bountiful, Davis County.

Appointed—

on committee on elections and suffrage, 66.

on committee on revenue, taxation and public debt, 67.

Presents—

memorial from women of Davis County on suffrage, 216.

petition from citizens of Davis County on suffrage, 263.

petition for suffrage to go into Constitution, 934.

Remarks—

on motion to recommit elections and suffrage, 752.

CANNON, GEORGE M., Member from Salt Lake County.

Appointed—

on committee on corporations, 66.

chairman of committee on revenue, taxation and public debt, 66.

Accepts amendment of Squires on committee clerks, 47.

Called to the chair in committee of the whole, 1202.

Called to the chair during the absence of the president, 1811.

Excused, 55.

CANNON, GEORGE M. (Continued.)

Moves—

for committee of five on rules and order of business, 12.

to adjourn; 141.

to elect committee clerks, 123.

to amend rules, 37, 138.

to amend, relating to salaries of clerks, 150.

to refer to committee, 154.

to amend and refer, 155, 156.

for previous question, 171, 194, 196.

for committee of three to revise minutes, 189.

a resolution on election of permanent officers, 43.

that propositions be received and referred, 192.

to adjourn, 193, 196, 1798, 1813.

for previous question, 194, 195.

to rise and report, 207.

to suspend rules on propositions, 217.

to receive and file part of report of committee on expenses, 298.

on incurring expense, 299.

to amend section 2, counties, cities and towns, 398.

to amend motion on section 3, counties, cities and towns, 399.

to go into committee of the whole, 491, 703.

to not rise until Roberts closes, 519.

to stop debate on suffrage, 553.

to adjourn to some place where the people could hear Roberts, 577.

to strike out section 13, elections and suffrage, 615.

for evening sessions, 621.

a substitute for amendments to section 3, amendments, 676.

point of order on Eldredge's motion to postpone, 704.

for recess, 737.

to amend section 14, elections and suffrage, 792.

to strike out section 14, elections and suffrage, 798.

to adopt article on apportionment, 808.

CANNON, GEORGE M. (Continued.)

Moves—

to recommend the adoption of article on militia, 819.

to rise and report, 928, 1476.

previous question on appeal from the chair, 972.

to amend section 20, executive, 1027.

to strike out section 1, labor and arbitration, 1032.

to amend section 5, labor and arbitration, 1056.

to report labor and arbitration, 1068.

to lay motion to reconsider accounts on table, 1084.

to amend section 13, taxation and revenue, 1115.

to report taxation and revenue for third reading, 1116.

to amend section 3, taxation and revenue, 1177.

to amend section 1, public debt, 1184.

to strike out section 4, education, 1307.

to go into committee of the whole, 1331.

a substitute for section 4, education, 1361.

to amend section 14, corporations, 1557.

to strike out sections 30 and 31, corporations, 1597.

to strike out section 33, corporations, 1599.

to strike out section 36, corporations, 1602.

to place public lands on calendar, 1611.

to amend section 2, salaries, 1612.

to amend section 1, public lands, 1686.

an appeal from the decision of the chair, 1728.

a new section to miscellaneous, 1795, 1796, 1800.

on revision, 1814, 1823, 1833.

for Arthur Stayner to edit record, 1837.

a resolution for bids on printing proceedings, 1846.

CANNON, GEORGE M. (Continued.)

Moves—

for secretary to call on members who had not contributed to Wyoming relief fund, 1847.

Nominates James N. Kimball for temporary chairman, 11.

Offers substitute to fix time for committee meetings, 119.

Presents—

proposition for insertion in Constitution on labor, 164.

proposition for insertion in Constitution on discrimination in labor, 165.

petition for separate submission of suffrage, 976.

petition for suffrage to go into Constitution, 1032, 1181.

Remarks—

on motion to refer back report on credentials, 31, 32.

on motion to elect permanent officers, 45, 46, 48.

on election of a stenographer, 54.

on report of committee on site, 60.

on resolution setting hour of meeting, 63.

on question of desks, 71.

on question of selecting seats, 73.

on changing title of chief clerk to secretary, 80.

on official stenographer, 94, 99, 100.

on inserting name of church after the one officiating in prayer, 105.

on introduction of propositions for Constitution, 114, 115.

on resolution for stationery, 117, 118.

on fixing times of committee meetings, 119.

on electing committee clerks, 120, 123, 124, 125, 159, 160, 172.

on point of order on Ivins, 123.

on motion to amend rules, 138, 139, 140.

on report of committee on accounts, 148, 149, 150, 151, 153, 154.

on proposition on labor, 164.

on motion to adjourn, 171, 188, 194.

CANNON, GEORGE M. (Continued.)
Remarks—
on resolution on senators and representatives, 182, 183, 184.
on motion to reconsider vote to refer minutes, 188, 189.
on motion for additional clerk, 195.
on proposition for insertion in Constitution, 201, 202.
on article on boundary, 206.
on resolution on report on education, 228.
on motion to amend section 4, bill of rights, 233, 364.
on motion to make report of committee on elections and suffrage special order, 266.
on report to increase committee on schedule, future amendments and miscellaneous, 268, 269.
on motion to receive and file report of committee on expenses, 298, 299.
on motion to amend section 11, bill of rights, 305, 306.
on motion to forward report on suffrage, 317.
on motion to go into committee of whole to certain hour, 319.
on motion to amend section 2, education and school lands, 376, 380, 386.
on motion to refer back article on education and school lands, 395.
on motion to amend section 3, counties, cities and towns, 399.
on motion to take up elections and rights of suffrage, 413.
on suffrage, 452, 490, 491, 519, 543, 553, 600, 1722.
on motion for evening session, 492.
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on motion to amend section 22, bill of rights, 629, 631, 648, 649, 650.
on motion to amend section 1, executive, 657, 658.
on motion to amend section 6, executive, 664.
on motion to amend section 3, amendments, 676.
on motion to postpone action on elections and suffrage, 679, 693, 702.

CANNON, GEORGE M. (Continued.)
Remarks—
on point of order on Eichnor's amendment to section 1, elections and suffrage, 706.
on Wells's amendment to section 1, elections and suffrage, 710.
on motion to recommit elections and suffrage, 724, 725, 735, 736, 757.
on point of order on Keisel's personalities, 734.
on point of order on Eichnor, 756.
on Jolley's absence, and tell how he expected to vote, 768.
on motion to amend section 8, elections and suffrage, 783.
on a point of order on motion to amend section 14, suffrage, 785.
on motion to amend section 14, elections and suffrage, 792, 798, 799, 800, 1491, 1494.
on apportionment, 807.
on motion to recommit public lands, 814.
on motion to go into committee of the whole, 820.
on motion to amend section 4, apportionment, 824, 827, 843, 844.
on motion to amend section 13, legislative, 869.
on a point of order on Farr's motion to amend, 874.
on section 30, legislative, 886.
sustaining decision of chair, 896.
on Roberts's amendment to legislative article, 904, 909, 916, 919, 920, 921, 922, 925, 926.
on motion to strike out section 35, legislative, 939, 949.
on motion to adopt substitute to section 36, legislative, 952, 953, 954.
on a point of order, 957, 968.
on appeal from chair on vote on section 36, legislative, 968, 969, 972.
on motion to reconsider section 36, legislative, 973, 984, 986.
on motion to amend section 31, legislative, 974.
on petitions on suffrage, 976.
on voting on legislative article, 1005.

CANNON, GEORGE M. (Continued.)

Remarks—

on motion to amend section 20, executive, 1022, 1024.
on motion to amend section 1, labor and arbitration, 1033, 1038, 1039, 1040.
on motion to amend section 3, labor and arbitration, 1054.
on motion to amend section 5, labor and arbitration, 1056.
on taxation and revenue, 1069, 1071, 1072, 1073, 1177.
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on motion to strike out section 5, taxation and revenue, 1086, 1090, 1096, 1101, 1102, 1104, 1105, 1106, 1107, 1108.
on section 7, taxation and revenue, 1108.
on motion to strike out section 8, taxation and revenue, 1108, 1109, 1177.
on motion to amend section 12, taxation and revenue, 1112, 1113, 1178.
on motion to amend section 11, taxation and revenue, 1114, 1178.
on motion to amend section 13, taxation and revenue, 1115.
on motion to amend section 1, public debt, 1116, 1117, 1119, 1120, 1122, 1123, 1185, 1186.
on motion to amend section 3, public debt, 1125, 1126, 1127, 1128, 1131, 1133, 1134, 1186, 1187.
on motion to amend section 5, public debt, 1135, 1138, 1140, 1141, 1195, 1197.
on article on labor, 1164, 1169, 1170.
on motion to add section 14, taxation and revenue, 1178, 1179.
on motion to file petitions, 1182.
on motion to put public lands on calendar, 1184.
on motion to amend section 4, public debt, 1190, 1191, 1192.
on motion to amend section 5, education, 1252, 1273, 1275, 1283, 1309, 1340, 1347, 1348, 1351, 1362, 1363, 1367, 1369, 1370, 1371.
on motion to amend section 1, education, 1294, 1299.

CANNON, GEORGE M. (Continued.)

Remarks—

on motion to amend section 5, education, 1305, 1306, 1307.
on motion to amend section 10, education, 1363.
on voting on article on education, 1374.
on motion to amend section 15, judiciary, 1394, 1395.
on motion to amend section 3, mines and mining, 1427, 1525, 1533.
on motion to adopt majority report on prohibition, 1464.
on motion to amend section 9, corporations, 1469.
on motion to amend section 11, corporations, 1470, 1554.
on motion to amend section 8, judiciary, 1505.
on section 1, judiciary, 1523.
on section 22, corporations, 1570.
on section 23, corporations, 1570.
on section 25, corporations, 1579.
on section 28, corporations, 1592, 1593.
on section 29, corporations, 1594, 1596, 1597.
on section 32, corporations, 1598.
on section 34, corporations, 1600.
on section 37, corporations, 1602.
on point of order on motion to amend section 21, corporations, 1603.
on section 1, public lands, 1606, 1687, 1688.
on section 3, public lands, 1607, 1689.
on salaries, 1611.
on public buildings, 1626, 1627, 1727,
on schedule, 1642, 1759, 1760, 1761, 1764, 1765.
on section 38, corporations, 1680.
on section 10, corporations, 1681.
on section 4, public lands, 1690, 1692.
on miscellaneous, 1780, 1783, 1784, 1787.
on voting on miscellaneous, 1801.
on revision, 1803, 1807, 1808, 1809, 1810, 1813, 1815, 1817, 1818, 1822, 1829.
on resolution on engrossment, 1823.
on printing Constitution, 1825.
on motion to print proceedings, 1833, 1839, 1840, 1842, 1844.

CANNON, GEORGE M. (Continued.)
Remarks—
on resolution of thanks for hall, 1849.
on requesting a speech from the president, 1853.
Reports as chairman of committee on taxation, 225.
Seconds Richards's motion to adjourn, 215.
Seconds motion to amend section 3, executive, 663.
Seconds Thurman's motion to amend section 8, public debt, 1142.
Withdraws motion to adjourn, 193.

CANNON, PRESIDENT GEORGE Q., of the Church of Jesus Christ of Latter-day Saints.
opening prayer, 9, 10.
remarks before divine blessing, 9.

CHIDESTER JOHN F., Member from Panguitch, Garfield County.
Appointed—
on committee to name standing committees, 38.
chairman of committee on elections and suffrage, 66.
on committee on apportionment and boundary, 66.
on committee on ordinance, 67.
Elected temporary sergeant-at-arms, 12.
Moves—
to amend motion to make special order of report of committee, 266.
to amend section 4, bill of rights, 231.
to adjourn, 78.
to suspend rules and refer propositions, 201, 225.
a resolution from committee on committee clerks, 227, 228.
to adopt report of committee on clerks, 227.
to make the report of the committee on elections and suffrage a special order, 264, 265, 317, 411.
to suspend rules, 272.
to go into committee of the whole, 578, 1237.

CHIDESTER, JOHN F. (Continued.)
Moves—
to amend section 2, municipal corporations, 669.
to lay Varian's motion to recommit on table, 733.
previous question on section 1, elections and suffrage, 765.
to strike out section 5, taxation and revenue, 1084.
to limit debate on reconsideration of suffrage, 1147.
to receive and file petitions, 1181.
to suspend rules and submit all petitions to clerk to file, 1182.
a substitute for water rights, 1202.
to report article on forestry, 1218.
to amend section 4, education, 1360.
for night sessions, 1476.
to amend section 2, judiciary, 1497.
previous question on section 3, mines and mining, 1545.
previous question on resolution for final reading, 1587.
to strike out section 28, corporations, 1592.
to report article on corporations, 1604.
previous question, 1745.
to strike out section 2, miscellaneous, 1769.
for committee to draft an address, 1787.
to amend section 1, miscellaneous, 1797, 1798.
to amend section 5, public lands, 1703.
a vote of thanks for hall, 1849.
Presents—
proposition for insertion in Constitution relative to counties, 111.
proposition for insertion in Constitution on amendments, 113.
proposition for insertion in Constitution on school lands, 192.
petitions for suffrage to be placed in the Constitution, 852, 889, 934, 994, 1032, 1084, 1143, 1585.
Remarks—
on motion to refer back report on credentials, 26.

CHIDESTER, JOHN F. (Continued.)
Remarks—
on report of committee on standing committee, 58.
on motion to change title of chief clerk to secretary, 80.
on motion to adopt report of committee on stenographer, 92.
on motion to read and refer proposition, 111.
on motion to adjourn, 171.
on resolution on senators and representatives, 179, 186.
on clerk, 224, 227.
on motion to amend section 4, bill of rights, 231, 239.
on report of committee on elections and rights of suffrage, 264.
on motion to amend section 12, bill of rights, 306.
on motion to forward report on elections, 316, 317.
on motion to amend section 24, bill of rights, 349.
on section 4, bill of rights, 363.
on motion to amend section 2, education and school lands, 380.
on motion to refer back article on education and school lands, 396.
on motion to take up elections and rights of suffrage, 408, 409, 414, 415.
on suffrage, 429, 598, 599.
on motion to refer section 10, bill of rights, 494.
on motion to strike out section 10, elections and suffrage, 608.
on motion to amend section 14, elections and suffrage, 616.
on motion to postpone action on elections and suffrage, 681, 692.
on Varian's motion to recommit elections and suffrage, 713, 753, 754, 756, 763.
on point of order on Lewis, 747.
on point of order on Elchnor, 756.
on point of order on Roberts, 758.
on Eldredge's motion to go into committee of the whole, 770.
on motion to amend section 3, elections and suffrage, 776.

CHIDESTER, JOHN F. (Continued.)
Remarks—
on motion to amend section 14, elections and suffrage, 784, 787, 791.
on motion to suspend rules on elections and suffrage, 803.
on militia article, 815.
on motion to amend section 4, apportionment, 835, 836, 844.
on motion to amend section 13, legislative, 873.
on vote on section 36, legislative, 957, 958.
on motion to reconsider section 36, legislative, 973, 980.
on motion to amend section 20, executive, 1028.
on motion to strike out section 5, taxation and revenue, 1092.
on motion to reconsider suffrage, 1150.
on motion to receive and file petitions, 1182.
on motion to amend section 4, public debt, 1192.
on water rights, 1202, 1203, 1204, 1205, 1207.
on motion to amend section 2, education, 1224, 1226, 1227.
on motion to amend section 5, judiciary, 1316.
on motion to amend section 20, judiciary, 1328, 1329, 1384.
on motion to amend section 4, education, 1353, 1354.
on motion to amend section 1, judiciary, 1406, 1410.
on motion to adopt majority report on prohibition, 1434.
on motion for night sessions, 1478, 1479.
on motion to amend section 2, judiciary, 1501.
on point of order on motion to adjourn, 1522.
on judiciary, 1522.
on section 23, corporations, 1571.
on resolution to record absentees, 1588.
on a point of order, 1594.
on section 1, public lands, 1605, 1688.

CHIDESTER, JOHN F. (Continued.)

Remarks—

on salaries, 1613.

on point of order on amendment to section 3, public buildings, 1626.

on section 14, corporations, 1664.

on section 25, corporations, 1677.

on invitation to reception, 1683, 1684.

on point of order on ruling of chair, 1727.

on schedule, 1756.

on miscellaneous, 1777, 1779, 1782, 1802,

on legislative, 1787.

on revision, 1802, 1803, 1806, 1829.

on resolution to print Constitution, 1824.

on compensation for stenographer, 1825.

on invitation to Saltair, 1826.

on printing proceedings, 1839, 1840, 1843.

Withdraws amendment to section 4, education, 1361.

Withdraws amendment to section 2, judiciary, 1501.

CHRISTIANSON, PARLEY, Member from Mayfield, Sanpete County.

Appointed—

on committee on elections and suffrage, 66.

on committee on manufactures and commerce, 67.

Excused on account of brother's death, 32.

Excused, 778.

Opened by prayer, 1142.

Moves—

that nominations for enrolling clerk close, 50.

to amend section 6, public buildings, 1627, 1628.

Presents—

petition on prohibition, 668.

Remarks—

on question of taking oath, 13.

on suffrage, 573.

CHRISTIANSON, P. (Continued.)

Remarks—

on voting on mines and mining, 1525, 1529.

on final revision, 1850.

Takes oath as a member, 13.

CAMP, L. C., Salt Lake City.

page, 2.

elected page, 55.

nominated by Geo. B. Squires for page, 55.

sworn in as page, 55.

CHRISTENSEN, PARLEY P., of Grantsville, Tooele County.

secretary of Convention, 2.

elected chief clerk, 47.

nominated by D. C. Eichnor, 47.

sworn in as chief clerk, 55.

reads report of committee on site to hold Convention, 59.

reads report of committee on furniture, 61.

CLARK, MISS HENRIETTA, Salt Lake City.

committee clerk, 2.

nominated for committee clerk, by Evans, 120.

elected committee clerk, 125.

CLARK, T. H., Member from Grantsville, Tooele County.

Appointed—

on committee on apportionment and boundary, 66.

on committee on salaries of public officers, 67.

Offered prayer, 1825.

Presents—

proposition for insertion in Constitution on exemptions, 202.

Remarks—

on motion to amend section 4, apportionment, 825.

CLARK, T. H. (Continued.)

Remarks—
on motion to amend section 13, legislative, 878.
on motion to amend section 11, education, 1372.

CORAY, L. L., Member from Mona, Juab County.

Appointed—
on committee on federal relations, 65.
on committee on water rights and irrigation, 66.

Amending motion in relation to selecting seats, 72.

Calls for a ruling of the chair, 685.

Excused, 263, 1181.

Moves—
that nominations close, 121.
that announcements of committees and caucuses, 175.
the previous question on resolution on senators and representatives, 187.
to strike out matter from journal, 215.
to amend section 24, bill of rights, 357.
a substitute to section 25, bill of rights, 359.
to amend section 6, executive, 663.
to amend section 8, executive, 666.
previous question, 682, 683, 685.
to amend section 2, ordinance, 807.
to amend section 15, legislative, 936.
to strike out section 1, water rights, 1233.
to amend section 22, corporations, 1569, 1575, 1578.
a resolution on tardy members, 1587.
to amend section 23, corporations, 1669.
to amend on revision, 1804.

Presents—
proposition for insertion in Constitution on taxation, 166.

CORAY, L. L. (Continued.)

Remarks—
on point of order on Creer, 721.
on question of electing by acclamation, 50.
on adoption of rules, 127.
on the reading of propositions, 166.
on motion to adjourn, 172.
on motion on Thatcher's letter and retraction, 224.
on motion to amend section 4, bill of rights, 252.
on motion to amend section 24, bill of rights, 357.
on suffrage, 554, 1723.
on motion to amend section 11, executive, 667.
on motion to postpone action on elections and suffrage, 693, 697.
on motion to amend section 14, elections and suffrage, 798, 1480.
on motion to suspend rules on elections and suffrage, 803.
on representative districts, 807.
on motion to amend section 1, militia, 815.
on motion to amend section 8, legislative, 934.
on motion to adopt substitute for section 36, legislative, 951.
on motion to reconsider section 36, legislative, 986.
on motion to amend section 12, executive, 1014.
on motion to amend section 20, executive, 1020, 1022, 1026.
on motion to amend section 1, labor and arbitration, 1052.
on motion to strike out section 5, taxation and revenue, 1099.
on motion to amend section 12, taxation and revenue, 1112, 1113
on motion to amend section 3, public debt, 1131.
on motion to reconsider section 1, suffrage, 1144, 1145.
on article on labor, 1173.
on section 8, taxation and revenue, 1177.
on water rights, 1206, 1210, 1211, 1216.

CORAY, L. L. (Continued.)

Remarks—

on motion to adopt majority report on prohibition, 1439, 1464.
on section 10, corporations, 1469.
on reconsideration of section 9, judiciary, 1521.
on resolution to record absent members, 1588.
on section 6, public buildings, 1627.
on miscellaneous, 1771.

CLAWSON, R., Ephraim, Sanpete County.

sergeant-at-arms, 2.
elected sergeant-at-arms, 49.
nominated by A. C. Lund, 49.
sworn in as sergeant-at-arms, 55.

CLAY, REV. B. F., of the Central Christian Church.

offered prayer, 78, 1032.

CLARK, JOHN.

granted freedom of floor, 331.

CLAYTON, N. W., manager Salt Lake & Los Angeles Ry.

invites members to Saltair, 1526.

COBBS, CHAPLAIN, U. S. A.

offered prayer, 621.

CORFMAN, E. E., Member from Provo, Utah County.

Appointed—

on committee on public buildings and State institutions, 66.
on committee on mines and mining, 67.
on committee to name standing committees, 38.

Called to the chair in committee of the whole, 1649.

Moves—

to amend section 3, public buildings, 1705.

CORFMAN, E. E. (Continued.)

Presents—

proposition for insertion in Constitution relative to seat of government, 192.
petition for separate submission of suffrage, 769, 934, 1181.

CRANE, CHARLES, Member from Kanosh, Millard County.

Appointed—

on committee on apportionment and boundary, 66.
chairman of committee on compilation and arrangement, 67.
on committee to prepare an address, 1802.

Accepts Eichnor's amendment to resolution to adopt Constitution of the United States, 56.

Calls—

assembly to order, 8.
on C. C. Richards, secretary of the Territory, to read list of delegates, 10.
on chief justice to swear members, 10.

Moves—

for committee of seven in regard to furniture, 36.
to adjourn, 38.
in relation to voting for enrolling clerk, 50.
to suspend rules and extend sympathy to Christianson, 52.
to adopt Constitution of the United States, 55.
for vote of thanks to agent R. G. W. Ry., 175.
to rise and report, 577.
to amend section 7, elections and suffrage, 778.
a substitute for section 14, elections and suffrage, 785, 800.
to amend section 7, judiciary, 1320.
to amend section 12, judiciary, 1323.
to amend section 20, judiciary, 1325, 1815.
to amend section 5, judiciary, 1502.

CRANE, CHARLES (Continued.)

Moves—
to take up final reading of articles, 1717.
to amend ordinance, 1721.
to amend on revision, 1804, 1805, 1806, 1828.
for Miss Clara Foltz to speak to Convention, 1846.
to present flag, 1849.

Nominates—
Ben Bachman, as committee clerk, 120, 124.
Miss Emma Madison, 159.

Presents—
President George Q. Cannon to pronounce the opening prayer, 9.
temporary chairman Kimball, 11.
proposition for insertion in Constitution on apportionment, 155.
proposition for insertion in Constitution on arbitration, 156.
proposition for insertion in Constitution on protecting live stock, 163.
proposition for insertion in Constitution on boundaries, 166.
resolution to change place of meeting to hear closing debate on suffrage, 578.
petition for separate submission of suffrage, 857, 888.

Remarks—
on opening of Convention, 8, 9, 10, 11.
on committee clerks, 159, 161.
on reading letter from agent of R. G. W. Ry., 175.
on motion to amend section 10, bill of rights, 493.
on suffrage, 571.
on resolution to change place of meeting to hear closing debate on suffrage, 578.
on boundary, 207.
on motion to amend section 14, elections and suffrage, 785, 786, 787, 789, 791, 794, 799, 800, 1480, 1481, 1486, 1487.
on motion to strike out section 1, apportionment, 820, 821, 822.

CRANE, CHARLES (Continued.)

Remarks—
on motion to amend section 4, apportionment, 828, 833, 834, 837, 847, 855, 856.
on apportionment, 862.
on motion to strike out section 5, labor and arbitration, 1057, 1058, 1059.
on motion to strike out section 7, labor and arbitration, 1064.
on motion to strike out section 9, labor and arbitration, 1067.
on motion to strike out labor, 1166.
on motion to amend section 7, judiciary, 1321.
on motion to amend section 15, judiciary, 1394.
on section 8, judiciary, 1504.
on motion to amend section 20, judiciary, 1514, 1516.
on motion to amend section 25, judiciary, 1519.
on mines and mining, 1531.
on final reading of articles, 1587.
on invitation to reception, 1684.
on bill of rights, 1718, 1719.
on ordinance, 1720.
on revision, 1788, 1789, 1790, 1793, 1802, 1803, 1807, 1808, 1809, 1814, 1818.
on resolution to print Constitution, 1824.
on engrossing, 1827.
on printing proceedings, 1839, 1845.
Withdraws name of Ben Bachman as committee clerk, 121.

CARSON, REV. R., African Methodist Episcopal Church.
offered prayer, 243.

CROOK, ARCHDEACON, of the Episcopal Church.
offered prayer, 668.

CREER WM., Member from Spanish Fork, Utah County.

Appointed—
on committee on preamble, 65.

CREER, WM. (Continued.)

Appointed—
on committee on public buildings and State institutions, 66.
on committee on public lands, 66.

Appeals from the decision of the chair, 601.

Calls for ayes and noes on motion to table Evans's resolution on Coray, 220.

Excused, 1032.

Moves—
to adopt preamble, 650.
to amend Evans's motion in relation to selecting seats, 72.
that nominations close, 124.
to adjourn, 189, 993, 1232.
to amend Van Horne's motion to refer back, 152.
to go into committee of the whole, 319.
to adopt article on apportionment, 862. to amend the amendment to section 20, legislative, 882
to amend section 14, executive, 1014, 1153.
to pass labor article, 1175.
to strike out section 1, water rights, 1218.
to amend section 10, education, 1293.
the previous question, 1367.
a substitute to section 20, judiciary, 1387, 1389, 15 3.
a substitute to section 2, miscellaneous, 1772.

Presents—
proposition for insertion in Constitution on public buildings, 113.
proposition for insertion in Constitution on sale and rental of public lands, 203.
petition of citizens of Spanish Fork on prohibition, 419.
petitions for separate submission of suffrage, 934.

Remarks—
on report of committee on standing committees, 58.

CREER, WM. (Continued.)

Remarks—
on selecting of seats, 74.
on official stenographer, 97.
on proposition for insertion in Constitution, 102.
on motion to correct minutes, 107.
on introduction of articles for Constitution, 116.
on reading of proposition to protect stock, 164.
on motion of Evans on Coray, 221.
on motion to amend section 10, bill of rights, 275, 279.
on motion to amend section 11, bill of rights, 306.
on motion to amend section 13, bill
on motion to amend section 24, bill of rights, 347.
on motion to amend section 25, bill of rights, 360.
on motion to amend section 2, education and school lands, 369, 371.
on motion to refer section 10, bill of rights, 493, 494.
on suffrage, 518, 536, 548.
on motion to take recess, 599.
on motion to strike out section 10, elections and suffrage, 605, 609.
on motion to amend section 22, bill of rights, 628, 629, 645.
on motion to amend section 6, municipal corporations, 672, 673.
on motion to amend section 3, amendments, 676.
on motion to postpone action on elections and suffrage, 684, 693.
on Wells's amendment to section 1, elections and suffrage, 710.
on motion to recommit elections and suffrage, 721, 722, 734.
on motion to amend section 2, elections and suffrage, 773.
on motion to amend section 3, elections and suffrage, 775, 776.
on motion to amend section 8, elections and suffrage, 779.
on motion to amend section 1, militia, 817.

CREER, WM. (Continued.)

Remarks—

on motion to amend section 4, apportionment, 833, 842.

on motion to strike out section 11, legislative, 868, 869.

on motion to amend section 13, legislative, 870.

on motion to amend section 18, legislative, 879.

on motion to amend section 19, legislative, 880.

on motion to amend section 20, legislative, 882.

on Roberts's amendment to legislative article, 908, 919, 921.

on appeal from chair on vote on section 36, legislative, 962, 963, 970.

on motion to amend section 36, legislative, 1003.

on motion to amend section 12, executive, 1010, 1013.

on motion to amend section 14, executive, 1014, 1016, 1017.

on motion to amend section 20, executive, 1018, 1019, 1020, 1023, 1026.

on motion to amend section 12, taxation and revenue, 1110.

on motion to amend section 5, public debt, 1137.

on voting on section 20, executive, 1158.

on labor, 1170, 1171.

on point of order on Jolley's motion to amend section 5, taxation and revenue, 1179.

on motion to amend section 4, public debt, 1190, 1192.

on motion to amend section 5, public debt, 1194, 1195.

on motion to amend section 2, education, 1221, 1223.

on motion to amend section 3, education, 1229.

on motion to amend section 5, education, 1254, 1355, 1361.

on motion to amend section 5, judiciary, 1315, 1316.

CREER, WM. (Continued.)

Remarks—

on motion to amend section 8, judiciary, 1322, 1504.

on motion to amend section 20, judiciary, 1328, 1383, 1384, 1388, 1389, 1390, 1391, 1516, 1518.

on motion to amend section 1, judiciary, 1403, 1409.

on mines and mining, 1421, 1530, 1537.

on motion to adopt majority report on prohibition, 1463, 1464.

on motion to section 2, corporations, 1467.

on section 9, corporations, 1468.

on motion to amend section 11, corporations, 1471, 1472, 1473.

on motion to amend section 4, judiciary, 1502.

on motion to amend section 9, judiciary, 1508.

on voting to amend section 20, judiciary, 1518.

on voting on judiciary, 1524.

on section 16, corporations, 1561.

on section 21, corporations, 1568.

on resolution on final reading of articles, 1587.

on section 1, public lands, 1604, 1605, 1687.

on section 2, public lands, 1606, 1689.

on new section to public lands, 1608, 1609.

on section 3, public buildings, 1614, 1616.

on section 4, public buildings, 1626.

on section 6, public buildings, 1627, 1725.

on schedule, 1633, 1765, 1767.

on section 4, public lands, 1690, 1695.

on voting on corporations, 1705.

on voting on public buildings, 1717, 1735.

on miscellaneous, 1771, 1779, 1785, 1786, 1796, 1798, 1799.

on revision, 1795.

Seconds motion to amend section 2, education and school lands, 36 .

CUNNINGHAM, GEORGE, Member from American Fork, Utah County.

Appointed—
on committee on apportionment and boundaries, 66.
on committee on municipal corporations, 66.

Presents—
petition for separate submission of suffrage, 809.

Remarks—
on motion to amend section 23, bill of rights, 336.
on motion to amend section 5, public debt, 1139.
on motion to amend section 5, labor, 1174.
on section 4, public lands, 1693.

CUSHING, A. J., Member from Sandy, Salt Lake County.

Appointed—
on committee on public buildings and State institutions, 66.
on committee on municipal corporations, 66.
on committee on accounts and expenses, 67.

Presents—
petition for separate submission of suffrage, 809.
proposition for insertion in Constitution on cities, 163.
proposition for insertion in Constitution on counties, 168.
proposition for insertion in Constitution on veto powers of mayor, 202.
proposition for insertion in Constitution on indebtedness of cities, 202.

Remarks—
on report of committee on expenses, 152.
on proposition for insertion in Constitution, 202.
on voting on section 1, elections and suffrage, 767.

DRIVER, WILLIAM, Member from Ogden, Weber County.

Appointed—
on committee on preamble, 65.
on committee on corporations, 66.
on committee on manufactures and commerce, 67.

Excused, 135.

Moves—
to suspend rules on election of Rapp, 49.

Nominating C. S. Rapp, 47, 49.

Remarks—
on suffrage, 518, 531, 532.
on motion to strike out section 10, elections and suffrage, 603.
on suffrage, 621, 622.
on Wells's motion to amend section 1, elections and suffrage, 710.
on motion to recommit elections and suffrage, 746.
on voting to reconsider section 36, legislative, 1003.
on motion to amend section 10, education, 1293, 1294.
on motion to adopt majority report on prohibition, 1437, 1442, 1443, 1476.

DUNBAR, D. C.,
signs invitation to ball and reception, 1827.

DINWOODEY, HENRY,
bids for boxes, 145, 147.

EASTMAN, MISS.
nominated for committee clerk, 124.

EICHNOR, D. C., Member from First Precinct, Salt Lake City.

Appointed—
to escort secretary to seat, 47.
chairman of committee on municipal corporations, 66.
on committee on labor and arbitration, 67.
on committee on ordinance, 67.

EICHNOR, D. C. (Continued.)
Appeals from decision of the chair, 756.
Called to act as temporary chairman, 820.
Called to the chair in committee of the whole, 888, 1767, 1795.

Moves—
to lay on table, 37.
nominations for president close, 39.
to refer to committee on rules, 76.
to refer election of committee clerks, 120.
to elect one committee clerk, 123.
to amend relating to salaries of officers, 152.
to lay Evans's motion on Coray on table, 220.
a substitute for amendment to section 4, bill of rights, 231.
for unanimous consent to amend section 1, bill of rights, 288.
to amend section 13, bill of rights, 315.
to go into committee of the whole, 345, 1202.
to amend section 5, counties, cities and towns, 433.
an amendment to section 1, elections and rights of suffrage, 535, 705.
a point of order, 571.
for committee to rise, 575.
to amend section 3, executive, 660.
to amend section 12, executive, 668, 1152.
to amend section 12, executive, 805.
to amend section 2, legislative, 865.
to amend section 11, legislative, 867.
to amend section 19, legislative, 880.
to add new section to legislative, 887.
to rise and report, 909, 1077.
to amend section 8, legislative, 934.
to strike out section 33, legislative, 937.
to strike out section 12, executive, 1014.
to amend section 20, executive, 1030.
to amend section 23, executive, 1031.
to amend section 1, public debt, 1120.
to amend section 7, education, 1289.
to amend section 2, judiciary, 1313.
to amend section 5, judiciary, 1315.
to amend section 8, judiciary, 1322.

EICHNOR, D. C. (Continued.)
Moves—
to adopt report of committee on manufactures and commerce, 1418.
to strike out section 9, judiciary, 1513.
to amend section 27, judiciary, 1520.
to amend section 2, corporations, 1568.
to strike out section 23, corporations, 1570.
to strike out section 3, public lands, 1607.
to amend section 2, salaries, 1612.
a substitute for section 14, corporations, 1663.
to amend on revision, 1896.
a resolution in relation to attesting instrument, 1814.
a resolution on printing Constitution, 1844.

Nominates—
Heber M. Wells as temporary secretary, 12.
Parley P. Christensen as chief clerk, 47.
Miss Florence Hartley, as committee clerk, 159.

Presents—
proposition relating to voting, for insertion in Constitution, 101.
proposition on preamble and bill of rights, 102.
proposition to have cities form their own charters, 108.
proposition for pardoning power for Constitution, 111.
proposition for insertion in Constitution on impeachments, 113.
proposition for insertion in Constitution on executive, 113.
proposition for insertion in Constitution on distribution of power, 114.
proposition for insertion in Constitution on amendments, 157.
proposition for insertion in Constitution on legislative, 157.
proposition for insertion in Constitution on water and water rights, 163.
petition for separate submission of suffrage, 711.

EICHNOR, D. C. (Continued.)

Presents—

petition for separate submission of suffrage, 769, 850, 976, 1143.
a substitute for motion to adopt Constitution of United States, 55.

Remarks—

on calling Convention to order, 9.
on motion to refer back report on credentials, 24, 25, 26, 28.
on withdrawal of motion to adjourn, 37.
on election of engrossing and enrolling clerk, 50.
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on motion to amend resolution to adopt Constitution of United States, 56.
relating to the adoption of Roberts's resolution to conform to Enabling Act, 64.
on report on committee on standing committees, 57.
on motion to adopt report of committee on site, 69.
on rules, 75, 215.
on question of official stenographer, 95.
on propositions for insertion in Constitution, 102.
on election of committee clerk, 124, 125.
on motion to sit for photographs, 126.
on motion to amend rules, 130.
on adopting rules, 137.
on report of committee on expense, 153.
on motion to refer, 156.
on Kiesel's resolution, 158.
on motion to suspend rules, 164.
on proposition for non-partisan school election, 166.
for reading of article on boundaries, 167.
on motion to adjourn, 172, 194.
on resolution on senators and representatives, 177, 178, 182.
on motion for additional clerk, 193, 195, 196.

EICHNOR, D. C. (Continued.)

Remarks—

on proposition for insertion in Constitution, 201.
on the order of business, 210.
on point of order on Evans, 220.
on motion to lay on table, 220.
on motion to amend section 4, bill of rights, 231, 233, 234, 235.
on motion to amend section 5, bill of rights, 253.
on motion to amend section 10, bill of rights, 277, 278, 288, 290, 291.
on motion to refer proposition on liquor habit, 301.
on motion to amend section 11, bill of rights, 305, 306.
on motion to amend section 13 bill, of rights, 313, 314, 315.
on motion to amend section 22, bill of rights, 326.
on motion to amend section 23, bill of rights 327, 328, 335.
on motion to amend section 24, bill of rights, 346, 347, 351.
on motion to amend section 26, bill of rights, 361.
on section 25, bill of rights, 366.
on motion to amend section 2, education and school lands, 381, 383, 391.
on motion to amend section 3, counties, cities, and towns, 398.
on motion to amend section 5, counties, cities, and towns, 400, 401, 402, 403, 404.
on motion to refer section 10, bill of rights, 495.
on motion to amend section 1, elections and rights of suffrage, 535, 536, 575, 576, 599, 705.
on motion to adjourn to some other place to hear Roberts, 578.
on motion to strike out section 10, elections and suffrage, 608, 611, 615.
on motion to amend section 14, elections and suffrage, 616, 617.
on point of order on Driver, 622.
on motion to amend section 2, executive, 659.

EICHNOR, D. C. (Continued.)

Remarks—

on motion to amend section 3, executive, 660, 661, 662.

on motion to go into committee of the whole, 668, 819.

on appeal from the chair on elections and suffrage, 708, 709.

on motion to recommit elections and suffrage, 753, 754, 755, 756, 757, 560.

on voting on section 1, elections and suffrage, 769.

on motion to amend section 2, elections and suffrage, 772, 773.

on motion to amend section 3, elections and suffrage, 774, 775, 777.

on motion to amend section 8, elections and suffrage, 783.

on motion to amend section 14, elections and suffrage, 784, 786, 789, 791, 797, 799, 1483.

on voting on elections and suffrage, 804, 805.

on motion to amend ordinance, 806, 811.

on motion to recommit public lands, 813.

on motion to go into committee of the whole, 819.

on a point of order to amend section 2, apportionment, 860, 863.

on motion to amend section 2, legislative, 865.

on section 4, legislative, 866.

on motion to strike out section 11, legislative, 868.

on motion to amend section 13, legislative, 870, 873, 874.

on motion to amend section 19, legislative, 881.

on new section offered for legislative, 887.

on Roberts's amendment to legislative article, 909, 912, 923.

on substitute to section 12, executive, 929, 930, 931.

on section 8, legislative, 935.

on motion to strike out section 33, legislative, 937.

EICHNOR, D. C. (Continued.)

Remarks—

on motion to strike out section 35, legislative, 949.

on motion to adopt section 36, legislative, 954.

on vote for section 36, legislative, 957.

on motion to amend section 31, legislative, 974, 975.

on motion to reconsider section 36, legislative, 990, 991.

on voting on legislative article, 1005.

on motion to amend section 12, executive, 1006, 1007, 1010, 1014.

on motion to amend section 20, executive, 1028, 1030, 1031, 1160.

on motion to amend section 1, labor and arbitration, 1033.

on motion to amend section 5, labor and arbitration, 1057, 1058, 1059, 1060.

on motion to strike out section 9, labor and arbitration, 1067.

on section 8, taxation and revenue, 1108.

on motion to amend section 1, public debt, 1118, 1122, 1123, 1185.

on motion to amend section 3, public debt, 1225, 1133, 1134.

on voting on executive, 1163.

on labor, 1166, 1171, 1174.

on motion to add section 14 to taxation and revenue, 1178.

on motion to amend section 5, taxation and revenue, 1178.

on motion to amend section 4, public debt, 1188, 1189.

on motion to amend section 3, education, 1230, 1231.

on motion to reconsider adoption of accounts, 1236.

on motion to amend section 5, education, 1249, 1259, 1286, 1340, 1360, 1367.

on motion to reconsider section 4, elections, 1287.

on motion to amend section 7, education, 1290, 1291.

on motion on section 2, judiciary, 1314, 1501.

on section 4, judiciary, 1314.

EICHNOR, D. C. (Continued.)

Remarks—

on motion to amend section 5, judiciary, 1316.
on section 8, judiciary, 1322, 1323, 1505.
on motion to strike out section 2, education, 1338.
on motion to add new section to education, 1372.
on motion to amend section 20, judiciary, 1381, 1390.
on motion to amend section 27, judiciary, 1393.
on motion to add new section to education, 1397.
on mines and mining, 1416, 1417, 1421, 1422, 1527, 1528, 1533, 1539.
on motion for night sessions, 1479.
on motion to amend section 9, judiciary, 1508.
on section 18, judiciary, 1513.
on motion to amend section 25, judiciary, 1520.
on motion to amend section 26, judiciary, 1521.
on voting on judiciary article, 1524.
on section 14, corporations, 1560, 1664, 1665.
on section 23, corporations, 1570, 1571, 1572, 1576, 1668, 1669.
on motion to record absent members, 1588.
on section 26, corporations, 1590.
on section 4, schedule, 1630.
on schedule, 1636, 1640, 1641, 1653, 1739.
on invitation to reception, 1684.
on sections 20 and 21, bill of rights, 1719, 1720.
on legislative, 1787.
on revision, 1795, 1803, 1810, 1811, 1822.
on engrossing, 1826, 1827.
on motion to print proceedings, 1837.

Reports as chairman on municipal corporations, 224.

Seconds—

Varian's appeal from decision of the chair, 705.
Thurman's amendment to section 14, suffrage, 785.

EICHNOR, D. C. (Continued.)

Seconds—

Anderson's motion to amend section 1, public lands, 813.
motion to amend section 1, militia, 818.
motion to refer back report on credentials, 14.
Varian's appeal from decision of the chair, 705.
Creer's motion on selecting seats, 72.
motion to amend section 3, counties, cities and towns, 398.

Withdraws—

motion to lay on table, 37.
motion to refer election of committee clerks, 121.
point of order, 860.

ELDREDGE, ALMA, Member from Coalville, Summit County.

Appointed—

on committee on stenographer, 55.
on judiciary committee, 66.
chairman on committee on apportionment, 66.

Asked for roll call to be repeated, 957.

Called to chair of committee of the whole, 812.

Moves—

to eliminate committee clerk, 47.
to give Whitney thirty minutes to speak on suffrage, 579.
to amend section 4, bill of rights, 245, 363.
to amend rule 21, 213.
for committee on organization, 37.
to adjourn, 104, 194.
to lay on table, 147, 189.
to read article on boundary third time, 208.
to amend section 3, municipal corporations, 669.
to amend section 6, municipal corporations, 673, 674.
to amend section 3, amendments, 677, 678.

ELDREDGE, ALMA (Continued.)

Moves—

to postpone action on elections and suffrage, 703.
to suspend rules and go into committee of the whole, 770.
to amend section 3, elections and suffrage, 777.
a substitute for section 14, elections and suffrage, 796.
to amend section 4, legislative, 867.
to amend section 20, executive, 1023.
to strike out section 6, labor and arbitration, 1060.
to strike out section 12, taxation and revenue, 1178.
to amend elections and rights of suffrage, 1721.
the previous question, 1753.
a substitute to section 2, miscellaneous, 1798.
to amend on revision, 1814, 1832, 1833.

Nominates Joseph A. Smith, for engrossing and enrolling clerk, 50.

Offered prayer, 1813.

Presents—

petition asking that Convention adjourn to theater, 578.
petition for separate submission of suffrage, 934.

Remarks—

on motion to refer back report on credentials, 34.
on election of committee clerks, 47, 48.
on voting for enrolling clerk, 51.
on Goodwin's appointment as chairman of judiciary committee, 68.
on report on official stenographer, 98.
on motion to refer correction of minutes, 174, 175, 189.
on resolution of senators and representatives, 181, 182, 188, 186.
on a point of order on Squires, 186.
on article on boundary, 207, 208.
on motion to amend section 3, bill of rights, 245, 247, 363, 364.
on motion to make report of committee on elections and suffrage special order, 267.

ELDREDGE ALMA, (Continued.)

Remarks—

on report to increase committee on schedule, future amendments and miscellaneous, 270.
on motion to amend section 10, bill of rights, 280.
on accounts and expenses, 298.
on motion to amend section 12, bill of rights, 308.
on motion to amend section 24, bill of rights, 348.
on motion to amend section 2, education and school lands, 392.
on motion to amend section 10, bill of rights, 493.
on section 1, elections and rights of suffrage, 496, 498, 499, 500, 567.
on motion to amend section 22, bill of rights, 625.
on motion to postpone elections and suffrage, 704.
on motion to recommit elections and suffrage, 736, 738, 741, 742.
on motion to amend section 14, elections and suffrage, 796, 797, 1482, 1484, 1488.
on apportionment, 807, 808.
on motion to go into committee of the whole, 820.
on motion to strike out section 1, apportionment, 822, 823.
on motion to amend section 3, apportionment, 824.
on motion to amend section 4, apportionment, 830, 848, 849.
on motion to amend section 2, apportionment, 860, 862.
on appeal from chair on vote on section 36, legislative, 963, 964, 965, 968.
on motion to amend section 4, taxation and revenue, 1078, 1082, 1083.
on motion to strike out section 5, taxation and revenue, 1098, 1099, 1100.
on motion to amend section 3, public debt, 1133, 1134.
on motion to amend section 5, public debt, 1137, 1138, 1195.
on motion to amend section 20, executive, 1159.

ELDREDGE, ALMA (Continued.)

Remarks—

on motion to strike out section 12, taxation and revenue, 1178.
on motion to amend section 4, public debt, 1190, 1191.
on water rights, 1211, 1215, 1218.
on motion to amend section 5, education, 1281, 1285, 1286.
on motion to amend section 10, education, 1296.
on motion to amend section 2, education, 1304.
on motion to amend section 2, judiciary, 1313.
on motion to strike out section 2, education, 1333.
on voting for substitute to section 4, education, 1372.
on motion to amend new section to judiciary, 1392.
on motion to adopt majority report on prohibition, 1462.
on motion to strike out section 9, corporations, 1468.
on public lands, 1688.
on schedule, 1765.
on miscellaneous, 1774.
on revision, 1829.

Reports as chairman of committee on apportionment, 191.

Seconds nomination of Ben Bachman, 124.

Withdraws amendment to section 4, bill of rights, 247.

EMERY, GEORGE R., Member from Third Precinct, Salt Lake City.

Appointed—

on executive committee, 66.
on salaries of public officers, 67.

Moves—

for a recess, 679.
to amend section 12, executive, 1152.

Remarks—

on motion for recess, 679.
on section 10, corporations, 1681.

Seated by report of committee on credentials, 37.

ENGBERG, ANDERS, Member from Salem, Utah County.

Appointed—

on committee on elections and suffrage, 66.
on committee on labor and arbitration, 67.

Moves—

to amend section 8, labor and arbitration, 1066.

Presents—

petition for suffrage to go in Constitution, 994.

Remarks—

on motion to strike out section 10, elections and suffrage, 602.

EVANS, DAVID, Member from Ogden, Weber County.

Appointed—

on committee on credentials, 13.
on committee on stenographer, 55.
on committee on rules, 65.
on committee on judiciary, 66.
on committee on revenue, taxation and public debt, 67.

Amends Ivins's motion on rules, 89.

Appeals from decision of the chair, 242, 248, 365, 1677.

Called to chair in committee of the whole, 319, 805, 1006, 1375, 1627.

Excused for the day, 39.

Excused from acting on committee on stenographer, 55.

Moves—

to give votes cast for Farr to Pratt, 52.
to make vote for Joseph A. Smith unanimous, 53.
to adopt report of committee on site, 68.
in relation to selecting seats, 72.
to adjourn, amended, 77.
change title of chief clerk to secretary, 79.
to correct minutes, 105.
to refer to committees, 113,

EVANS, DAVID (Continued.)

Moves—

an amendment on election of committee clerks, 121, 122.
to amend rules, 137.
to reject a portion of report, 146.
to take report from table and remarks on it, 146.
to amend motion to reject, 151.
for regular order, 154.
to have resolutions adopted, 173.
to reconsider motion to go into committee of the whole, 203.
to refer Coray's motion on announcements to committee on rules, 175.
to refer proposition to committee, 201.
for Coray to be brought before the bar of the house, 220.
that F. T. McGurrin act in absence of F. E. McGurrin, 223.
to amend Buys' motion on section 5, bill of rights, 252.
to amend section 5, bill of rights, 257.
to amend section 1, labor and arbitration, 1050.
for chair to rebuke Squires, 1055.
a substitute to section 7, labor and arbitration, 1060.
to return letter to Squires as an insult to members, 1084.
to amend section 12, taxation and revenue, 1110.
to amend section 3, taxation and revenue, 1115.
to amend section 1, public debt, 1116.
to amend section 3, public debt, 1124.
to amend section 5, public debt, 1135.
the previous question on report on expenses, 1144.
to amend motion to limit debate, 1147.
a substitute to labor, 1164.
a new section to taxation and revenue, 1178.
to reject minority report on prohibition, 1183.
to amend the amendment to section 1, public debt, 1184, 1186.
to strike out section 3, public debt, 1186.

EVANS, DAVID (Continued.)

Moves—

to amend section 5, public debt, 1193.
to strike out section 5, public debt, 1197.
to amend section 4, education, 1311.
to strike out section 2, education, 1312.
to strike out sections 1 and 2, mines and mining, 1431.
to amend section 5, judiciary, 1503.
to amend section 8, judiciary, 1506.
a substitute to section 27, judiciary, 1520.
to amend section 22, corporations, 1570.
to amend section 3, public buildings, 1615.
matter for section 23, corporations, 1668.
to reinsert section 33, corporations, 1678.
to amend section 10, bill of rights, 258.
to withdraw former and offer substitute to amendment to section 10, bill of rights, 274, 283.
to amend section 12, bill of rights, 306, 310.
to amend section 13, bill of rights, 314, 1719.
to rise and report, 315.
to amend section 24, bill of rights, 357.
to amend section 25, bill of rights, 365.
to amend section 4, counties, cities and towns, 400.
rise and report, 491.
to read bill of rights by sections, 492.
a substitute for section 10, bill of rights, 492.
to refer section 10, bill of rights, to judiciary committee, 493.
to strike out section 11, elections and suffrage, 615.
to strike out section 12, elections and suffrage, 615.
that section 10, bill of rights, be taken up, and offered substitute, 622.

EVANS, DAVID (Continued.)

Moves—

to amend section 22, bill of rights, 624.
to amend section 2, executive, 660.
to amend section 3, amendments, 675.
to reconsider vote on inserting amendments, 677.
an amendment to motion for a recess, 729, 732.
to dispose of motion before house before recess, 737.
to amend section 8, elections and suffrage, 773.
a substitute to section 14, elections and suffrage, 798.
to pass ordinance, 811.
to amend section 1, public lands, 812.
to recommit article on public lands, 813.
to amend section 1, militia, 815.
to strike out section 11, legislative, 867.
to return invitation for signatures, 1684.
to amend section 4, public lands, 1690.
to amend ordinance, 1721.
to amend elections and right of suffrage, 1721.
the previous question, 1730.
to amend section 6, public buildings, 1734.
to amend section 9, schedule, 1760.
to amend on revision, 1818.
for Whitney to make report and read address, 1835.

Nominates Miss Henrietta Clark as committee clerk, 120.

Offered excuse for Spencer, 79.

Presents—

resolution calling Convention to order, 8.
resolution on permanent organization, 37.
memorial from ladies of Weber County on suffrage, 142.
report of committee on rules, 224.
resolution on number and salaries of officers, 212.

EVANS, DAVID (Continued.)

Presents—

proposition to go into Constitution on suffrage, 101.
proposition to go into Constitution to preserve the purity of the ballot, 101.
proposition for insertion in Constitution on free passes, 102.
proposition for insertion in Constitution on blacklisting, 113.
proposition for insertion in Constitution on public taxes, 113.
proposition for insertion in Constitution on public moneys, 113.
proposition for insertion in Constitution on taxation, 156.
proposition for insertion in Constitution on taxing mines, 157.
resolution that auditor of Territory, recorder of municipalities, county clerks, and school boards, be requested to furnish statements of indebtedness, 173.

Remarks—

in favor of resolution, 9.
on question of adjournment, 12.
on duties of committee on credentials, 13.
on members taking oath, 13.
on motion to refer back report on credentials, 21, 22, 23, 24, 25, 29, 30, 33, 35.
on adjournment, 36, 37.
on vote, 53.
on report of committee on site and furniture, 68, 69, 70.
on selecting seats, 72, 73.
on motion to adjourn, 78, 168.
on motion to change chief clerk to secretary, 79, 80.
on motion to read rules, 81.
on motion to change time of meeting, 89.
on official stenographer, 91, 96.
on motion to adopt rules, 90.
on minutes, 105, 106.
on reports of committees, 110.
on the introduction of propositions

EVANS, DAVID (Continued.)

Remarks—

for insertion in Constitution, 103, 114, 115.

on point of order, 103, 104, 111.

on electing committee clerks, 120, 121, 122, 124, 125, 159, 160.

on adopting rules, 131, 132, 137, 138, 139, 140.

on excuse of Kimball on account of sickness, 141.

on disposition of memorial on suffrage, 142, 143.

on motion to refer petition on prohibition, 144.

on report of committee on expenses, 147, 148, 150, 151, 153, 154.

on petition on prohibition from Weber County, 157.

on typewriters, 158.

on proposition to protect live stock, 164.

on proposition on labor, introduced by Cannon, 164.

on introduction of article on boundaries, 166.

on motion to adjourn, 167, 168, 169.

on resolution on senators and representatives, 177, 182, 184.

on report of committee on boundaries, 191.

on report of committee on preamble and bill of rights, 200.

on motion to read report of committee on preamble, 201.

on proposition for insertion in Constitution, 201.

on motion to go into committee of whole, 203.

on motion to lay article on boundary on table, 205.

on order of business, 209, 210, 211.

on article on boundary, 212.

on Coray's motion to strike out from minutes, 215.

on motion to limit time to present propositions, 219.

on motion on Coray, 220, 221.

on resolution on stenographer, 223.

EVANS, DAVID (Continued.)

Remarks—

on amendment to rule 21, and motion to adopt, 224.

on motion to amend motion to go into committee of the whole, 228.

on motion to amend section 4, bill of rights, 237, 241, 242, 245, 248, 249, 250, 252, 364.

on a point of order on Varian, 241, 249.

on motion to amend section 5, bill of rights, 254.

on motion to amend section 10, bill of rights, 258, 283, 285, 288, 291.

on motion to increase committee on schedule, 268, 271.

on motion to change hour of meeting, 302.

on motion to amend section 12, bill of rights, 306, 308, 309, 310.

on motion to amend section 11, bill of rights, 305.

on motion to amend section 13, bill of rights, 313, 314, 315.

on motion to amend section 24, bill of rights, 351, 353, 354, 355, 357, 358.

on motion to amend section 25, bill of rights, 359, 365, 366, 367.

on motion to amend section 26, bill of rights, 360, 361.

on motion to transpose sections of bill of rights, 361.

on motion to amend section 2, education and school lands, 377, 378, 379, 383, 385, 386.

on motion to amend section 5, counties, cities and towns, 401, 402, 403, 404.

on motion to print minority report on suffrage, 409, 410, 412.

on motion to amend rules, 419.

on motion to suspend rules for Roberts's speech, 420, 421.

on motion on section 1, suffrage, 458, 500, 505, 542, 543, 567, 595.

on motion to have evening session, 491, 492.

on motion to amend section 10, bill of rights, 492, 493, 494, 495, 622.

on suffrage, 598, 600, 765, 801.

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Remarks—

on motion to clear the house, 599.
on motion to strike out section 10, elections and suffrage, 607, 612.
on point of order on Hart's motion to amend, 615.
on motion to strike out section 12, elections and suffrage, 615.
in defense of Driver, 621, 622.
on motion to amend section 22, bill of rights, 624, 625, 626, 627, 628, 629, 637, 638, 640, 649, 650, 651.
on motion to adopt preamble, 652.
on motion to amend section 3, executive, 661.
on motion to amend section 6, executive, 664, 1151.
on motion to amend section 6, municipal corporations, 669, 672.
on motion to amend section 3, amendments, 674, 675, 677, 678.
on motion to postpone action on elections and suffrage, 680, 681, 686, 691, 697.
on Varian's appeal from chair on point of order on Eichnor's amendment to section 1, elections and suffrage, 707, 708.
on Wells's motion to amend section 1, elections and suffrage, 711.
on motion to recommit elections and suffrage, 720, 725, 734, 740, 741, 742, 743, 744, 746, 747, 748, 755, 758, 764.
on motion to pass section 1, elections and suffrage, 766.
on motion to amend section 2, elections and suffrage, 770, 771, 772.
on motion to amend section 3, elections and suffrage, 774, 775, 776, 777.
on motion to amend section 14, elections and suffrage, 791, 792, 796, 797, 798, 799, 800, 1486, 1487, 1490, 1491, 1492, 1494, 1495.
on motion to suspend rules on elections and suffrage, 801, 902.
on voting on elections and suffrage, 803.
on ordinance, 810.
on motion to amend section 1, school lands, 812, 813, 814.

EVANS, DAVID (Continued.)

Remarks—

on motion to amend section 1, militia, 815, 816, 818.
on motion to strike out section 1, apportionment, 821.
on motion to amend section 4, apportionment, 828.
on unsigned petition presented by Low, 852.
on motion to amend section 2, apportionment, 860, 861, 862, 863.
on motion to strike out section 11, legislative, 867.
on motion to amend section 13, legislative, 869.
on motion to amend section 8, legislative, 935.
on motion to amend section 9, legislative, 936.
on motion to amend section 33, legislative, 937, 938.
on motion to strike out section 35, legislative, 938, 939, 940, 941, 942, 944, 949, 950.
on motion to adopt section 36, legislative, 952, 953, 954, 956.
on appeal from the chair, 958, 961, 963, 964, 965, 967, 968, 969, 970.
on voting to reconsider section 36, legislative, 1003.
on voting on legislative article, 1005.
on motion to amend section 1, labor and arbitration, 1035, 1036, 1037, 1044, 1045, 1050, 1052.
on ruling of chair on Stover's motion, 1055.
on motion to strike out section 5, labor and arbitration, 1056, 1057, 1058, 1060.
on motion to amend section 7, labor and arbitration, 1061, 1062, 1063, 1066.
on motion to strike out section 9, labor and arbitration, 1067.
on motion to amend section 4, taxation and revenue, 1074, 1075, 1076, 1077, 1078, 1080, 1082, 1083.
on motion to strike out section 5, taxation and revenue, 1094, 1095,

EVANS, DAVID (Continued.)

Remarks—

1096, 1097, 1098, 1099, 1100, 1101, 1104, 1105, 1106, 1107, 1108.

on motion to amend section 12, taxation and revenue, 1110, 1113.

on motion to amend section 11, taxation and revenue, 1114.

on motion to amend section 3, taxation and revenue, 1115.

on motion to amend section 1, public debt, 1116, 1119, 1121, 1123, 1186.

on motion to amend section 3, public debt, 1124, 1125, 1128, 1130, 1131, 1132, 1133.

on motion to amend section 5, public debt, 1135, 1136, 1137, 1139, 1140, 1141.

on motion to reconsider section 1, suffrage, 1146, 1147, 1149.

on substitute to labor article, 1165.

on new section to taxation and revenue, 1178.

on motion to amend section 5, taxation and revenue, 1179.

on motion to reject minority report on prohibition, 1183.

on section 3, public debt, 1186.

on motion to amend section 4, public debt, 1190, 1191.

on motion to amend section 5, public debt, 1194, 1195, 1196.

on motion to amend section 10, education, 1295, 1296.

on motion to amend section 2, judiciary, 1314, 1500.

on motion to amend section 3, judiciary, 1314.

on motion to amend section 5, judiciary, 1315, 1316, 1317, 1318, 1319.

on motion to amend section 4, judiciary, 1320.

on motion to amend section 8, judiciary, 1323, 1504.

on motion to amend section 12, judiciary, 1324.

on motion to strike out section 2, education, 1332, 1334.

on motion to amend section 4, education, 1367.

EVANS, DAVID (Continued.)

Remarks—

on motion to amend section 3, mines and mining, 1427, 1428, 1429.

on motion to adopt majority report on prohibition, 1434, 1439, 1440, 1446, 1455, 1456.

on motion to amend section 1, corporations, 1465, 1466.

on motion to strike out section 9, corporations, 1468.

on motion to amend section 11, corporations, 1175, 1472, 1473, 1554.

on section 7, judiciary, 1503, 1504.

on motion to amend section 9, judiciary, 1507, 1508, 1510, 1511, 1513.

on motion to amend section 20, judiciary, 1513.

on motion to amend section 25, judiciary, 1519, 1520.

on motion to amend section 9, judiciary, 1521, 1522.

on voting on judiciary, 1524.

on mines and mining, 1524, 1525.

on section 16, corporations, 1562.

on section 21, corporations, 1564, 1567, 1568.

on section 23, corporations, 1570, 1571, 1572, 1573, 1576, 1577, 1668, 1669.

on section 25, corporations, 1579, 1670, 1671, 1672, 1673, 1675, 1676, 1677.

on section 26, corporations, 1583, 1584.

on resolution to record absent members, 1588.

on section 28, corporations, 1593.

on section 30, corporations, 1597.

on section 32, corporations, 1599.

on section 38, corporations, 1603.

on section 3, public buildings, 1615, 1616, 1619, 1620, 1622, 1708.

on schedule, 1649, 1651, 1652, 1738, 1739, 1740, 1743, 1745, 1748, 1757, 1759, 1761, 1762, 1765.

on invitation to reception, 1654.

on section 2, corporations, 1655, 1657.

on section 9, corporations, 1659, 1660.

on section 11, corporations, 1662.

on section 14, corporations, 1665, 1666.

on article on corporations, 1680, 1681.

on public lands, 1694, 1696, 1698.

EVANS, DAVID (Continued.)

Remarks—

on section 6, public buildings, 1714, 1715.
on bill of rights, 1718, 1720.
on ordinance, 1721.
on voting on schedule, 1767.
on miscellaneous, 1776, 1777, 1779, 1780, 1781, 1782, 1784.
on compensation of stenographer, 1826.
on invitation to Saltair, 1826.
on engrossing, 1826.
on revision, 1828, 1829, 1830, 1832, 1833.

Seconds—

motion to adopt part of report, 145.
Kiesel's motion on schedule for committee meeting, 117.
Kiesel's motion to elect by acclamation, 121.

Withdraws appeal from decision of chair, 244.

Withdraws amendment to section 3, taxation and revenue, 1115.

EVANS, A. J., Member from Lehi, Utah County.

Appointed—

on committee on education and school lands, 66.
on committee on revenue, taxation and public debt, 67.

Asks unanimous consent to reconsider report of accounts, 1084.

Called to chair of committee of the whole, 1084.

Excused from voting on article on boundary, 212.

Excused on account of mother's illness, 615.

Moves—

to amend section 14, elections and suffrage, 793.
to go into committee of the whole, 812.
to amend section 20, executive, 1018, 1024.

EVANS, A. J. (Continued.)

Moves—

to reconsider report of accounts, 1084, 1202.
to amend substitute to section 16, legislative, 877.
to refer to committee, 113.
to elect one committee clerk, 124.
to adjourn, 125, 850, 1522.
to reject portions of report, 147, 152.
to take section 4, bill of rights, from table, 252.
to arise and report, 344, 888, 1312.
to amend section 2, education and school lands, 383.
on a point of order on amendment to section 14, elections and suffrage, 788.
to take suffrage from table, 1147.
that debate on reconsideration of suffrage cease, 1147.
to strike out section 10, labor, 1179.
to suspend rules and adopt report, 1177.
to amend section 5, public debt, 1198.
to postpone consideration of section 2, education, 1228.
to amend section 5, education, 1238.
to take recess to set time, 1375.
to amend section 20, judiciary, 1386, 1513, 1518.
to postpone invitation of Los Angeles Railway, 1526.
to strike out section 22, corporations, 1569.
to suspend rules and pass resolution, 1587.
to amend section 28, corporations, 1593.
to amend section 2, public lands, 1606.
to amend section 3, public lands, 1607.
a new section to public lands, 1607.
to reconsider public lands, 1704.
to add section 7 to public buildings, 1716.
to amend section 2, miscellaneous, 1772.
the previous question, 1801.
a substitute on printing proceedings, 1841.

EVANS, A. J. (Continued.)

Presents—

petition for separate submission of suffrage, 1032.

Remarks—

on election of committee clerks, 124, 159, 160.
on report of committee on expenses, 147, 149.
on motion to adjourn, 169, 172.
on the reconsideration of vote on correction of minutes, 188, 189.
on motion for additional clerk, 194, 195.
on order of business, 208.
on motion on Coray, 221.
on motion to amend section 4, bill of rights, 252, 364.
on motion to amend section 23, bill of rights, 334, 338.
on motion to make elections and suffrage special order, 411.
on suffrage, 555.
on motion to amend section 14, elections and suffrage, 790, 792, 1480, 1485, 1486, 1489, 1493, 1495.
on motion to suspend rules on elections and suffrage, 802.
on voting on elections and suffrage, 805.
on motion to strike out section 1, apportionment, 822, 823.
on motion to amend section 4, apportionment, 827, 831, 852.
on motion to amend section 2, apportionment, 860.
on article on militia, 865.
on motion to amend section 13, legislative, 877, 878.
on motion to add new section to legislative, 887.
on Roberts's amendment to legislative, 916, 920, 921, 923.
on motion to amend section 12, executive, 932.
on appeal from chair on vote on section 36, legislative, 971.
on voting on legislative article, 1005.

EVANS, A. J. (Continued.)

Remarks—

on motion to amend section 20, executive, 1020, 1023, 1024, 1025, 1027, 1030, 1155, 1156, 1159, 1160.
on motion to amend labor and arbitration, 1068.
on motion to reconsider accounts, 1084, 1235, 1236.
on moving previous question on accounts, 1144.
on motion to reconsider section 1, suffrage, 1145.
on article on labor, 1167, 1169.
on water rights, 1202, 1204, 1205.
on motion to amend section 2, education, 1224, 1228.
on motion to amend section 3, education, 1228, 1231.
on motion to amend section 5, education, 1249, 1342, 1373.
on motion to amend section 10, education, 1300, 1312.
on motion to amend section 5, judiciary, 1315.
on motion to amend section 20, judiciary, 1376, 1387, 1391, 1514, 1515, 1517.
on motion to amend section 1, judiciary, 1403, 1411.
on motion to amend section 3, mines and mining, 1420, 1421, 1422.
on motion to adopt majority report on prohibition, 1452.
on motion to strike out section 9, corporations, 1468.
on voting on judiciary, 1524.
on mines and mining, 1524, 1527, 1528, 1529, 1530.
on section 21, corporations, 1565.
on section 23, corporations, 1574.
on point of order on section 26, corporations, 1584, 1592.
on section 28, corporations, 1592.
on section 1, public lands, 1605.
on salaries, 1611.
on section 25, corporations, 1677.
on point of order on motion to adjourn, 1682.
on public lands, 1686, 1699, 1700.
on public buildings, 1725.

EVANS, A. J. (Continued.)

Remarks—

on miscellaneous, 1772, 1786, 1798, 1800, 1802.

on point of order and appeals from chair, 1785.

on revision, 1807, 1808, 1810, 1811, 1812, 1819.

on printing proceedings, 1839, 1842, 1843.

Seconds Kimball's motion to amend, 364.

Withdraws motion to take section 4, bill of rights, from table, 252.

Withdraws motion to amend section 13, legislative, 879.

FARR, LORIN, Member from Ogden, Weber County.

Appointed—

on legislative committee, 65.

on committee on water rights and irrigation, 66.

on committee on municipal corporations, 66.

Excused, 136.

Excused from voting on article on boundary, 212.

Moves—

to amend section 5, counties, cities, and towns, 405.

to amend section 4, bill of rights, 248.

to amend section 15, bill of rights, 322.

to strike out section 25, bill of rights, 359.

to amend section 3, amendments, 678.

to amend substitute to section 14, elections and suffrage, 793.

to amend section 20, executive, 1020.

to strike section 5, public debt, 1135, 1196.

to amend section 20, judiciary, 1326.

to amend section 1, judiciary, 1412.

to amend section 21, corporations, 1568.

Offered prayer, 993, 1846.

FARR, LORIN (Continued.)

Presents proposition for insertion in Constitution on metric system, 226.

Remarks—

on referring back report on credentials, 35, 36.

on nomination of Pratt, 50.

on motion to adjourn, 63.

on motion to adopt report of committee on site, 70.

on the selection of seats, 73.

on correcting minutes, 107.

on motion to adjourn, 163.

on bill of rights, 229.

on motion to amend section 4, bill of rights, 231.

on motion to amend section 4, bill of rights, 248.

on motion to amend section 23, bill of rights, 327.

on motion to amend section 24, bill of rights, 357, 358.

on motion to amend section 5, counties, cities and towns, 405.

on motion to strike out section 10, elections and suffrage, 613,

on motion to amend section 22, bill of rights, 633, 647, 648.

on voting on bill of rights, 652.

on motion to postpone action on elections and suffrage, 691, 700.

on motion to amend section 14, elections and suffrage, 787, 793, 785, 1496.

on motion to amend section 1, militia, 816, 818.

on motion to strike out section 1, apportionment, 822.

on motion to amend section 4, apportionment, 854.

on motion to strike out section 11, legislative, 868.

on motion to amend section 13, legislative, 869, 871, 875.

on motion to amend section 20, legislative, 883.

on motion to reconsider section 36, legislative, 993.

on motion to amend section 20, executive, 1019, 1021, 1030, 1154, 1157, 1158, 1161.

FARR, LORIN (Continued.)

Remarks—

on motion to amend section 1, labor and arbitration, 1037, 1045.

on motion to strike out section 7, labor and arbitration, 1065.

on motion to amend section 12, taxation and revenue, 1111, 1113.

on motion to amend section 5, public debt, 1135, 1140.

on motion to amend section 8, executive, 1163.

on water rights, 1206, 1212, 1233.

on voting on water rights, 1234.

on motion to amend section 5, education, 1268, 1270, 1308, 1366.

on motion to amend section 5, judiciary, 1316, 1503.

on motion to amend section 8, judiciary, 1323.

on motion to amend section 12, judiciary, 1324.

on motion to amend section 20, judiciary, 1325, 1326, 1327.

on motion to amend section 2, education, 1332.

on voting on substitute to section 4, education, 1372.

on motion to amend section 20, judiciary, 1375, 1385, 1388, 1516.

on motion to adopt majority report on prohibition, 1448.

on mines and mining, 1545.

on section 23, corporations, 1570, 1573.

on new section to public lands, 1608, 1610.

on salaries, 1612.

on section 3, public buildings, 1616.

on article on corporations, 1681.

on invitation to reception, 1684.

on section 6, public buildings, 1713, 1731.

on revision, 1829, 1831.

on printing proceedings, 1840, 1841, 1842.

Seconds Raleigh's motion to amend, 874.

FARR, NEWTON.

nominated for enrolling clerk by F. J. Kiesel, 50.

FRANCIS, SAMUEL, Member from Morgan, Morgan County.

Appointed—

on committee to name standing committees, 38.

on executive committee, 66.

on committee on apportionment and boundary, 66.

on committee on schedule, future amendments and miscellaneous, 67.

Excused, 312.

Moves—

to instruct committee on accounts, 1183.

to amend section 20, executive, 1021.

to refer proposition on liquor habit, 301.

to amend section 26, legislative, 884.

Presents—

proposition for insertion in Constitution on division of counties, 166.

proposition for insertion in Constitution forbidding donations of public lands, 166.

proposition for insertion in Constitution on municipal corporations, 166.

proposition for insertion in Constitution on amendments to law, 218.

petition for separate submission of suffrage, 809.

petition for suffrage to go in Constitution, 1143.

Remarks—

on motion to adjourn, 169.

on suffrage, 547, 557.

on motion to recommit elections and suffrage, 724, 734.

on motion to amend section 4, apportionment, 841, 842.

on motion to amend section 26, legislative, 884.

FRANCIS, SAMUEL (Continued.)

Remarks—

on motion to amend section 20, executive, 1022, 1160.

on motion to amend section 15, judiciary, 1394.

GIBBS, W. H., Member from Portage, Box Elder County.

Appointed—

on committee on rules, 61, 65.

on committee on apportionment and boundaries, 66.

Moves—

to strike out section 5, miscellaneous, 1800, 1801.

a point of order on Howard, 751.

to amend Ricks's motion to adjourn, 172.

to amend section 2, education, 1372.

to amend section 1, corporations, 1465.

Presents—

proposition for insertion in Constitution on probate judges, 113.

petition for separate submission of suffrage, 976, 1032, 1287.

Remarks—

on voting on section 20, executive, 1158.

on resolution to get bids on stationery, 118.

on motion to adjourn, 172.

on resolution on senators and representatives, 181.

on motion to amend section 24, bill of rights, 357.

on motion to amend section 2, education and school lands, 383.

on suffrage, 575.

on motion to amend section 3, amendments, 675.

on voting on section 1, elections and suffrage, 768.

on motion to strike out section 1, apportionment, 822.

on motion to amend section 5, education, 1248.

GIBBS, W. H. (Continued.)

Remarks—

on voting on article on education, 1374.

on motion to amend section 1, judiciary, 1404, 1409.

on motion to amend section 3, mines and mining, 1421, 1544.

on section 3, public buildings, 1622.

on revision, 1792.

on voting on miscellaneous, 1801.

Seconds Eldredge's motion to lay on table, 189.

GOODWIN, C. C., Member from Fifth Precinct, Salt Lake City.

Acting as chairman pro tem., 38.

Appointed—

on committee on legislative, 66.

on committee on compilation and arrangement, 67.

chairman of committee on judiciary, 66.

chairman of committee of the whole, 535.

on committee to prepare address, 1802.

Excused, 213, 656.

Moves—

to strike out section 15, bill of rights, 322.

a substitute for section 15, bill of rights, 319.

to defer action on report of committee on sites, 59.

to adopt rules for one day, 89.

to refer, 112.

to elect committee clerks, 120.

to reconsider in relation to minutes, 187.

a vote of confidence in Davis County, 519.

to amend section 14, elections and suffrage, 616.

to amend section 8, elections and suffrage, 783.

to lay amendment to substitute on table, 793.

GOODWIN. C. C. (Continued.)

Moves—

for Mackintosh to have opening and closing speech on his amendment, 1056.
to strike out section 6, public debt, 1141.
to amend section 5, labor, 1174.
to amend section 5, education, 1283.
for committee to rise, 1330.
for a new section on metric system, education, 1372.
a substitute to section 20, judiciary, 1379.
to adjourn, 1522.
to amend section 4, schedule, 1631.
to amend section 9, schedule, 1633.
to reconsider vote on reading articles, 1718.
to transpose section 20, bill of rights, 1720.
to amend on revision, 1805, 1819.
a vote of thanks for use of hall, 1848.

Presents—

proposition for insertion in Constitution on irrigation, 217.
proposition for insertion in Constitution on metric system, 299.
petition for separate submission of suffrage. 769, 809, 933, 934.

Remarks—

on motion to refer back report on credentials, 31.
on voting for enrolling clerk, 51.
on the absence of Evans, 55.
on report of committee on site, 56.
relating to chaplain, 56.
on report of committee on site, 59, 60.
on resolution to set hour of meeting, 63.
on appointment as chairman of committee on judiciary, 67, 68.
on selection of seats, 72.
on motion to adopt rules, 90.
on motion to form schedule of meetings, 117.
on electing committee clerks, 120, 122, 160, 172.
on adopting rules, 134, 135.

GOODWIN, C. C. (Continued.)

Remarks—

on seconding nomination of Miss Madison, 159.
on motion to refer correction of minutes, 187, 188.
on motion for additional clerk, 196.
on motion to amend section 4, bill of rights, 247.
on motion to amend section 5, bill of rights, 255.
on motion to amend section 10, bill of rights, 261, 282, 283, 298.
on report to increase committee on schedule, future amendments and miscellaneous, 271.
on proposition to tax professional men, 300.
on motion to change hour of meeting, 301.
on motion to fine absent members, 304.
on motion to amend section 12, bill of rights, 308.
on substitute to section 15, bill of rights, 320, 321, 322.
on motion to amend section 23, bill of rights, 329.
on motion to amend section 2, education and school lands, 370, 375, 382, 387.
on motion to take up elections and rights of suffrage, 413.
on section 1, elections and rights of suffrage, 486, 487, 489.
on motion to adjourn, 578.
on motion to strike out section 10, elections and suffrage, 604, 613.
on motion to amend section 14, elections and suffrage, 616, 617.
on motion to amend section 1, executive, 656.
on motion to amend section 6, municipal corporations, 670, 671.
on motion to postpone action on elections and suffrage, 696, 697.
on motion to recommit elections and suffrage, 739, 740, 741, 757.
on voting on section 1, elections and suffrage, 768.

GOODWIN, C. C. (Continued.)
Remarks—
on motion to amend section 8, elections and suffrage, 782, 783.
on motion to amend section 14, elections and suffrage, 784, 794.
on assuming the chair to act as temporary chairman, 58.
on election of president, 39, 40.
on introducing the permanent president, 40.
on motion to amend section 14, elections and suffrage, 794, 799, 880, 1481, 1482, 1483, 1484, 1489, 1492, 1496.
on motion to amend ordinance, 806.
on presenting the president with portraits, 810.
on motion to amend section 1, militia, 815, 816.
on motion to amend section 4, apportionment, 831, 839, 863.
on motion to amend section 13, legislative, 869, 873.
on motion to amend section 26, legislative, 884.
on motion to amend section 4, minority report, legislative, 893.
on Roberts's motion to amend legislative, 900, 914, 923, 926.
on motion to strike out section 35, legislative, 940.
on appeal from chair on vote on section 36, legislative, 969, 970.
on report of committee on judiciary, 977.
on motion to reconsider section 36, legislative, 991, 993, 1001, 1002.
on motion to amend section 1, labor and arbitration, 1042, 1043.
on motion to amend section 5, labor and arbitration, 1058.
on motion to amend section 7, labor and arbitration, 1061.
on motion to strike out section 5, taxation and revenue, 1091, 1093, 1094, 1095, 1096, 1098.
on motion to amend section 3, taxation and revenue, 1115.
on motion to amend section 1, public debt, 1118.

GOODWIN, C. C. (Continued.)
Remarks—
on motion to amend section 3, public debt, 1131, 1132, 1134.
on motion to amend section 20, executive, 1154.
on section 5, labor, 1170, 1174, 1175.
on motion to amend section 4, public debt, 1189.
on motion to amend section 5, education, 1238, 1247, 1252, 1282, 1283, 1284, 1289.
on motion to reconsider section 4, elections, 1288.
on section 6, education, 1289.
on motion to amend section 7, education, 1291.
on motion to amend section 10, education, 1294, 1301.
on motion to amend section 2, education, 1303, 1304, 1335.
on metric system, 1312.
on motion to amend section 2, judiciary, 1313, 1497, 1499, 1500, 1501.
on section 5, judiciary, 1314, 1315, 1317, 1503.
on motion to amend section 7, judiciary, 1320.
on motion to amend section 8, judiciary, 1322, 1323, 1504, 1506.
on motion to amend section 15, judiciary, 1325.
on motion to amend section 20, judiciary, 1326, 1377, 1383, 1384, 1386, 1390, 1391, 1514, 1515.
on motion to amend section 3, education, 1336.
on motion to amend section 4, education, 1340, 1357.
on motion to amend section 1, judiciary, 1397, 1400, 1404, 1405, 1522.
on motion to amend section 4, judiciary, 1502.
on motion to amend section 9, judiciary, 1506.
on section 18, judiciary, 1513.
on motion to amend section 27, judiciary, 1521.
on schedule, 1630, 1632, 1634, 1638, 1645, 1740, 1748, 1750, 1754, 1761, 1764.

GOODWIN, C. C. (Continued.)

Remarks—
on public buildings, 1728.
on miscellaneous, 1776, 1782.
on revision, 1788, 1790, 1791, 1792, 1793, 1795, 1806, 1808, 1809, 1810, 1811, 1812, 1813, 1814, 1815, 1818, 1823, 1824.
on printing proceedings, 1843, 1845.

Reports as chairman of committee on judiciary, 976.
Requests Squires and Roberts to escort permanent president to the chair, 40.
Seconds Pierce's motion to adjourn, 62.
Seconds Kimball's motion on electing committee clerk, 160.
Withdraws amendment to section 5, labor, 1175.

GREEN, J. F., Member from Draper, Salt Lake County.

Appointed—
on committee on water rights and irgation, 66.
on committee on schedule, future amendments and miscellaneous, 67.

Presents—
proposition for insertion in Constitution on irrigation, 217.
petition for separate submission of suffrage, 1143.

Remarks—
on voting on section 1, elections and suffrage, 768.

GILLILAN, REV. J. D., of the Methodist Episcopal Church.
offered prayer, 197, 215.

HAMMOND, F. A., Member from San Juan County.

Appointed—
on committee to name standing committees, 38.
on committee on elections and suffrage, 66.
on committee on apportionment and boundaries, 66.

HAMMOND, F. A. (Continued.)

Moves—
to adopt report of committee on apportionment, 191.
to amend section 9, legislative, 936.
to amend on revision, 1803.

Opened by prayer, 59.

Presents—
proposition for insertion in Constitution on appropriations, 218.

Remarks—
on proposition on live stock, 164.
on suffrage, 551, 570.
on motion to strike out section 10, elections and suffrage, 606, 611, 612.
on motion to amend section 22, bill of rights, 638.
on motion to amend section 6, executive, 664.
on motion to recommit elections and suffrage, 731.
on motion to amend section 1, militia, 817.
on motion to amend section 4, apportionment, 828, 829.
on motion to amend section 13, legislative, 875, 879.
on section 9, legislative, 935, 936.
on motion to amend section 33, legislative, 938.
on motion to amend section 12, executive, 1007.
on motion to amend section 20, executive, 1023.
on motion to strike out section 1, labor and arbitration, 1045.
on motion to strike out section 9, labor and arbitration, 1067.
on motion to amend section 4, taxation and revenue, 1083.
on motion to strike out section 8, taxation and revenue, 1109.
on motion to amend section 8, public debt, 1128.
on reconsideration of suffrage, 1148.
on voting on section 20, executive, 1158.
on article on labor, 1166, 1171.

HAMMOND, F. A. (Continued.)
Remarks—
on motion to amend section 4, public debt, 1191, 1192.
on water rights, 1213.
on motion to amend section 5, education, 1288, 1343, 1369.
on motion to amend section 10, education, 1292, 1299.
on motion to amend section 5, judiciary, 1318.
on motion to amend section 20, judiciary, 1385, 1516.
on motion to amend section 3, mines and mining, 1429.
on motion to adopt majority report on prohibition, 1446, 1457.
on motion to amend section 11, corporations, 1471.
on voting on judiciary, 1524.
on section 3, public buildings, 1621.
on schedule, 1630, 1631, 1652, 1758.
on section 14, corporations, 1665.
on public lands, 1695.
on section 6, public buildings, 1712.
on voting on schedule, 1766.
on miscellaneous, 1776.
Takes oath as a member, 13.

HART, CHARLES H., Member from Logan, Cache County.
Appointed—
on committee on rules, 61, 65.
on legislative committee, 65.
on committee on corporations, 66.
on committee on printing, 67.
Called to the chair in committee of the whole, 419, 429, 1470.
Excused, 190.
Moves—
to adopt report of committee on credentials, 32.
the previous question on the report on stenographer, 100.
authorizing president to appoint committees, 74, 75.
to adopt report of committee on printing, 91.

HART, CHARLES H. (Continued.)
Moves—
to sit for photographs, 125.
to refer motion on current expenses to committee, 273.
to amend section 24, bill of rights, 346.
to amend section 24, bill of rights, 358.
for regular order, 492.
to amend section 10, bill of rights, 492.
to go into committee of the whole, 496.
to amend section 10, elections and suffrage, 615.
to reconsider section 5, elections and suffrage, 618.
to amend section 26, bill of rights, 650.
to amend section 6, executive, 663.
to amend section 1, amendments, 674.
to amend section 3, amendments, 677.
to amend substitute for section 14, elections and suffrage, 793.
to amend motion to suspend rules, 802.
to suspend rules and go into the committee of the whole, 810.
to strike out section 1, apportionment, 820.
to amend section 3, apportionment, 824.
to amend section 9, legislative, 935.
to refer section 20, executive, 1018, 1023.
to amend section 22, executive, 1031.
to amend section 3, public debt, 1134.
to amend section 5, public debt, 1141.
to amend section 20, executive, 1159.
to amend section 8, executive, 1160.
to reconsider section 1, water rights, 1218.
to amend water rights, 1233.
to lay Allen's motion on the table, 1288.
to amend section 10, education, 1300.
to strike out section 8, corporations, 1468.
to adjourn, 1526.

HART, CHARLES H. (Continued.)

Moves—

to strike out sections 1 and 2 and title, mines and mining, 1546.
to adopt majority report on prohibition, 1546.
to strike out section 18, corporations, 1562.
to refer resolution on final reading, 1587.
a resolution to record absent members, 1587.
to strike out section 32, corporations, 1597.
to amend section 1, public lands, 1605.
to accept invitation to reception, 1684, 1685.
to amend section 3, public lands, 1689.
to postpone consideration of public lands, 1703.
to reconsider corporations, 1704.
to amend section 12, bill of rights, 1719.
to amend section 2, salaries, 1635.
to amend legislative, 1787.
to refer articles to committee on engrossment, 1793.
to suspend rules and take up miscellaneous, 1797.
to amend on revision, 1804, 1805.
for secretary to file documents with secretary of the Territory, 1852.

Presents—

proposition on distribution of powers for insertion in Constitution, 112.
proposition for insertion in Constitution on militia, 165.
memorial against combines and trusts, 199.
petition for suffrage to go into the Constitution, 994, 1143.
resolution on hour of meeting, 62.
petition for separate submission of suffrage, 1032.

Remarks—

on election of president, 40.
on motion to refer back report on credentials, 32.

HART, CHARLES H. (Continued.)

Remarks—

on resolution regulating the hour of meeting, 62.
on point of order on adjournment, 62.
on resolution relating to librarian, 64, 65.
on printing minutes, 75.
on motion to adopt report on stenographer, 91, 99.
on reports of committees, 109.
on election of committee clerks, 121, 124, 159.
on adoption of rules, 138, 140.
on motion to refer petition on prohibition, 144.
on report of committee on expense, 151.
on motion to amend and refer, 156.
on motion to adjourn, 167, 169, 170.
on motion to refer corrections of minutes, 174.
on motion to read report of committee on preamble, 200.
on proposition for insertion in Constitution, 201.
on motion to go into committee of the whole, 204, 819, 820.
on motion to lay article on boundary on table, 206.
on order of business, 208, 210, 211.
on motion to receive and file Thatcher's letter, 214.
on report of committee on education, 216.
on motion to limit time to present propositions, 219.
on motion on Coray, 221.
on point of order on motion to amend section 4, bill of rights, 235.
on motion to amend section 4, bill of rights, 236, 237, 242, 251.
on motion to go into committee of the whole, 272.
on motion to amend section 10, bill of rights, 284.
on motion to amend section 24, bill of rights, 345, 350, 354, 355, 357.
on motion to amend section 2, education and school lands, 389, 392.

HART, CHARLES H. (Continued.)

Remarks—

on motion to amend section 5, counties, cities, and towns, 401.
on motion to amend section 10, bill of rights, 492.
on suffrage, 568, 571.
on motion to take a recess, 600.
on motion to amend section 2, elections and rights of suffrage, 601.
on motion to strike out section 10, elections and suffrage, 615.
on motion to amend section 22, bill of rights, 630, 631, 635, 636.
on motion to adopt bill of rights, 651, 652.
on motion to amend section 6, executive, 663.
on motion to amend section 3, amendments, 675.
on question to observe Arbor day, 679.
on motion to postpone elections and suffrage, 704.
on motion to recommit elections and suffrage, 725, 726, 751, 764.
on Thurman's motion to lay on the table, 766.
on voting on section 1, elections and suffrage, 768, 769.
on motion to amend section 14, elections and suffrage, 793, 794, 799, 1491, 1496.
on motion to suspend rules on elections and suffrage, 802.
on motion to amend ordinance, 806.
on motion to amend section 1, militia, 819.
on motion to strike out section 1, apportionment, 820, 821, 822.
on motion to amend section 4, apportionment, 826, 827, 828, 829, 838, 854, 855, 858, 859.
on apportionment, 862, 863.
on motion to amend section 3, legislative, 866.
on motion to amend section 4, legislative, 866.
on motion to amend section 13, legislative, 870, 876.

HART, CHARLES H. (Continued.)

Remarks—

sustaining decision of chair, 896.
on appeal from decision of chair to adopt section 36, legislative, 958, 963.
on motion to amend section 20, executive, 1019, 1020, 1025, 1026, 1027, 1029, 1159, 1160.
on motion to amend section 1, labor and arbitration, 1035, 1036, 1037.
on motion to amend section 3, labor and arbitration, 1054, 1055.
on point of order for chair to rebuke, 1055.
on motion to amend section 1, public debt, 1117, 1121, 1124, 1185.
on motion to amend section 3, public debt, 1128, 1129, 1134.
on motion to amend section 5, public debt, 1139.
on motion to amend section 8, public debt, 1141, 1142.
on motion to amend section 6, executive, 1151.
on motion to amend section 8, executive, 1161.
on article on labor, 1166, 1167, 1175, 1176.
on motion to amend section 14, taxation and revenue, 1178.
on motion to reject minority report on prohibition, 1183.
on water rights, 1205, 1217, 1685.
on motion to amend section 4, education, 1232.
on motion to reconsider accounts, 1236.
on motion to amend section 2, education, 1237.
on motion to amend section 5, education, 1271, 1272, 1273, 1274, 1307, 1347, 1361.
on section 6, education, 1289.
on motion to amend section 10, education, 1292, 1301.
on motion to amend section 2, education, 1302.
on motion to amend section 5, judiciary, 1314.

HART, CHARLES H. (Continued.)

Remarks—

on motion to go into committee of the whole, 1331.
on motion to amend section 20, judiciary, 1381, 1388.
on motion to amend section 15, judiciary, 1396.
on mines and mining, 1413, 1422, 1426, 1428, 1429, 1526, 1527, 1528, 1529, 1530, 1543, 1544.
on motion to strike out section 1, corporations, 1467.
on point of order to strike out section 3, mines, 1525.
on section 23, corporations, 1576, 1577.
on section 26, corporations, 1592.
on section 28, corporations, 1593.
on section 1, public lands, 1606.
on section 2, public lands, 1607.
on section 4, public lands, 1691, 1696, 1697.
on schedule, 1761, 1762, 1763.
on miscellaneous, 1769, 1770, 1775, 1776, 1777, 1779, 1781, 1784, 1785, 1786, 1799, 1800, 1801.
on revision, 1790, 1792, 1803, 1806, 1808, 1809, 1810, 1811, 1812, 1813, 1830, 1832, 1834, 1849.
on compensation for stenographer 1825.
on engrossing, 1827.
on printing proceedings, 1838, 1840, 1841, 1842, 1843, 1844, 1845.
on vote of thanks, 1849.

Seconds motion of Chidester on report on elections, 317.

Yields his time to Roberts, 895.

HAYNES, HARRY, Member from Murray, Salt Lake County.

Appointed—

on committee on apportionment and boundaries, 66.
on committee on revenue, taxation and public debt, 67.

Excused, 78.

HAYNES, HARRY (Continued.)

Moves—

to pass the question of stenographer, 53.
to amend on revision, 1802, 1803, 1814, 1818.

Presents—

petition for separate submission of suffrage, 851, 934, 1143.

Remarks—

on petitions on suffrage presented by Cannon, 976.
on motion to amend section 8, judiciary, 1322.
on voting on article on education, 1374.
on revision, 1809.

HALLIDAY, J. D., Member from Santaquin, Utah County.

Appointed—

on executive committee, 66.
on committee on schedule, future amendments and miscellaneous, 67.

Excused on account of illness, 98.

Opened by prayer, 1331.

Presents—

petition for separate submission of suffrage, 851.

Remarks—

on motion to postpone action on elections and suffrage, 683, 684, 685.
on motion to reconsider elections and suffrage, 722, 751.
on motion to amend section 7, legislative, 867.
on motion to adopt substitute for section 36, legislative, 954.
on motion to amend section 3, public debt, 1131.
on motion to amend section 4, education, 1342, 1361.
on motion to strike out section 9, corporations, 1468.
on section 23, corporations, 1668.
on revision, 1807.

Reports as minority in favor of prohibition, 1183.

HALL, REV. A. KINNEY, of St. Mark's Cathedral.
offered prayer, 495.

HARTLEY, MISS FLORENCE.
nominated for committee clerk, 159.

HAWKES, REV. W. S., of the Congregational Church.
offered prayer, 711.

HEYBOURNE, R. W. Member from Cedar City, Iron County.

Appointed—
on committee to name standing committees, 38.
on committee on preamble, 65.
on committee on apportionment and boundary, 66.
chairman on committee on ordinances, 67.
Excused, 663.

Moves—
to amend motion to allow Roberts to close debate on suffrage, 517.
to rise and report, 571.
to amend section 10, elections and suffrage, 610.
for a recess, 729.
to accept invitation, Los Angeles Railway, 1526.
the previous question, 1754.
Offered prayer, 1627.

Presents—
petition for suffrage to go into the Constitution, 889, 1143.
petition for separate submission of suffrage, 851, 993, 1142.

Remarks—
on report of committee on federal relations and ordinance, 218.
on suffrage, 529.
on motion to strike out section 10, elections and suffrage, 610, 611, 613, 614.
on motion to amend section 22, bill of rights, 633.
on motion to amend section 2, executive, 659.

HEYBOURNE, R. W. (Continued.)

Remarks—
on motion to amend section 3, executive, 662.
on motion to recommit elections and suffrage, 716, 717.
on Eldredge's motion to go into committee of the whole, 770.
on motion to amend section 14, elections and suffrage, 790, 1487.
on ordinance, 811.
on motion to strike out section 1, apportionment, 823.
on motion to amend section 20, legislative, 882.
on Roberts's amendment to legislative article, 909, 910.
on motion to strike out section 1, labor and arbitration, 1039.
on motion to amend section 4, taxation and revenue, 1081.
on motion to amend section 12, taxation and revenue, 1111.
on motion to amend section 1, public debt, 1123.
on voting on article on labor, 1177.
on water rights, 1210.
on motion to amend section 5, judiciary, 1317.
on motion for night sessions, 1477, 1478.
on section 3, public buildings, 1615, 1708.
on section 6, public buildings, 1629, 1715.
on revision, 1788.
Reports as chairman of committee on ordinance, 316.

HERMAN, REV. FRANCIS, of the Scandinavian M. E. Church.
offered prayer, 535.

HILL, S. H., Member from Second Precint, Salt Lake City.

Appointed—
on committee on judiciary, 66.
on public lands committee, 66.

HILL, S. H. (Continued.)

Appointed—

on committee on mines and mining, 67.

on committee on schedule, future amendments and miscellaneous, 297.

Moves—

to refer report of committee on boundaries to committee of the whole, 191.

to rise and report, 312.

Nominates E. M. Ashton as committee clerk, 120, 124.

Presents—

petition for separate submission of suffrage, 850, 888, 1143.

Remarks—

on official stenographer, 100.

on motion to correct minutes, 106, 107.

on reports of committees, 109.

on compensation of officers, 110.

on rules, 128.

on suffrage, 545, 546, 547, 548, 549.

on motion to amend section 22, bill of rights, 650.

on motion to amend section 20, executive, 1020, 1023.

on motion to amend section 5, education, 1267, 1270, 1271, 1277.

on motion to amend section 5, judiciary, 1315.

on motion to amend section 1, judiciary, 1402, 1403.

on section 23, corporations, 1571.

on section 2, public lands, 1607.

on schedule, 1757.

on revision, 1802.

Seconds motion for additional clerk, 193.

Withdraws name of E. M. Ashton as committee clerk, 121.

HOWARD, WILLIAM, Member from Huntington, Emery County.

Appointed—

on committee to name standing committees, 38.

HOWARD, WILLIAM (Continued.)

Appointed—

on committee on elections and suffrage, 66.

on committee on mines and mining, 67.

Excused, 192.

Moves—

to have Robertson sworn, 59.

to amend rule 22 of standing rules, 89.

to amend section 3, amendments, 406.

the previous question on apportionment of representatives and senators, 187.

a substitute for section 23, bill of rights, 331.

to amend section 24, bill of rights, 357.

to amend section 3, counties, cities, and towns, 399.

to amend section 6, legislative, 975.

to amend section 8, legislative, 1004.

to amend section 23, executive, 1081.

to amend substitute to section 7, labor and arbitration, 1066.

to amend section 3, mines and mining, 1420.

to amend section 9, corporations, 1469.

to amend section 2, public lands, 1606.

to amend section 5, miscellaneous, 1782.

Offered prayer, 1585.

Presents—

petition for separate submission of suffrage, 851, 934.

proposition for insertion in Constitution on irrigation, 156.

proposition for insertion in Constitution on registration, 156.

resolution relating to apportionment, and moves its adoption, 175.

proposition for insertion in Constitution on revenue, 299.

proposition for insertion in Constitution on purity of water, 299.

resolution to fine absent members, 304.

HOWARD, WILLIAM (Continued.)

Presents—

petition for suffrage to go into the Constitution, 934, 1181.

Remarks—

on report on committee on site, 60.
on rule 22, and requests that it be read, 89.
on motion to take report from table, 146.
on motion to adjourn, 168.
on resolution to refer apportionment, 176.
on resolution on senators and representatives, 183, 187.
on motion to amend section 4, bill of rights, 284.
on proposition on revenue, 299.
on motion to amend section 23, bill of rights, 335.
on motion to amend section 3, amendments, 407.
on suffrage, 525.
on motion to amend section 22, bill of rights, 634, 635, 647.
on section 10, executive, 666.
on motion to recommit elections and suffrage, 731, 748, 749, 750, 751.
on motion to amend section 23, executive, 1031.
on motion to strike out section 7, labor and arbitration, 1065.
on motion to amend section 5, public debt, 1139.
on section 8, executive, 1161.
on voting on executive, 1163.
on article on labor, 1170.
on appeal from chair on water rights, 1205.
on motion to reconsider section 14, elections, 1482, 1483, 1487.
on motion to amend section 11, corporations, 1548.
on motion for night sessions, 1477.

HUGHES, HENRY, Member from Mendon, Cache County.

Appointed—

on committee on federal relations, 65.

HUGHES, HENRY (Continued.)

Appointed—

on committee on water rights and irrigation, 66.

Offered prayer, 975.

Presents—

proposition for insertion in Constitution on irrigation, 226.

Remarks—

on section 4, public lands, 1691.

HUNT, REV. E. G. of the Methodist Episcopal Church.

offered prayer, 598.

HUNTER, REV. STANLEY M., of the Unitarian Society.

offered prayer, 393.

HYDE. J. A. Member from Nephi, Juab County.

Appointed—

on committee on sites, 36.
on judiciary committee, 66.
on committee on apportionment and boundary, 66.
chairman on committee on manufactures and commerce, 67.

Excused, 311.

Moves—

to amend section 12, executive, 1152.
to amend section 13, executive, 1153.

Presents—

petition on suffrage from women of Juab County, 216.
petition favoring prohibition, 1181.

Remarks—

on motion to amend section 4, apportionment, 829.
on article on labor, 1167.
on metric system, 1312.

Report as chairman of committee on manufactures and commerce, 1413.

IVINS, A. W., Member from St. George, Washington County.

Appointed—
on committee on credentials, 13.
on executive committee, 66.
on committee on revenue, taxation and public debt, 67.
on committee on mines and mining, 67.
Called to the chair in committee of the whole, 578, 865, 1237, 1547.
Excused to attend session of committee on suffrage, 162.
Excused from voting on article on boundary, 212.

Moves—
to elect president by acclamation, 39.
previous question for committee on stenographer, 55.
to accept majority report of committee on standing committees, 58.
to instruct committee on site and furniture, 62.
to read rules and pass on them, 89.
to elect committee clerks by roll call, 121, 123.
to procure typewriters, 158.
to lay on table article on boundary, 205.
to amend section 4, bill of rights, 231.
for unanimous consent for Roberts to have all the time, 420.
to pass article 1, elections and suffrage, to third reading, 457.
a point of order, 543.
that Roberts close debate on suffrage, 564.
for a writ of prohibition to prevent recount of vote, 958.
to strike out section 3, labor and arbitration, 1053, 1056.
to amend section 20, judiciary, 1389.
to adopt minority report on prohibition, 1546.
to amend section 28, corporations, 1592.
to strike out section 34, corporations, 1599.
to amend miscellaneous, 1797.
on revision, 1814.

IVINS, A. W. (Continued.)

Nominates—
Miss Clark as committee clerk, 123.

Presents—
petition for separate submission of suffrage, 934, 1054.

Remarks—
on Van Horne's motion for committee of five, 12.
on motion to refer back report on credentials, 25, 26.
on motion to elect president by acclamation, 40.
on motion to suspend rules and elect, 49.
on site and furniture, 62.
on selection of seats, 73, 74.
on motion to adopt rules, 89, 90.
on election of committee clerks, 120, 121, 122, 123, 124, 160.
on point of order on Button, 123.
on motion to sit for photographs, 125.
on printing rules and names and addresses, 141.
on motion to refer petition on prohibition, 144.
on report of committee on accounts, 146, 148, 153.
on rules on points of order, 156, 161.
on point of order on Kiesel, 158.
on committee clerks, 158, 160.
on motion to reconsider vote, 188.
on boundary, 204, 205, 206.
on rule 20 and its application, 214, 215.
on motion to amend article 1, bill of rights, 229.
on motion to amend section 4, bill of rights, 235, 238, 242.
on motion to postpone consideration of section 10, bill of rights, 262.
on petition on prohibition, 264.
on report to increase committee on schedule, future amendments and miscellaneous, 269, 270.
on motion to amend section 2, education and school lands, 372, 373, 379, 380, 389.
requests ruling of chair, 411.
on motion to take up elections and rights of suffrage, 411.

IVINS, A. W. (Continued.)

Remarks—

on motion to pass section 1, elections and rights of suffrage, 420, 457, 458, 473, 539.

on motion to amend section 22, bill of rights, 634, 649.

on motion to amend section 1, executive, 654.

on motion to amend section 3, executive, 661.

on motion to amend section 6, executive, 665.

on motion to amend section 6, municipal corporations, 673.

on motion to postpone action on elections and suffrage, 693, 699.

on motion to go into committee of the whole, 703.

on appeal from chair on point of order on section 1, elections and suffrage, 707.

on Maloney's amendment to section 1, elections and suffrage, 711.

on motion to recommit elections and suffrage, 713, 720, 722, 749, 753, 754.

on voting on section 1, elections and suffrage, 768.

on motion to amend section 8, elections and suffrage, 781, 782.

on motion to amend section 13, legislative, 878.

on motion to strike out section 35, legislative, 946.

on appeal from chair on adopting section 36, legislative, 960, 962, 970.

on motion to reconsider section 36, legislative, 982.

on voting on legislative article, 1005, 1006.

on a point of order, 1006.

on motion to amend section 12, executive, 1007, 1013, 1014.

on motion to amend section 20, executive, 1022, 1023.

on motion to amend section 1, labor and arbitration, 1052.

on motion to amend section 3, labor and arbitration, 1054.

IVINS, A. W. (Continued.)

Remarks—

on motion to strike out section 9, labor and arbitration, 1066, 1067.

on Squires reading letter accompanying petition against suffrage, 1084.

on motion to strike out section 5, taxation and revenue, 1084, 1086, 1090, 1091, 1093, 1107, 1108.

on motion to amend section 12, taxation and revenue, 1112.

on motion to amend section 1, public debt, 1119.

on motion to amend section 3, public debt, 1127.

on motion to amend section 5, public debt, 1140, 1141.

on motion to reconsider suffrage, 1149, 1150.

on motion to amend section 5, labor, 1174.

on motion to amend section 5, taxation and revenue, 1180.

on motion to reject minority report on prohibition, 1183.

on motion to amend section 4, public debt, 1192.

on water rights, 1204, 1218.

on motion to amend section 2, education, 1221, 1222, 1226, 1303.

on motion to amend section 5, education, 1231, 1273, 1274, 1343.

on motion to amend section 10, education, 1295.

on motion to amend section 20, judiciary, 1381, 1382, 1389, 1515, 1516.

on motion to amend section 1, judiciary, 1408, 1409.

on motion to strike out section 3, mines and mining, 1417, 1418, 1419.

on motion to adopt majority report on prohibition, 1431, 1434, 1546.

on mines and mining, 1525, 1526, 1538, 1539, 1542.

on motion to limit debate, 1588.

on section 26, corporations, 1591.

on section 28, corporations, 1593.

on public lands, 1609, 1687, 1693, 1694.

on section 3, public buildings, 1616, 1626.

IVINS, A. W. (Continued.)

Remarks—
on section 6, public buildings, 1629.
on schedule, 1637, 1753, 1754, 1764.
on section 25, corporations, 1670, 1675, 1676.
on corporations, 1681.
on appeal from the chair, 1728.
on miscellaneous, 1772, 1798.
on revision, 1807, 1808.
on a point of order, 1794.
on printing proceedings, 1841.

ILIFF, REV. T. C., of the Methodist Episcopal Church.
offered prayer, 13.

JAMES, WILLIAM F., Member from Fifth Precinct, Salt Lake City.

Appointed—
on committee on stenographer, 55.
chairman of committee on corporations, 66.
on committee on mines and mining, 67.

Amends motion for recess, 600.
Amends motion on drawers, 116.
Called to act as temporary chairman, 734, 1503.
Called to chair in committee of the whole, 363, 1032.

Moves—
for recess, 12.
to have members sworn, 37.
to suspend rules, 49.
for report from committee on accounts, 75.
to take up question of committee clerks, 104.
to refer correction of minutes, 106, 107.
to receive and file report of committee on expenses, 110.
to amend relating to postage, 150.
to adjourn to set time, 167.
to stop debate on suffrage, 563.
to adopt report of committee on accounts and expenses, 712.
to strike out section 5, elections and suffrage, 778.

JAMES, WILLIAM F. (Continued.)

Moves—
a substitute for section 1, apportionment, 824.
to amend motion on section 20, executive, 1017.
to amend section 13, corporations, 1556.
to amend section 22, corporations, 1569.
to strike out sections 24 and 25, corporations, 1578.
a substitute for section 26, corporations, 1583.
to strike out section 7, corporations, 1655.
to amend section 13, corporations, 1663.
to adopt new section to miscellaneous, 1800.
to amend on revision, 1822.

Presents—
petition for separate submission of suffrage, 769, 851, 852, 1143.

Remarks—
on calling Convention to order, 9.
on motion to refer back report on credentials, 23, 24, 26, 28, 29, 30.
on adopting report of committee on credentials, 37.
on election of stenographer, 54.
on minority report of committee on standing committees, 57.
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on selection of seats, 74.
on motion to adopt rules, 90.
on hiring of an official stenographer, 92, 93, 95, 96.
on committee clerks, 103, 160.
on motion to correct minutes, 107.
on motion to receive and file report of committee, 110.
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on resolution to get bids on stationery, 117, 118.
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on report of committee on expenses, 153.
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JAMES, WILLIAM F. (Continued.)
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on motion to limit time to present propositions, 219.
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on resolution on stenographer, 223.
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on report to increase committee on schedule, future amendments and miscellaneous, 270.
on motion to change time of meeting, 308.
on motion to amend section 11, bill of rights, 305.
on motion to set time to report elections and suffrage, 318.
on motion to strike out section 21, bill of rights, 325.
on motion to amend section 23, bill of rights, 333, 334, 337, 338.
on motion to amend section 24, bill of rights, 335.
on motion to amend section 25, bill of rights, 359.
on motion to amend section 5, counties, cities and towns, 402, 404.
on section 1, elections and rights of suffrage, 489, 518, 527, 535, 543, 548, 563, 564.
on motion to strike out section 10, elections and suffrage, 609, 610.
on motion to amend section 22, bill of rights, 626, 636.
on motion to amend section 1, executive, 658.
on motion to amend section 6, municipal corporations, 671.
on motion to postpone action on elections and suffrage, 685, 691, 692, 693, 694.
on report of committee on accounts and expense, 712.
on motion to recommit elections and suffrage, 722, 725, 759, 765.
on point of order on Snow, 759.
on refusing to vote on section 1, elections and suffrage, 768.

JAMES, WILLIAM F. (Continued.)
Remarks—
on motion to amend section 2, elections and suffrage, 771.
on motion to amend section 14, elections and suffrage, 789, 790, 1480.
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on motion to adopt section 4, minority report, legislative, 894.
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on voting on reconsideration of section 36, legislative, 1003.
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on point of order on motion to amend section 20, executive, 1018.
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on motion to amend section 3, public debt, 1126.
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on amendment to labor, 1171, 1172.
on water rights, 1204, 1685.
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on mines and mining, 1424, 1425, 1426, 1428, 1525, 1526, 1529, 1530, 1531, 1534, 1544.

JAMES, WILLIAM F. (Continued.)

Remarks—

on corporations, 1464, 1465, 1604, 1681.
on section 2, corporations, 1467, 1468, 1654, 1655.
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on schedule, 1649, 1738.
on section 2, corporations, 1655, 1656, 1657.
on section 9, corporations, 1659.
on section 10, corporations, 1661.
on section 38, corporations, 1679.
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Reports—

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JAMES, WILLIAM F. (Continued.)

Seconds—

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Varian's motion on minutes, 107.
Cannon's motion to go into committee of the whole, 703.

JAMES, SPENCER, BATEMAN & CO.

bids on tin boxes, 145.

JAYNE, REV. GEORGE E., of the Methodist Episcopal Church.

offered prayer, 933.

JOHNSON, BRUCE, Salt Lake City.

watchman, 2.
elected watchman, 49.
nominated for watchman by Richard G. Lambert, 49.
sworn in as watchman, 55.

JOHNSON, LYCURGUS, Member from Vernal, Uintah County.

Appointed—

on committee to name standing committees, 38.
on committee on apportionment and boundary, 66.
on committee on water rights and irrigation, 66.

Excused by Low of Cache County, 162.

Presents—

proposition for insertion in Constitution on irrigation, 218.

Remarks—

on motion to amend section 13, legislative, 878.

JOHNSON, JACOB.

admitted to floor, 331.

JOHNSON, L. C.

nominated as committee clerk, 120, 124.

JOLLEY, J. L., Member from Moroni, Sanpete County.

Appointed—

on committee to name standing committees, 38.

on executive committee, 66.

on committee on corporations, 66.

Excused to attend session of committee on suffrage, 162.

Excused, 763, 817.

Moves—

to amend section 5, taxation and revenue, 1178.

to adopt section 2, minority report, 1217.

to amend section 10, education, 1296, 1300.

to amend section 26, corporations, 1591.

to refer back article on school lands, 1793.

to amend on revision, 1803.

for speech from the governor, 1851.

Presents—

petition for suffrage to go into Constitution, 994.

proposition for insertion in Constitution on regulation of water, 300.

proposition for insertion in Constitution on taxing professional men, 300.

Remarks—

on excusing of Christianson, 53.

on motion to postpone action on elections and suffrage, 701, 702.

on question of taking oath, 13.

on mileage, 154.

on motion to amend section 4, bill of rights, 249.

on suffrage, 536, 538, 542, 1722.

on motion to strike out section 10, elections and suffrage, 611, 612.

on motion to recommit elections and suffrage, 735.

on passage of section 1, elections and suffrage, 770.

on apportionment, 862.

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JOLLEY, J. L. (Continued.)

Remarks—

on Roberts's amendment to legislative article, 922, 923.

on motion to amend section 12, taxation and revenue, 1112.

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on motion to amend section 5, taxation and revenue, 1179.

on voting on taxation and revenue, 1181.

on motion to amend section 4, public debt, 1190.

on water rights, 1204, 1218, 1233.

on motion to amend section 10, education, 1300.

on motion to amend section 2, education, 1302.

on motion to amend section 5, judiciary, 1317.

on motion to amend section 20, judiciary, 1380, 1381, 1518.

on motion to adopt majority report on prohibition, 1456.

on motion to amend section 2, judiciary, 1497.

on section 11, corporations, 1550.

on section 1, public lands, 1605.

on new section to public lands, 1608.

on section 6, public buildings, 1627, 1716, 1725, 1727.

on section 4, public lands, 1690, 1691, 1692.

on voting on public lands, 1704.

on miscellaneous, 1772.

on revision, 1833.

Seconds—

motion to amend section 20, executive, 1018.

motion to adopt report of committee on credentials, 37.

Wells's motion to amend section 1, elections and suffrage, 710.

motion to vote singly on pages, 55.

Takes oath as a member, 13.

KEARNS THOMAS, Member from Park City, Summit County.

Appointed—
on executive committee, 66.
on committee on salaries of public officers, 67.
chairman of committee on mines and mining, 67.
Excused to attend session of committee on suffrage, 162.

Moves—
to adjourn, 12, 1522.
to adopt report of committee on stenographer, 91.
to elect by acclamation committee clerk, 123, 124.
to amend Brandley's resolution for relief of mine calamity in Wyoming, 319.
to take a recess, 599.
to pass section 20, executive, 1017.
to amend section 20, executive, 1153.
a new section to article on labor, 1170.
to amend section 3, mines and mining, 1524.
a substitute on adjournment, 12.
nominates Thomas S. Watson as messenger, 49, 50.
offers substitute to section 22, bill of rights, 650.
excuse for Keith, 65.

Presents—
proposition for insertion in Constitution on judiciary, 114.
proposition for insertion in Constitution on charters, 163.
petition from Summit County on underground labor, 297.
proposition for insertion in Constitution on length of day's work, 299.
petition for separate submission of suffrage, 850, 888, 1084, 1142.

Remarks—
on motion to amend section 1, executive, 653, 654.
on motion to amend section 20, executive, 1018.
on motion to strike out section 3, labor and arbitration, 1054.

KEARNS, THOMAS (Continued.)

Remarks—
on motion to amend section 7, labor and arbitration, 1064.
on motion to amend section 4, taxation and revenue, 1078, 1079.
on motion to amend section 20, executive, 1155, 1159.
on labor article, 1164, 1171, 1172.
on motion to amend section 2, mines and mining, 1413.
on motion to strike out section 3, mines and mining, 1414, 1416, 1421, 1426, 1429, 1431, 1528, 1531, 1541, 1543, 1544.
on miscellaneous, 1768, 1770.
on minority report of committee on standing committees, 57.
on motion to adopt report of stenographer, 91.
on motion to amend section 4, bill of rights, 235, 238.
on motion to take a recess, 599.

Reports as chairman of committee on mines and mining, 1084.

Seconds—
Van Horne's motion relating to chaplain, 56.
Roberts's motion to amend section 4, bill of rights, 238.
motion to read report of committee on preamble, 200.
motion to stop debate on suffrage, 563.

Yields his time to Roberts, 421, 461.

KEITH, DAVID, Member from Park City, Summit County.

Appointed—
on committee to name standing committees, 38.
on legislative committee, 65.
on committee on corporations, 66.

Excused, 65, 1585.

Presents—
petition for separate submission of suffrage, 1143.

KIELY, REV. DENNIS, of the Roman Catholic Church.
offered prayer, 162.

KIESEL, F. J., Member from Ogden, Weber County.

Appointed—
on committee on elections and suffrage, 66.
on committee on corporations, 66.
on committee on manufactures and commerce, 67.

Asks privilege of the floor for John Watson, Nathan Tanner and Joseph Stanford, of Ogden, 142.

Calls for division, 156.
Excused, 203.

Moves—
to refer report of committee on stenographer, 95, 96.
that the mayor of Salt Lake be allowed the freedom of the floor, 117.
for chairman of committees to meet and formulate schedule of meetings, 117.
to elect Miss Clark by acclamation, 121.
to submit election of committee clerks to committee, 122.
to amend rules, 137.
to amend motion, 144.
on mileage and per diem, 158.
to not receive report on suffrage, 264.
to amend on current expenses, 273.
to amend section 5, counties, cities and towns, 401.
to adjourn, 492.
to give Roberts all the time wanted, 518.
to adjourn to morning, 567.
to adjourn to some other place to hear debate on suffrage, 579.
to amend section 20, executive, 1017.
to strike out section 1, public debt, 1116.
to amend section 1, public debt, 1117.
to amend section 10, education, 1292.
to strike out section 37, corporations, 1602.

KIESEL, F. J. (Continued.)

Moves—
a new section to public lands, 1610.
to reject invitation to reception, 1654.
to amend section 2, corporations, 1655.
to amend section 10, corporations, 1661.
to strike out section 11, corporations, 1661.

Nominates—
Newton Farr as enrolling clerk, 50.
C. R. Pratt as page, 55.
L. C. Johnson as committee clerk, 149.

Offers substitute for section 1, elections and rights of suffrage, 420.
Oath was administered to, 39.

Presents—
petition for separate submission of suffrage, 769, 888, 934, 1143.
proposition for insertion in Constitution on corporations, 192.
proposition for insertion in Constitution on fish and game, 272.
proposition for insertion in Constitution on preservation of forests, 272.

Remarks—
on voting for enrolling clerk, 51, 52.
on motion to form schedule of meetings, 117, 119.
on amending of rules, 137.
on memorial on suffrage, 142, 143.
on report on committee on expenses, 151, 152.
on question of order, 156.
on motion on per diem, 158.
and request that the Rabbi be invited to open by prayer, 162.
opposing motion for committee on elections and suffrage to report, 264, 265, 268.
on motion to print minority report on suffrage, 408.
on motion to extend time, 518.
on suffrage, 531, 532, 576.
on motion to recommit elections and suffrage, 716.
on motion to recommit elections and suffrage, 734, 735, 743, 744, 747.

KIESEL, F. J. (Continued.)

Remarks—

on motion to amend section 20, executive, 1017, 1024, 1028.
on motion to amend section 3, public debt, 1128.
on motion to amend section 5, public debt, 1136, 1137, 1140.
on motion to reconsider suffrage, 1149.
on motion to amend section 10, education, 1292, 1293, 1294, 1296, 1299.
on motion to amend section 4, education, 1342, 1369.
on motion to amend section 1, judiciary, 1403.
on motion to adopt majority report on prohibition, 1442, 1445, 1446.
on section 11, corporations, 1662.

Seconds—

Button's motion on seats, 73.
Richards's motion to record members, 142.

Signed minority report of committee on elections and rights of suffrage, 408.

Withdraws—

motion on mileage, 158.
motion on report on stenographer, 100.
motion to amend section 20, executive, 1017.
motion to amend section 1, public debt, 1118.

Yields his time to Roberts, 421.

KERR, W. J., Member from Logan, Cache County.

Appointed—

on committee to name standing committees, 38.
on legislative committee, 65.
on committee on education and school lands, 66.
on committee on revenue, taxation and public debt, 67.
on committee on engrossment and enrollment, 67.
on committee to prepare address, 1802.

KERR, W. J. (Continued.)

Moves—

to make report of committee or education special order, 228.
to adjourn, 36.
to elect permanent president, 36.
to amend motion relating to permanent officers, 43.
to adjourn, 53.
that committee on printing correct minutes, 174.
to amend section 2, education and school lands, 367.
to amend motion on section 5, elections and suffrage, 619.
to amend substitute to section 1, militia, 815.
to amend section 7, legislative, 867.
to strike out section 9, labor and arbitration, 1066.
to amend section 8, public debt, 1141.
to amend section 20, executive, 1158.
to amend motion to section 8, education, 1291.
to adopt new section 9, education, 1362.
the previous question, 1493.
to amend section 2, judiciary, 1501.
to amend section 5, judiciary, 1502.
to amend section 20 and 21, bill of rights, 1719, 1720.
to amend elections and right of suffrage, 1721, 1723.

Presents—

proposition for insertion in Constitution on education, 113.
petition for separate submission of suffrage, 1084.
petition for suffrage to go in the Constitution, 1143.

Remarks—

on Crane's motion, 36.
on motion to amend motion relating to permanent officers, 44.
on motion to adjourn, 53.
on adopting of rules, 133.
on motion to refer correcting of minutes, 174.

KERR, W. J. (Continued.)

Remarks—

on motion to make educational report special order, 228.

on report of committee on accounts and expenses, 298.

on motion to amend section 2, education and school lands, 367, 370, 376, 377, 383, 391.

on motion to refer back article on education and school lands, 396.

on Richards's motion to amend elections and suffrage, 620.

on motion to amend section 3, amendments, 675.

on motion to postpone action on elections and suffrage, 685, 686, 687.

on explanation of vote on postponement, 686.

on motion to amend section 8, elections and suffrage, 782.

on motion to amend section 14, elections and suffrage, 792, 1486, 1487, 1490, 1491.

on voting on elections and suffrage, 805.

on ordinance, 811.

on motion to amend section 2, apportionment, 860.

on motion to strike out section 9, labor and arbitration, 1066, 1067.

on motion to amend section 3, taxation and revenue, 1115.

on motion to amend section 1, public debt, 1121.

on motion to amend section 3, public debt, 1124, 1133, 1134.

on motion to amend section 8, public debt, 1142.

on motion to amend section 20, executive, 1154, 1156, 1157.

on motion to amend section 2, education, 1228, 1304.

on motion to amend section 5, education, 1237, 1238, 1247, 1248, 1251, 1252, 1258, 1261, 1279, 1280, 1282, 1283, 1284, 1337, 1339, 1340, 1351.

on motion to amend section 7, education, 1290.

KERR, W. J. (Continued.)

Remarks—

on motion to amend section 10, education, 1291.

on motion to amend section 5, education, 1305, 1306, 1307.

on voting on substitute to section 4, education, 1372.

on motion to amend section 20, judiciary, 1377.

on motion to amend section 1, judiciary, 1403.

on section 5, judiciary, 1502, 1503.

on section 21, corporations, 1564, 1565, 1568.

on section 25, corporations, 1582.

on public lands, 1698.

on public buildings, 1712, 1715, 1724, 1725, 1727, 1729, 1730.

on point of order on motion to amend section 6, public buildings, 1716, 1734.

on schedule, 1740, 1749, 1759.

on revision, 1789, 1790, 1849.

on printing proceedings, 1839, 1842, 1844.

Yields his time to Roberts, 421.

KIMBALL, ANDREW, Member from Third Precinct, Salt Lake City.

Appointed—

on committee on preamble, 65.

on committee on manufactures and commerce, 67.

Moves—

to amend subdivision on ordinance, 806.

to amend section 9, corporations, 1658.

to make new matter, section 22, corporations, 1667.

a resolution for absentees, 1823.

Presents—

proposition for insertion in Constitution on superintendency of schools, 166.

proposition for insertion in Constitution on arbitration, 202.

proposition for insertion in Constitution on referendum, 226.

KIMBALL, ANDREW (Continued.)

Remarks—

on voting for enrolling clerk, 51.
on adopting rules, 135.
on referring proposition on prohibition, 299.
on suffrage, 543.
on motion to strike out section 10, elections and suffrage, 608.
on motion to recommit elections and suffrage, 749, 750.
on motion to amend section 8, elections and suffrage, 782.
on motion to amend ordinance, 806.
on motion to amend section 1, labor and arbitration, 1037.
on voting on substitute to section 4, education, 1372.
on motion to adopt majority report on prohibition, 1457.
on motion for night sessions, 1477.
on corporations, 1550, 1559.
on section 23, corporations, 1577.
on section 25, corporations, 1580, 1671, 1673, 1674, 1676.
on section 3, public buildings, 1626.
on section 9, corporations, 1659, 1660, 1661.
on voting on corporations, 1682.
on public buildings, 1730.
on miscellaneous, 1786.
on review, 1821.
on printing Constitution, 1825.
on printing proceedings, 1838.

Seated by report of committee on credentials, 37.

KIMBALL, JAMES N., Member from Ogden, Weber County.

Address to Convention when made temporary president, 11, 12.

Appointed—

on legislative committee, 65.
on committee on municipal corporations, 66.

Appeals from decision of chair, 336.
Called to chair in committee of the whole, 203, 406, 457.

KIMBALL, JAMES N. (Continued.)

Calls for previous question on substitute for section 22, bill of rights, 649.

Excused, 79, 312.
Elected temporary chairman, 11.

Moves—

to defer reading of rules until printed, 80.
to pay clerk hire for committee on rules, 80.
to refer propositions to printing committee, 108.
to refer petition, 142.
to elect committee clerks, 760.
to adopt report, 145, 149.
to reject part of report, 151.
to lay resolution on table, 228.
to amend section 4, bill of rights, 235, 237, 364.
to amend section 15, bill of rights, 323.
to take up bill of rights on third reading, 405.
for unanimous consent for Roberts to close debate on suffrage, 517.
a substitute for section 22, bill of rights, 625.
to adopt preamble, 652.
to go into committee of the whole, 653.
to amend section 1, executive, 653.
previous question on section 22, bill of rights, 649.
to amend section 4, minority report on legislative, 891, 893.
to strike out section 35, legislative, 938.
to go into committee of the whole, 1006.
to strike out section 8, taxation and revenue, 1108.
to amend section 15, judiciary, 1393.
to amend section 6, public buildings, 1628, 1709.
to amend section 4, schedule, 1629.
to amend section 11, schedule, 1653.
to amend section 10, corporations, 1661.

KIMBALL, JAMES N. (Continued.)

Moves—

to amend section 1, public lands, 1686.
to postpone reading of public salaries, 1705.
to continue regular order, 1717.
to amend on revision, 1822.

Offers—

excuse for absence, 79.
amendment to rule 1, 87.
amendment to resolution on stenographer, 224.

President pro tem—

names committee on credentials, 12.
remarks on duties of committee on credentials, 13.
remarks on members taking oath, 13.
calls Convention to order, 13, 36.
names committee on site and furniture, 36.
remarks on motion to refer back report of committee on credentials, 26, 27, 33, 35, 37.

Remarks—

on motion to adjourn, 36.
on motion to select committee to name permanent committees, 37.
on Van Horne's resignation from committee on site, 38.
on question of mileage, 79.
on reading rules, 80, 81.
on motion to change time of meeting, 88.
on point of order on Howard, 89.
on official stenographer, 91, 96, 99.
on correction of minutes, 106.
on motion to correct minutes, 108.
on memorial on suffrage, 142, 143.
on petition on prohibition, 144, 299.
on report of committee on expenses, 146, 147, 148, 149, 150, 151, 152, 153, 154.
on motion to refer, 156, 163.
on petition from ladies of Weber County, 157.
on election of committee clerks, 159.
on motion to refer memorial on suffrage, 162.
on proposition for insertion in Constitution, 163.

KIMBALL, JAMES N. (Continued.)

Remarks—

on proposition for non-partisan school election, 166.
on motion to adjourn, 167, 168, 169, 170, 172.
on motion on stenographer, 224.
on motion of Wells to read first and second time by title, 226, 227.
on motion to amend section 4, bill of rights, 234, 235, 237, 238, 239, 240, 241, 363, 364.
on motion to amend section 24, bill of rights, 339.
on suffrage, 517, 518, 519, 520, 594, 600.
on motion to strike out section 10, elections and suffrage, 608.
on motion to amend section 22, bill of rights, 641, 649, 650, 651.
on motion to adopt preamble, 652.
on motion to amend section 1, executive, 653, 654, 655.
on motion to amend section 8, legislative, 935, 936.
on motion to strike out section 35, legislative, 940.
on motion to adopt section 36, legislative, 952, 953.
on appeal from chair on adoption of section 36, legislative, 958, 961.
on motion to amend section 36, legislative, 1003, 1004.
on motion to amend section 12, exective, 1008.
on motion to strike out section 1, labor and arbitration, 1040.
on motion to strike out section 8, taxation and revenue, 1109.
on motion to amend section 12, taxation and revenue, 1111.
on motion to amend section 4, education, 1362, 1372.
on motion to amend section 20, judiciary, 1386, 1387, 1390, 1517.
on motion to amend section 15, judiciary, 1393, 1394, 1396, 1397.
on mines and mining, 1525, 1534, 1535, 1536, 1537, 1538.
on schedule, 1653.

KIMBALL, JAMES N. (Continued.)

Remarks—

on communication presented by Richards, 1683.

on section 3, public buildings, 1706, 1707.

on section 6, public buildings, 1710, 1711, 1714, 1715, 1716.

on revision, 1819, 1820, 1821, 1823.

Requests Moritz to act on committee on site, 38.

Seconds—

the motion of Evans on secretary, 80.

Goodwin's motion to adopt rules for one day, 89.

Squires's motion to refer, 648.

Withdraws—

motion on rules, 81.

second to Squires's motion to refer, 649.

LAMBERT, RICHARD G., Member from Second Precinct, Salt Lake City.

Appointed—

on legislative committee, 65.

chairman of committee on printing, 67.

on committee on compilation and arrangement, 67.

Moves—

that printing committee get bids, 117.

that report of the committee on printing be adopted, 190.

to amend section 1, elections and suffrage, 600.

to amend section 1, elections and suffrage, 766.

to amend section 22, legislative, 883.

to strike out section 5, miscellaneous, 1782.

on revision, 1804.

a resolution on printing Constitution, 1824.

to allow chairman of printing committee compensation, 1844.

Nominates Bruce Johnson for watchman, 49.

LAMBERT, RICHARD G. (Continued.)

Offers substitute to section 1 and 2, elections and rights of suffrage, 420.

Presents—

report of committee on printing, 190.

resolution pertaining to printing, rules, 104.

Reports as chairman of committee on printing, 91, 108, 190, 200, 1835.

Requests privilege to present, 188.

Requests to read motion to refer back report on credentials, 35.

Remarks—

on report of committee, 109.

on resolution for bids for stationery, 117, 118.

on election of committee clerk, 120.

on adopting rules, 140, 141.

on matter of printing, 193.

on motion to read report of committee on preamble, 201.

on suffrage, 549, 553, 599.

on motion to amend section 22, bill of rights, 635, 636.

on motion to amend section 1, elections and suffrage, 766.

on voting on section 1, elections and suffrage, 768.

on voting on elections and suffrage, 805.

on voting on legislative article, 1005.

on motion to amend section 3, public debt, 1129.

on motion to amend section 4, public debt, 1189.

on night sessions, 1477.

on motion to take reconsideration of section 14, elections, from table, 1482, 1483.

on a point of order, 1530.

on miscellaneous, 1772.

on revision, 1788, 1811, 1812.

on printing Constitution, 1825, 1844, 1846.

Withdraws amendment to section 1, elections and rights of suffrage, 601.

LARSEN, LAURITZ, Member from Spring City, Sanpete County.

Appointed—
on legislative committee, 65.
on committee on water rights and irrigation, 66.
on committee on labor and arbitration, 67.

Moves—
to lay amendment on table, 1292.
to amend section 36, legislative, 1003.
to amend section 6, legislative, 975.
to amend section 7, legislative, 867.
to amend substitute to section 13, legislative, 877.
to amend section 20, legislative, 936.
to amend section 6, public buildings, 1710.
to amend motion on printing Constitution, 1844.

Presents—
proposition for insertion in Constitution on salaries of public officers, 244.
petition from C. W. Lund and others on prohibition, 621.
petition for separate submission of suffrage, 1143.

Remarks—
on resolution on senators and representatives, 185.
on suffrage, 522, 523, 524.
on motion to strike out section 10, elections and suffrage, 612.
on motion to recommit elections and suffrage, 752.
on voting on section 4, apportionment, 855.
on motion amend section 13, legislative, 873.
on Roberts's amendment to legislative article, 918.
on motion to amend section 31, legislative, 975.
on motion to amend section 36, legislative, 1003, 1004.
on voting on legislative article, 1005.
on water rights, 1203, 1216, 1233.

LARSEN, LAURITZ (Continued.)

Remarks—
on motion to amend section 10, education, 1298.
on motion to strike out section 2, education, 1333.
on motion to adopt minority report on prohibition, 1460.
on motion to reconsider section 14, elections, 1483.
on section 23, corporations, 1573.
on section 6, public buildings, 1710, 1730.

Reported a minority on committee on irrigation, 711.

LARSEN, C. P., Member from Manti, Sanpete County.

Appointed—
on committee on preamble, 65.
on committee on apportionment and boundary, 66.

Presents—
petition for suffrage to be submitted as a separate article, 1084.
petition for separate submission of prohibition, 711, 770, 851.

Remarks—
on site to hold Convention, 62.
on suffrage, 567.
on Roberts's amendment to legislative article, 912.

LEMMON, HYRUM, Member from Payson, Utah County.

Appointed—
on committee on water rights and irrigation, 66.
on committee on revenue, taxation and public debt, 67.

Presents—
petition for separate submission of suffrage, 769.

Remarks—
on section 4, public lands, 1691, 1692.

LEONARD, REV. A. B., of the Episcopal Church.
offered prayer, 126.

LETT, W. H.
signs invitation to ball and reception, 1827.

LEWIS, T. B., Member from Ogden, Weber County.
Appointed—
on committee on preamble, 65.
on committee on education and school lands, 66.
Excused, 1142.
Moves—
to amend title to article on education, 367.
to suspend rules, 102.
Presents—
proposition for insertion in Constitution, 102.
proposition for insertion in Constitution on protecting settlers on school lands, 166.
petition from Weber County on prohibition, 495.
Remarks—
on oath for stenographer, 101.
on motion to amend section 2, education and school lands, 369, 375, 377, 378, 381.
on motion to postpone action on elections and suffrage, 695.
on motion to recommit elections and suffrage, 747, 748.
on motion to strike out section 11, legislative, 868.

LOWE, WILLIAM, Member from Willard, Box Elder County.
Appointed—
on committee on water rights and irrigation, 66.
on committee on engrossment and enrollment, 67.

LOWE, WILLIAM (Continued.)
Presents—
proposition for insertion in Constitution on water rights, 226.
petition for suffrage to go into the Constitution, 934.

LOWE, PETER, Member from Willard, Box Elder County.
Appointed—
on committee on election and suffrage, 66.
on committee on revenue, taxation and public debt, 67.
Nominates Miss Eastman as committee clerk, 124.
Presents—
petition favoring the insertion of suffrage, 769.
petition for separate submission of suffrage, 809.

LOWELL, REV. D. R., chaplain 16th Infantry.
offered prayer, 223.

LYMAN, APOSTLE F. M., of the Church of Jesus Christ of Latter-day Saints.
offered prayer, 578.

LOW, JAMES P., Member from Smithfield, Cache County.
Appointed—
on committee on public buildings and State institutions, 66.
on committee on public lands, 66.
Asks leave to withdraw report, 108.
Excused, 136, 312.
Excused by Sorenson, 319.
Moves—
to refer proposition to tax professional men, 300.
relating to selection of seats, 72.
to amend report on salaries, 148.
to refer Jolley's proposition to committee, 300.
to amend section 3, amendments, 407.

LOW, JAMES P. (Continued.)

Moves—

for previous question, 411.
to amend section 1, executive, 656.
to amend section 2, executive, 659.
to go into committee of the whole, 819.
a substitute to section 12, executive, 1153.
to amend section 5, judiciary, 1314.

Presents—

proposition for insertion in Constitution on corporations, 157.
proposition for insertion in Constitution on State institutions, 166.
proposition for insertion in Constitution on stock and contagious diseases, 300.
proposition for insertion in Constitution on right of way, 300.
petition for separate submission of suffrage, 851.
petition for suffrage to go in Constitution, 1143.
report of committee on public buildings, 108, 109.
proposition on executive for insertion in Constitution, 113.

Remarks—

on question of selecting seats, 73.
on report of committee on public buildings, 109.
on report of committee on accounts and expenses, 149.
on motion on per diem, 158.
on election of committee clerk, 165.
on proposition on right of way, 300.
on motion to refer back article on education and school lands, 395.
on motion to print report of minority on suffrage, 411.
on suffrage, 566, 567, 574.
on motion to amend section 1, executive, 656, 657.
on motion to amend section 2, executive, 659.
on motion to amend section 3, executive, 661, 662.
on section 9, executive, 666.

LOW, JAMES P. (Continued.)

Remarks—

on motion to amend section 3, amendments, 676.
on motion to postpone action on elections and suffrage, 701.
on motion to recommit elections and suffrage, 727, 746, 755.
on motion to amend section 8, elections and suffrage, 780, 781.
on motion to recommit public lands, 813, 815.
on motion to amend section 1, militia, 816.
on motion to go into committee of the whole, 820.
on presenting an unsigned petition for separate submission of suffrage, 851, 852.
on motion to strike out section 29, legislative, 886.
on substitute to section 12, executive, 932, 1152, 1153.
on motion to amend section 4, education, 1368.

Requests excuse for Johnson and Warrum, 162.

Seconds nomination of Joseph A. Smith, 50.

LUND, A. C., Member from Ephraim, Sanpete County.

Appointed—

on committee on site, 36.
on executive committee, 66.
on committee on education and school lands, 66.
chairman of committee on accounts and expenses, 67.

Asks privilege of floor for Mr. Green, 217.

Moves—

to suspend rules and adjourn, 1802.
to take report of committee on expense from table, 1144.
to amend motion of Low on salaries, 149.
on salaries of committee clerks, 150.

LUND, A. C. (Continued.)

Moves—
on accounts and expense, 271.
to amend apportionment, 863.

Nominates R. Clawson as sergeant-at-arms, 49.

Presents—
petition for separate submission of prohibition, 770, 851, 852, 1143.

Reports—
on matters before committee on accounts, 101.
as chairman of accounts and expenses, 110, 145, 191, 298, 712, 1083, 1201.

Remarks—
on report of committee on accounts, 146, 148, 150, 151, 152, 153, 154.
on motion to adjourn, 169.
on duties of committee on accounts and expenses, 271, 272.
on motion to meet contingent expenses, 273.
on motion to amend section 2, education and school lands, 381.
on motion to pass section 1, elections and rights of suffrage, 458, 459, 484, 485, 486.
on motion to recommit elections and suffrage, 759.
on presenting petition for separate submission, 852.
on apportionment, 862.
on motion to strike out section 5, taxation and revenue, 1108.
on report of committee on expense, 1144.
on motion to amend section 20, executive, 1155.
on motion to amend section 2, education, 1227.
on motion to amend section 5, education, 1249.
on motion to amend section 10, education, 1291, 1299, 1300.
on section 23, corporations, 1572, 1576.
on resolution on final reading of articles, 1586.

LUND, A. C. (Continued.)

Remarks—
on section 6, public buildings, 1710, 1711, 1718, 1724, 1725, 1729, 1730, 1732, 1733.
on miscellaneous, 1780, 1782.
on revision, 1821.
on compensation for stenographer, 1825, 1826.
on printing proceedings, 1844.

MABRY, REV. W. D., of the Methodist Episcopal Church.
offered prayer, 141.

MADISON, MISS EMMA,
nominated as committee clerk, 159.

MARTIN, REV. A. M., of the Swedish Lutheran Church.
offered prayer, 850.

MACMASTERS, MISS B. T., Salt Lake City.
committee clerk, 2.
elected committee clerk, 123.
nominated for committee clerk by Squires, 120.

MACKINTOSH, RICHARD, Member from Second Precinct, Salt Lake City.

Appointed—
on executive committee, 66.
on committee on elections and suffrage, 66.
chairman of committee on salaries of public officers, 67.
on committee on mines and mining, 67.

Moves—
to receive and print minority report of committee on elections and rights of suffrage, 408.
a substitute for amendment to section 3, executive, 663.

MACKINTOSH, R. (Continued.)
Moves—
to amend section 1, militia, 815.
to amend section 3, labor and arbitration, 1054, 1056.
Presents—
petition for separate submission of suffrage, 888, 1143.
Remarks—
on motion to report elections and suffrage, 317.
on motion to take up elections and rights of suffrage, 414.
on suffrage, 498, 499, 529, 543.
on motion to amend section 3, executive, 660, 661.
on motion to amend section 1, militia, 815.
on motion to amend section 1, labor and arbitration, 1043.
on motion to amend section 3, labor and arbitration, 1054.
on motion to amend section 2, taxation and revenue, 1073, 1074.
on motion to amend section 4, taxation and revenue, 1076, 1077.
on motion to adopt majority report on prohibition, 1460.
Reports as chairman of committee on public officers, 1522.
Signed minority report of committee on elections and rights of suffrage, 408.
Seconds Kiesel's substitute for section 1, suffrage, 420.

MAESER, KARL G., Member from Provo, Utah County.
Appointed—
on committee on education and school lands, 66.
on committee on schedule, future amendments and miscellaneous, 67.
Moves—
to amend section 2, education and school lands, 368, 1218.
to amend section 8, education, 1291.
to amend section 4, education, 1372.
Offered prayer, 1232.

MAESER, KARL G. (Continued.)
Presents—
proposition for insertion in Constitution on public instruction, 201.
petition from citizens of Provo on prohibition, 345.
Remarks—
on motion to amend section 2, education and school lands, 368, 370, 373, 382, 1302, 1334.
on suffrage, 560.
on motion to amend section 3, executive, 661, 662.
on voting on legislative article, 1005.
on motion to amend section 20, executive, 1155.
on motion to amend section 5, education, 1248, 1288, 1308, 1311.
on section 6, public buildings, 1711, 1727.
on motion to adopt majority report on prohibition, 1434.
on revision, 1807.

MALONEY, THOMAS, Member from Ogden, Weber County.
Appointed—
on committee to name standing committees, 38.
on judiciary committee, 66.
on committee on corporations, 66.
Moves—
to amend resolution adopting Constitution of United States, 56.
to amend section 5, bill of rights, 252.
to insert new matter for section 25, bill of rights, 362.
to amend section 3, amendments, 675.
to amend section 1, elections and suffrage, 711.
to amend section 1, labor, 1168.
to strike out water rights, 1202.
to add new section to judiciary, 1397.
to strike out section 3, mines and mining, 1413.
to reconsider vote, 1522.
to amend section 1, public lands, 808, 1604, 1606, 1686.

MALONEY, THOMAS (Continued.)

Moves—

to amend section 3, public lands, 1607.
to adjourn, 1522.
a section to schedule, 1653.
a substitute for section 14, corporations, 1663.
to amend motion to section 2, miscellaneous, 1772.
to number sections consecutively, 1795.
to change miscellaneous to homestead and exemptions, 1797.
for reading of Strevell's proposition, 112.
resolution against incurring debt, 273.

Presents—

proposition for insertion in Constitution on requiring decisions from judges, 166.
proposition for insertion in Constitution, 102.
proposition relating to homesteads for Constitution, 112.
proposition relating to insurance for Constitution, 112.
proposition for insertion in Constitution on benefits, 113.
proposition for insertion in Constitution requiring opinions from supreme court, 165.
proposition for insertion in Constitution on defect in laws, 165.
proposition for insertion in Constitution on free publication of supreme court decisions, 165.
proposition for insertion in Constitution requiring judges to give opinions, 165.
proposition for insertion in Constitution on supreme court decisions, 165.
proposition for insertion in Constitution on decisions of courts, 166.
proposition for insertion in Constitution on compact, 203.
proposition for insertion in Constitution on irrigation, 244.
proposition for insertion in Constitution on election of representatives, 244.

MALONEY, THOMAS (Continued.)

Presents—

proposition for insertion in Constitution on judiciary, 201.

Remarks—

on election of enrolling clerk, 50.
on report of committee on sites and furniture, 55.
on Judge Goodwin's appointment as chairman of judiciary committee, 68.
on printing Enabling Act, 77.
on drawers for tables, 116.
on adopting rules, 129.
on resolution on senators and representatives, 179.
on motion to amend section 5, bill of rights, 253, 256.
on motion to amend section 11, bill of rights, 305.
on motion to amend section 12, bill of rights, 310, 311.
on motion to amend section 13, bill of rights, 313.
on motion to amend section 21, bill of rights, 325.
on motion to amend section 5, counties, cities and towns, 401.
on motion to amend section 22, bill of rights, 628.
on motion to amend section 3, amendments, 675, 676.
on motion to amend section 14, elections and suffrage, 797.
on motion to amend ordinance, 806.
on motion to amend section 1, public lands, 808, 809.
on motion to amend section 1, militia, 818.
on motion to amend section 1, apportionment, 821.
on Roberts's amendment to legislative article, 902, 903, 904.
on substitute to section 12, executive, 930, 1013, 1153.
on appeal from chair on section 36, legislative, 971.
on motion to strike out section 14, executive, 1015.

MALONEY, THOMAS (Continued.)

Remarks—

on motion to amend section 20, executive, 1020, 1030, 1031.
on motion to amend section 1, labor and arbitration, 1033, 1040, 1052.
on motion to amend section 5, labor and arbitration, 1058, 1059.
on motion to amend section 7, labor and arbitration, 1061.
on motion to amend section 8, labor and arbitration, 1066.
on voting on executive, 1163.
on motion to amend section 5, labor, 1174.
on water rights, 1209, 1217, 1233.
on motion to amend section 2, education, 1303.
on motion to amend section 5, judiciary, 1318, 1319.
on motion to amend section 8, judiciary, 1323.
on motion to amend section 12, judiciary, 1324.
on motion to amend section 20, judiciary, 1328.
on motion to amend section 15, judiciary, 1394, 1396.
on motion to amend section 1, judiciary, 1406.
on section 3, corporations, 1468.
on section 9, corporations, 1468.
on motion for night sessions, 1477.
on motion to amend section 9, judiciary, 1508, 1523.
on motion to amend section 25, judiciary, 1519, 1520.
on section 11, corporations, 1550, 1554.
on section 16, corporations, 1561, 1562.
on section 18, corporations, 1562.
on section 21, corporations, 1566.
on section 23, corporations, 1577, 1669.
on section 25, corporations, 1579, 1675.
on section 26, corporations, 1584, 1589, 1590.
on section 28, corporations, 1593.
on section 36, corporations, 1602.
on section 37, corporations, 1603.
on section 38, corporations, 1603.
on section 1, public lands, 1605, 1689.

MALONEY, THOMAS (Continued.)

Remarks—

on new section to public lands, 1608, 1609, 1610.
on salaries, 1611, 1612, 1613.
on section 3, public buildings, 1618, 1620, 1709.
on schedule, 1633, 1645, 1646, 1647, 1648, 1737, 1741, 1742, 1743, 1748, 1765.
on section 2, corporations, 1557, 1656.
on section 9, corporations, 1658.
on section 22, corporations, 1667, 1668.
on corporations, 1681.
on section 4, public lands, 1702.
on miscellaneous, 1768, 1779, 1797, 1798, 1801, 1802.

Seconds—

Thurman's motion on organization, 36.
Thatcher's motion to correct rule 22, 133.

Withdraws—

name of Newton Farr as enrolling clerk, 52.
motion to amend section 1, public lands, 812.

MAUGHAN, WILLIAM H., Member from Wellsville, Cache County.

Appointed—

on committee on apportionment and boundary, 66.
on committee on water rights and irrigation, 66.

Offered prayer, 1084.

Presents—

petition for separate submission of suffrage, 934.

Remarks—

on motion to strike out section 10, elections and suffrage, 609.
on voting on section 1, elections and suffrage, 768.
on section 4, public lands, 1692, 1693, 1695, 1697.

Seconds motion to recommit public lands, 813.

McGURRIN, FRANK E., official stenographer.
elected stenographer, 100.
resolution to release from attendance, 223.
remarks on compensation, 1826.
sworn in as official stenographer, 100.

McCLAIN, REV. JOSEPH, of the Presbyterian Church.
offered prayer, 263.

McNIECE, REV. R. G., of the First Presbyterian Church.
offered prayer, 38, 888.

McFARLAND, ROBERT, Member from West Weber, Weber County.
Appointed—
on committee on elections and suffrage, 66.
on committee on revenue, taxation and public debt, 67.
Excused, 297.
Presents—
proposition for insertion in Constitution on water rights, 272.
Remarks—
on motion to make special order of elections and rights of suffrage, 416.
on voting on section 1, elections and suffrage, 768.
Signed minority report on committee on elections and rights of suffrage, 408.

MILLER, G. P., Member from Monroe, Sevier County.
Appointed—
on committee to name standing committees, 38.
on committee on legislative, 66.
on committee on corporations, 66.
on committee on schedule, future amendments and miscellaneous, 67.

MILLER, G. P. (Continued.)
Presents—
proposition for insertion in Constitution on irrigation, 202.
proposition for insertion in Constitution on public money, 202.
petition of citizens of Sevier County on prohibition, 495.
petition from women of Salina on prohibition, 621.
petition for separate submission of prohibition, 994, 1232.
Remarks—
on proposition on prohibition, 155.
on suffrage, 531, 541.
on motion to recommit elections and suffrage, 761.
on voting on section 1, elections and suffrage, 768.
on appeal from chair on vote on section 36, legislative, 971.
on motion to adopt majority report on prohibition, 1440, 1441, 1442, 1443, 1459, 1476.
Reports as one of minority in favor of prohibition, 1183.

MORRIS, ELIAS, Member from Second Precinct, Salt Lake City.
Appointed—
on committee on legislative, 66.
on committee on education and school lands, 66.
chairman of committee on public buildings and State institutions, 66.
on committee on judiciary, 66.
Presents—
petition on prohibition from citizens of Parowan, 316.
proposition for insertion in Constitution, on location of capital, 201.
petition on prohibition, 457.
Remarks—
on furniture, 71.
on typewriter, 158.
on suffrage, 533, 535.
on motion to postpone action on elections and suffrage, 699.

MORRIS, ELIAS (Continued.)

Remarks—

on motion to recommit elections and suffrage, 751.
on Roberts's amendment to legislative article, 918, 919.
on motion to strike out section 35, legislative, 946, 947.
on motion to reconsider section 36, legislative, 989.
on labor, 1171.
on section 11, taxation and revenue, 1180.
on motion to amend section 2, education, 1224.
on motion to amend section 4, taxation and revenue, 1076.
on motion to adopt majority report on prohibition, 1461.
on motion to amend section 11, corporations, 1474.
on mines and mining, 1542.
on section 28, corporations, 1575.
on section 3, public buildings, 1622.
on revision, 1821.

Reports as chairman of committee on public buildings, 108, 1526.

MORITZ, JACOB, Member from First Precinct, Salt Lake City.

Appointed—

on committee on sites, 38.
on committee on taxation, revenue and public debt, 67.
on committee on labor and arbitration, 67.
on committee on manufactures and commerce, 67.

Moves—

to secure a telephone, 77.
to discharge committee on site, 77.
on seats, 72.

Reports as chairman of committee on site, 59, 71.

Remarks—

on report of committee on site and furniture, 61.
on hiring janitor, 69.

MORITZ, JACOB (Continued.)

Remarks—

on motion to amend section 20, executive, 1024.
on motion to amend section 1, labor and arbitration, 1040.
on section 21, corporations, 1567, 1568.
on motion to limit time in debate, 1588.

MURDOCK, JOHN R., Member from Beaver, Beaver County.

Appointed—

on committee on apportionment and boundary, 66.
chairman of committee on water rights and irrigation, 66.

Excused, 704.

Moves—

for Preston to be sworn, 59.
to amend section 6, public buildings, 1627, 1716.
to add four sections to miscellaneous, 1785.

Offers—

prayer, 1683.
excuse for Coray, 263.

Presents—

petition for suffrage to go into Constitution, 889, 934.

Remarks—

on motion to read rules, 81.
on motion to adopt report of committee on standing committees, 58.
on motion to refer back report on credentials, 34.
on motion to change time of meeting, 88.
on election of committee clerk, 123, 161.
on motion to amend section 2, education and school lands, 382.
on motion to make special order for elections and rights of suffrage, 417.
on section 1, elections and suffrage, 460, 461, 480, 519.
on Richards's motion to amend elections and suffrage, 619.

MURDOCK, JOHN R. (Continued.)

Remarks—

on motion to amend section 22, bill of rights, 638.
on motion to amend section 3, executive, 662.
on motion to postpone action on elections and suffrage, 683, 684.
on motion to recommit elections and suffrage, 729, 730.
on Lund's motion on apportionment, 863.
on motion to amend section 13, legislative, 876.
on Roberts's amendment to legislative article, 906, 928.
on motion to reconsider section 36, legislative, 982, 983.
on motion to amend section 20, executive, 1026.
on motion to amend section 3, public debt, 1132.
on article on labor, 1164.
on water rights, 1207, 1209, 1214, 1683, 1685.
on motion to amend section 5, education, 1271, 1272, 1273.
on motion to amend section 10, education, 1298, 1299, 1301.
on motion to strike out section 3, mines and mining, 1418.
on motion to amend majority report on prohibition, 1435.
on motion to adopt section 11, corporations, 1473, 1474.
on schedule, 1645.
on miscellaneous, 1775, 1795.

Seconds—

nomination of John Henry Smith, 39.
motion of Cannon to time discussion on suffrage, 553.
Thurman's motion on committees, 103.

MURDOCK, JOSEPH R., Member from Charleston, Wasatch County.

Appointed—

on judiciary committee, 66.
on committee on apportionment and boundary, 66.

MURDOCK, JOSEPH R. (Continued.)

Moves—

that nominations close, 159.
to refer petition on prohibition, 144.
to strike out section 38, corporations, 1678.

Nominates—

Miss Snyder of Summit County, 124.

Presents—

petition on prohibition, 143.
for insertion in Constitution on prohibition, 157.
petition for suffrage to go in Constitution, 889.

Remarks—

on petition on prohibition, 144.
on report to increase the committee on schedule, future amendments, and miscellaneous, 268.
on motion to amend section 23, bill of rights, 336.
on motion to strike out section 10, elections and suffrage, 614.
on motion to amend section 1, judiciary, 1407.
on motion to amend section 20, judiciary, 1517.
on section 38, corporations, 1679.
on final revision, 1850.

MURDOCK, JAMES D., Member from Park City, Summit County.

Appointed—

on committee on federal relations, 65.
on committee on elections and suffrage, 66.
on committee on revenue, taxation, and public debt, 67.

Presents—

petition for separate submission of suffrage, 809.

NEBEKER, AQUILA, Member from Laketown, Rich County.

Appointed—

on committee on site, 36.

NEBEKER, AQUILA (Continued.)

Appointed—

on committee to name standing committees, 38.

on committee on apportionment and boundary, 66.

on judiciary committee, 66.

Presents—

petition for suffrage to go in Constitution, 1032.

Remarks—

on nomination of Pratt, 50, 51.

on report of committee on site, 60, 61, 62.

on motion to amend section 24, bill of rights, 357.

on motion to amend section 2, education and school lands, 377.

on elections and rights of suffrage, 418.

on motion to amend section 14, elections and suffrage, 800.

on voting on taxation and revenue, 1181.

on water rights, 1205, 1206, 1207, 1214.

on motion to amend section 5, education, 1278, 1279, 1280.

on motion to amend section 10, education, 1299.

on voting on education article, 1374.

on motion to reconsider section 14, elections, 1495.

on section 38, corporations, 1679.

on schedule, 1758.

Seconds Hammond's suggestion, 935.

NUTTING, REV. JOHN D., of the Congregational Church.

offered prayer, 769.

PAGE, J. D., Member from Mt. Pleasant, Sanpete County.

Appointed—

chairman of committee on federal relations, 65.

on committee on municipal corporations, 66.

PAGE, J. D. (Continued.)

Moves—

to amend section 20, executive, 1027.

to strike out section 5, elections and rights of suffrage, 602.

to amend section 2, elections and suffrage, 770.

to strike out section 5, elections and suffrage, 778.

to amend section 20, legislative, 883.

to amend on revision, 1808.

Presents—

proposition relating to election for Constitution, 112.

proposition for insertion in Constitution on judiciary, 208.

petition for separate submission of suffrage, 769, 976.

Remarks—

on report of committee on federal relations and ordinance, 218.

on suffrage, 541, 542, 543, 546.

on voting on section 1, elections and suffrage, 768.

on motion to amend section 2, elections and suffrage, 771.

on motion to amend section 13, legislative, 873.

on motion to amend section 20, executive, 1027.

on motion to amend section 3, taxation and revenue, 1115.

on motion to amend section 20, judiciary, 1388.

Reports as chairman of committee on federal relations, 218.

PARTRIDGE, EDWARD, Member from Provo, Utah County.

Appointed—

on committee on legislative, 66.

on committee on labor and arbitration, 67.

on committee on militia, 67.

Excused, 271, 783.

Moves—

to reject application for postage, 150.

PARTRIDGE, EDWARD (Continued.)

Moves—

to amend section 24, bill of rights, 346.

to amend section 1, labor and arbitration, 1032.

Presents—

petition from citizens of Provo on prohibition, 345.

proposition for insertion in Constitution on militia, 163.

proposition for insertion in Constitution on boundaries, 167.

Remarks—

on report of committee on expenses, 151, 154.

on election of committee clerk, 160, 161.

on motion to amend section 24, bill of rights, 346, 356, 357.

on suffrage, 573.

on voting on bill of rights, 652.

on motion to amend section 1, militia, 819.

on appeal from chair on vote on section 36, legislative, 969.

on motion to amend section 1, labor and arbitration, 1046.

on motion to amend section 12, taxation and revenue, 1112.

on motion to amend section 4, public debt, 1190.

on motion to amend section 5, public debt, 1195.

on motion to strike out section 3, mines and mining, 1416.

on motion to adopt majority report on prohibition, 1449.

on voting on schedule, 1767.

on printing proceedings, 1841.

PETERS, J. D., Member from Brigham City, Box Elder County.

Appointed—

on committee to name standing committees, 38.

on committee on executive, 66.

PETERS, J. D. (Continued.)

Appointed—

on committee on mines and mining, 67.

on committee on labor and arbitration, 67.

Moves—

to amend section 5, counties, cities and towns, 400.

to amend section 14, elections and suffrage, 795.

to refer section 14, elections and suffrage, 797.

to amend section 4, apportionment, 824.

to strike out section 29, legislative, 886.

to reconsider amendment to section 31, legislative, 887.

to amend section 1, labor and arbitration, 1032.

to amend section 12, taxation and revenue, 1113.

to amend section 5, public debt, 1197 1201.

to strike out section 2, education, 1220.

to amend section 3, judiciary, 1314.

to amend section 1, public lands, 1604.

to amend section 2, public lands, 1606.

to amend on revision, 1828.

Offers substitute to section 1, militia, 819.

Presents—

proposition on rights for insertion in Constitution, 102.

proposition relating to labor for Constitution, 112.

proposition for insertion in Constitution on county organization, 166.

petition of residents of Corinne on prohibition, 495.

petition for suffrage to go into the Constitution, 934, 976.

Remarks—

on list of committees, 61.

on motion to amend section 23, bill of rights, 334.

PETERS, J. D. (Continued.)

Remarks—

on motion to amend section 14, elections and suffrage, 795, 796, 797.
on motion to amend section 4, apportionment, 824, 825, 829, 831, 833, 845.
on motion to amend section 20, legislative, 883.
on motion to amend section 1, labor and arbitration, 1037.
on motion to amend section 3, taxation and revenue, 1115.
on motion to amend section 5, public debt, 1195.
on water rights, 1202.
on motion to postpone section 2, education, 1228, 1331, 1332, 1334, 1335, 1336.
on motion to amend section 5, education, 1255.
on motion to amend section 8, judiciary, 1322.
on section 32, corporations, 1509.
on section 35, corporations, 1601.
on salaries, 1613.
on revision, 1833.

PETERSON, MONS, Member from Moab, Grand County.

Appointed—

on committee on credentials, 12.
on committee to name standing committees, 38.
on committee on federal relations, 65.
on committee on apportionment and boundaries, 66.
chairman of committee on engrossment and enrollment, 67.

Moves—

to amend section 4, education, 1336.

Presents—

proposition for insertion in Constitution on boundaries, 165.
proposition for insertion in Constitution to provide boundaries, 167.
petition for separate submission of suffrage, 851.

Withdraws substitute to section 4, education, 1360.

PETERSON, J. C., Member from Fairview, Sanpete County.

Appointed—

on committee on public buildings and State institutions, 66.
on committee on mines and mining, 67.

Presents petition for suffrage to go in Constitution, 889.

PIERCE, FRANK, Member from First Precinct, Salt Lake City.

Appointed –

on committee to name standing committees, 38.
on committee on legislative, 65.
on committee on judiciary, 66.
chairman of committee on education, 66.

Calls for ayes and noes on election of president, 39, 40.

Called to chair in committee of the whole, 653.

Moves—

to defer action on article on education, 273.
to adopt Roberts' Rules, 39.
to elect permanent president, 39.
to elect permanent officers, 47.
to suspend rules, 49.
to refer back report of committee on furniture, 61.
to adjourn, 61, 62.
to refer Hart's resolution to committee on rules, 63.
to amend motion to print names, 77.
to accept report of committee on printing, 109.
to receive propositions and refer, 110, 111.
to consider standing rules, 109.
to fix compensation of officers, 118.
to amend rules, 126, 129.
to refer correction of minutes to committee on engrossment, 178.
to receive and refer reports of committee on boundaries, 192.

PIERCE, FRANK (Continued.)

Moves—

to refer to committee of the whole, 216.
to reconsider on education, 273.
to strike out section 25, bill of rights, 358.
to take a recess, 732.
to amend section 10, education, 1291, 1292.
to amend section 2, education, 1303.
to amend section 5, education, 1305.
to strike out section 1, corporations, 1465.
to adopt report of committee of the whole on mines, 1524.

Presents—

proposition for insertion in Constitution on education, 158.

Remarks—

on question of members taking oath, 13.
on adjournment, 36.
on election of president, 39.
on election of officers, 47.
on report of committee on site, 56.
on report of committee on standing committees, 57.
on motion to adjourn, 62, 63.
on Goodwin's appointment as chairman of judiciary committee, 68.
on selection of seats, 74.
on motion to adjourn, 78.
on official stenographer, 100.
on Evans's motion to correct minutes, 106.
on report of committees, 109, 110.
on fixing time of committee meetings, 119.
on amending rules, 129, 130.
on committee announcement, 125.
on taking report from table, 146, 147.
on committee clerks, 159, 160.
on motion to refer correction of minutes, 174.
on report of committee on boundaries, 191, 192.
on motion for additional clerk, 195.

PIERCE, FRANK (Continued.)

Remarks—

on report of committee on education, 216, 217.
on motion to amend section 10, bill of rights, 274, 275, 277.
on motion to amend section 23, bill of rights, 328, 329.
on motion to amend section 24, bill of rights, 340, 341.
on motion to amend section 25, bill of rights, 359.
on motion to amend section 2, education and school lands, 368, 369, 374, 383.
on motion to refer back article on education and school lands, 396.
on motion to amend section 5, counties, cities and towns, 401.
on motion to amend section 22, bill of rights, 625.
on voting on elections and suffrage, 805.
on motion to adopt section 4, minority report, legislative, 893.
on Roberts's amendment to legislative article, 921, 922.
on point of order on chair's announcement of vote, 957.
on voting on legislative article, 1005.
on motion to strike out section 5, taxation and revenue, 1093, 1094.
on point of order on motion to strike out labor, 1168.
on motion to amend section 2, education, 1219, 1220, 1224.
on motion to amend section 3, education, 1230, 1336.
on motion to amend section 4, education, 1231.
on motion to strike out water rights, 1233, 1234.
on motion to amend section 5, education, 1255, 1273, 1284, 1289, 1345, 1346, 1347.
on motion to amend section 7, education, 1289, 1290.
on motion to amend section 8, education, 1291.

PIERCE, FRANK (Continued.)

Remarks—

on motion to amend section 10, education, 1292, 1298, 1363.

on motion to amend section 2, judiciary, 1313.

on motion to amend section 3, mines and mining, 1430.

on motion to adopt majority report on prohibition, 1455, 1456.

on public lands, 1698.

Reports as chairman of committee on standing committees, 56.

Reports as chairman of committee on education, 216, 889, 1182.

Requests excuse for committee on education, 199.

Requests reading of report of committee on boundaries, 191.

PRATT, MILANDO.

nominated for engrossing and enrolling clerk by A. H. Raleigh, 49, 50.

PRATT, CHARLES R.

nominated for page by F. J. Kiesel, 55.

PRESTON, WILLIAM B., Member from Third Precinct, Salt Lake City.

Appointed—

on executive committee, 66.

on committee on salaries of public officers, 67.

Excused, 345.

Moves—

to amend section 2, education and school lands, 383.

to amend section 5, labor, 1169.

to amend section 5, public debt, 1198.

to lay invitation to reception on table, 1654.

to strike out section 2, corporations, 1655.

Offered prayer, 1802.

PRESTON, WILLIAM B. (Continued.)

Remarks—

on motion to refer correction of minutes, 174.

on motion to amend section 2, education and school lands, 382, 388.

on motion to amend section 5, counties, cities, and towns, 404.

on motion to recommit elections and suffrage, 752.

on motion to amend section 12, executive, 1011.

on motion to amend section 3, labor and arbitration, 1054.

on motion to amend section 3, public debt, 1132.

on article on labor, 1167, 1170.

on section 2, taxation and revenue, 1177.

on section 1, public debt, 1186.

on motion to amend section 10, education, 1299.

on motion to amend section 4, education, 1360, 1369.

on section 28, corporations, 1593.

on corporations, 1680.

on invitation to reception, 1654, 1684.

on elections and right of suffrage, 1722.

on revision, 1820.

Seated by report of committee on credentials, 37.

Seconds Thurman's motion to amend section 13, legislative, 872.

Took oath as a member, 59.

Withdraws amendment to section 2, education, 389.

RALEIGH, A. H., Member from Third Precinct, Salt Lake City.

Appointed—

on committee on elections and suffrage, 66.

on committee on municipal corporations, 66.

Excused from voting on Constitution, 1834, 1835.

RALEIGH, A. H. (Continued.)

Moves—
to amend section 23, bill of rights, 329.
to adjourn, 56.
to amend motion to adjourn, 63.
to amend, 64.
to rise and report, 598.
to amend substitute for section 13, legislative, 874.
to amend section 9, corporations, 1658.

Nominates Milando Pratt as enrolling clerk, 50.

Opened by prayer, 1526.

Offers the benediction, 1854.

Presents—
proposition for insertion in the Constitution on prohibition, 155.
proposition for insertion in the Constitution to regulate liquor habit, 300, 301.
petition for prohibition from ministers, 889.
petition for prohibition to be submitted separately, 934, 1232.

Remarks—
on voting for enrolling clerk, 52.
on rules, 90.
on report to increase committee on schedule, future amendments and miscellaneous, 270.
on motion to amend section 23, bill of rights, 329.
on motion to amend section 25, bill of rights, 359.
on suffrage, 500, 580.
on motion to recommit elections and suffrage, 718, 719.
on motion to amend section 13, legislative, 869, 872, 877.
on motion to amend section 20, legislative, 882.
on motion to strike out section 35, legislative, 947.
on motion to amend section 1, labor and arbitration, 1041.
on motion to amend section 7, labor and arbitration, 1065, 1066.

RALEIGH, A. H. (Continued.)

Remarks—
on motion to amend section 2, taxation and revenue, 1070.
on motion to amend section 5, education, 1263, 1271.
on motion to amend section 10, education, 1292.
on motion to adopt majority report on prohibition, 1450.
on motion to reconsider section 14, elections, 1486.
on section 21, corporations, 1564.
on section 23, corporations, 1573.
on section 3, public buildings, 1624.
on schedule, 1645, 1738, 1763.
on section 9, corporations, 1660.
on miscellaneous, 1783, 1784.
on revision, 1831.
on printing proceedings, 1839, 1841, 1842, 1845.

Seated by report of committee on credentials, 37.

Seconds—
motion of Goodwin instructing committee on site, 59.
motion to strike out section 25, bill of rights, 359.

Withdraws second to motion to strike out section 25, bill of rights, 359.

RAWLINS, JOSEPH L., delegate to Congress.
invited to a seat on platform, 367.

REESE, MISS C.
nominated for committee clerk, 159.

RAPP, C. S., Ogden, Weber County.
assistant secretary, 2.
elected minute clerk, 49.
nominated by William Driver, 47, 49.
sworn in as minute clerk, 55.

RICHARDS, F. S., Member from Fourth Precinct, Salt Lake City.

Appointed—
on committee on legislative, 65.

RICHARDS, F. S. (Continued.)

Appointed—

on committee on mines and mining, 67.

on committee on ordinance, 67.

Amends—

motion to adopt rules, 90.

motion of Pierce to adopt report, 109.

Excused for the day, 39, 1142.

Moves—

to suspend rules, 164, 165.

to adjourn, 12, 215, 1522.

for informal recess, 12.

to administer oath, 13.

to amend report of committee, 109.

to defer consideration, 110,

to refer memorial on suffrage to committee, 142.

to read article on boundary third time by title, 208, 211.

to suspend rules on article on boundary, 211.

to amend rules, 213.

to make report of committee on elections and suffrage special order, 266.

to amend section 24, bill of rights, 357.

to postpone action on section 5, counties, cities, and towns, 403.

to pass section 1, elections and rights of suffrage, 600.

to amend section 5, elections and suffrage, 618.

to amend section 6, executive, 663.

to pass section 1, elections and suffrage, 765.

the previous question, section 1, elections and suffrage, 765.

to amend section 22, bill of rights, 623.

to add minority report to article on legislative, 890.

to adopt section 2 of minority report on legislative, 890.

to adopt section 3 of minority report on legislative, 890.

to adopt section 4 of minority report on legislative, 890.

to amend Roberts's amendment to legislative article, 928.

RICHARDS, F. S. (Continued.)

Moves—

a substitute for section 36, legislative, 951.

to correct section 24, judiciary, 1392.

to amend new section to judiciary, 1392.

to amend section 1, judiciary, 1398.

to amend section 8, judiciary, 1506.

to amend section 9, judiciary, 1506, 1513.

to amend section 25, judiciary, 1519.

to amend section 4, public buildings, 1626.

to amend section 26, judiciary, 1521.

to amend sections 13 and 14, corporations, 1555.

to strike out section 16, corporations, 1560.

to strike out section 20, corporations, 1563.

to amend section 21, corporations, 1564.

to amend section 4, public buildings, 1626.

to amend section 4, schedule, 1629.

to amend section 5, schedule, 1631.

a substitute to section 6, schedule, 1631.

to amend section 9, schedule, 1633.

to strike out subheading, corporations, 1667.

to amend ordinance, 1720.

to amend section 9, elections and suffrage, 1722, 1794.

to adopt section 3, schedule, 1736.

to amend section 4, schedule, 1749.

a substitute for section 7, schedule, 1750.

to amend section 9, schedule, 1750, 1764.

to amend section 13, schedule, 1765.

to refer communication from engrossing committee to committee on rules, 1767.

to amend section 5, miscellaneous, 1782.

to amend on revision, 1798, 1802, 1803, 1817, 1828, 1831.

to amend miscellaneous, 1800.

RICHARDS, F. S. (Continued.)

Moves—

to distribute funds, 1835.
to amend on printing proceedings, 1845.
to amend motion for vote of thanks, 1849.
to adopt the Constitution as a whole, 1850.
a resolution to deliver Constitution to secretary of the Territory, 1852.
on delivery of Constitution, 1852.

Presents—

communication from Sutherland, 1683.
memorial from Woman's Suffrage Association of Utah, 197.

Remarks—

on motion to adjourn, 12.
on question of selecting seats, 73, 74.
on motion to adopt rules, 89.
on motion to adopt rules and amendment, 90.
on resolution for bids for stationery, 118.
on fixing compensation of officers, 118.
on calling roll, 142.
on motion to refer memorial, 142, 144.
on motion to read and refer, 155, 165.
on petition of ladies of Weber County, 157.
on request to read memorial on suffrage, 162.
on motion to suspend rules and read by title, 165.
on motion to adjourn to a time set, 167, 168, 169, 170.
on motion to refer correction of minutes, 174, 175.
on resolution to refer legislative apportionment, 176, 177.
on resolution on senators and representatives, 182, 184.
on motion lay article on boundary on the table, 206, 208.
on article on boundary, 208.
on order of business, 208, 209, 210, 211.
on motion to amend rules, 213, 215.

RICHARDS, F. S. (Continued.)

Remarks—

on motion to make special order report of committee on elections and suffrage, 266.
on report to increase committee on schedule, future amendments, and miscellaneous, 271.
on order of business, 272.
on motion to amend section 10, bill of rights, 277, 278.
on proposition to tax professional men, 300.
on motion to amend section 23, bill of rights, 328, 331, 332, 338.
on motion to amend section 24, bill of rights, 344, 356, 357, 358.
on motion to amend section 25, bill of rights, 360.
on motion to amend section 26, bill of rights, 361.
on motion to strike out section 29, bill of rights, 362.
on article on bill of rights, 362, 1718.
on motion to amend section 2, education and school land, 384, 387.
on motion to amend section 8, counties, cities, and towns, 398.
on motion to amend section 5, counties, cities, and towns, 401, 403, 404.
on motion to take up bill of rights for third reading, 406.
on motion to print minority report on suffrage, 411, 415.
on motion to amend rules, 419.
on time allowed to Roberts on suffrage question, 420.
on suffrage, 437, 547, 548, 549, 567, 598, 599, 601.
on motion to strike out section 10, elections and suffrage, 605, 606.
on motion to amend section 14, elections and suffrage, 616, 1490, 1494, 1495.
on motion to amend section 5, elections and suffrage, 618, 620.
on motion to amend section 22, bill of rights, 623, 624, 626, 627, 630, 635.
on motion to amend section 3, executive, 662.

RICHARDS, F. S. (Continued.)

Remarks—

on motion to amend section 6, executive, 664, 665.
on motion to go into committee of the whole, 669.
on motion to amend section 6, municipal corporations, 670.
on motion to amend section 3, amendments, 675, 678.
on motion to postpone action on elections and suffrage, 686, 689, 690, 691, 694, 704.
on Varian's appeal from chair on a point of order, 709.
on Wells's motion to amend section 1, elections and suffrage, 710.
on report of committee on accounts and expenses, 712.
on motion to recommit elections and suffrage, 722, 735, 736, 753, 755.
on motion to amend section 4, apportionment, 858.
on voting on apportionment, 864.
on motion to strike out section 12, legislative, 869.
on motion to amend section 18, legislative, 879.
on motion to amend section 19, legislative, 880.
on motion to amend section 26, legislative, 884.
on motion to amend section 27, legislative, 885.
on motion to strike out section 29, legislative, 886.
on report of minority on legislative, 889, 890.
on motion to adopt sections of minority report on legislative, 890, 891, 892, 893, 894.
on Roberts's amendment to legislative article, 912, 913, 914, 928.
on motion to amend section 31, legislative, 229, 928.
on section 35, legislative, 938, 941, 943, 944, 945, 947, 948, 949.
on substitute to section 36, legislative, 951, 952.

RICHARDS, F. S. (Continued.)

Remarks—

on appeal from decision of chair on section 36, legislative, 958, 959.
on motion to reconsider section 36, legislative, 993.
on motion to amend section 5, public debt, 1197.
on motion to adopt section 2, water rights, 1217.
on motion to strike out water rights, 1218.
on motion to amend section 2, education, 1220, 1222, 1223, 1225, 1226, 1227, 1228.
on motion to amend section 5, education, 1262, 1271, 1368.
on motion to amend section 20, judiciary, 1329.
on voting on substitute to section 4, education, 1372.
on motion to add new section to judiciary, 1397.
on motion to amend section 1, judiciary, 1397, 1400, 1402, 1403, 1404, 1405, 1406, 1407, 1412.
on motion to amend section 2, judiciary, 1500.
on reconsideration of section 9, judiciary, 1521, 1522.
on voting on judiciary, 1524.
on mines and mining, 1525, 1526.
on section 11, corporations, 1551, 1552, 1554, 1662.
on section 14, corporations, 1556, 1558.
on section 16, corporations, 1561.
on section 18, corporations, 1562.
on section 21, corporations, 1565.
on section 29, corporations, 1595, 1596, 1597.
on section 34, corporations, 1600.
on section 35, corporations, 1601.
on section 36, corporations, 1601.
on section 3, public building, 1618, 1619.
on section 4, public buildings, 1627.
on section 4, schedule, 1630.
on section 6, schedule, 1632.
on section 9, schedule, 1633, 1634, 1635, 1636, 1637, 1639, 1640, 1647, 1648.

RICHARDS, F. S. (Continued.)

Remarks—

on section 2, corporations, 1654, 1655.
on section 9, corporations, 1658.
on section 11, corporations, 1662.
on section 22, corporations, 1667, 1668.
on invitation to reception, 1685.
on public lands, 1689.
on ordinance, 1721.
on schedule, 1737, 1751, 1752, 1753, 1754, 1756, 1760, 1762, 1766, 1793, 1794.
on miscellaneous, 1773, 1780, 1781, 1783, 1784.
on legislative, 1787, 1788, 1789.
on revision, 1790, 1792, 1804, 1806, 1815, 1816, 1819, 1822, 1829, 1830, 1831, 1832, 1833, 1849, 1850.
on printing Constitution, 1825.
on printing proceedings, 1846.
on final proceedings, 1853.

Seconds Eldredge's amendment to section 4, bill of rights, 363.

Withdraws motion for previous question, 766.

RICH, REV. GEORGE W., of Park City.
offered prayer, 1181.

RITCHIE, REV., of the Congregational Church.
offered prayer, 809.

RICKS, JOEL, Member from Salina, Sevier County.

Appointed—

on committee on preamble, 65.
on committee on apportionment and boundary, 66.
chairman of committee on schedule, future amendments, and miscellaneous, 67.

Amends motion to go into committee of the whole, 273, 278.

Appeals from decision of chair, 896.

Called to the chair in committee of the whole, 1288.

RICKS, JOEL (Continued.)

Moves—

that Goodwin remain as chairman of the committee on judiciary, 68.
to elect officers, 49.
to elect pages by rising vote, 55.
a resolution for maps, 104.
to adjourn, 65, 161, 167, 188.
to suspend rules, 102.
to refer petition on prohibition, 144.
to read separately and act on report, 145.
to lay part of report on table, 145.
to refer back report to committee, 148.
to indefinitely postpone election of committee clerk, 173.
to take up bill of rights in committee of the whole, 228.
to amend rule 20, 273.
to amend motion to go into committee of the whole, 273.
to amend section 25, bill of rights, 358.
to amend section 5, counties, cities and towns, 400.
to rise and report, 405, 429, 600, 1231.
to go into the committee of the whole, 406, 889, 1374.
to amend section 1, amendments, 406.
to amend section 3, amendments, 406.
to clear the house, 598.
the previous question, 638, 700, 880, 1703.
to amend section 3, executive, 663.
to strike out section 8, executive, 666.
to strike out section 14, elections and suffrage, 785.
to amend section 1, militia, 817.
to amend section 1, apportionment, 823.
to amend section 20, legislative, 881.
to amend section 20, legislative, 882, 883.
for recess, 888.
to adopt article on legislative, 890.
to amend section 20, executive, 1018, 1023.
that all petitions on suffrage be handed to clerk and not read, 1182.

RICKS, JOEL (Continued.)

Moves—

to amend section 2, education, 1228.
to amend section 4, education, 1231.
to amend section 10, education, 1362.
to adopt majority report on prohibition, 1431.
to strike out section 9, corporations, 1468.
on reports, 1479.
to strike out section 3, mines and mining, 1525, 1528.
to accept invitation of Los Angeles railway, 1526.
to amend motion to limit time on debate, 1588.
to report article on salaries, 1614.
to amend section 6, public buildings, 1627, 1628, 1629.
to amend section 9, schedule, 1633.
to amend section 10, schedule, 1653.
to reconsider corporations, 1704.

Presents—

petition for separate submission of suffrage, 809, 1143.
communication from J. G. Sutherland and others, 1683.

Remarks—

on motion to elect permanent officers, 44, 49.
on Goodwin's selection as chairman of judiciary committee, 67.
on election of janitor, 70.
on hiring an official stenographer, 93.
on adoption of rules, 127, 133, 140.
on taking photographs, 135.
on report of committee on expenses, 148, 149, 153, 154.
on motion to adjourn, 167, 168, 169, 170, 172.
on electing of committee clerk, 173.
on motion to restrict time to submit propositions, 219.
on report to increase committee on schedule, future amendments and miscellaneous, 268.
on motion to amend section 25, bill of rights, 359.
on suffrage, 537, 601, 617.

RICKS, JOEL (Continued.)

Remarks—

on point of order on Driver, 621.
on motion to amend section 2, executive, 660.
on motion to recommit elections and suffrage, 758, 759.
on Eldredge's motion to go into committee of the whole, 770.
on motion to amend section 14, elections and suffrage, 785, 1494.
on passage of elections and suffrage, 800.
on motion to amend section 1, militia, 818.
on motion to amend section 4, apportionment, 825, 826.
on motion to amend section 24, legislative, 883.
on motion to amend section 20, executive, 1024.
on motion to amend section 4, public debt, 1193.
on motion to amend section 4, education, 1237, 1265.
on motion to amend section 5, education, 1239, 1249, 1251, 1252.
on motion to amend section 10, education, 1363.
on motion for night sessions, 1479.
on motion to amend section 2, judiciary, 1501.
on motion to amend section 8, judiciary, 1504.
on mines and mining, 1527, 1528, 1530, 1542.
on motion to amend section 14, corporations, 1557, 1665.
on section 15, corporations, 1560.
on section 23, corporations, 1572.
on resolution for final reading of articles, 1586, 1587.
on section 28, corporations, 1594.
on section 2, public lands, 1606.
on section 4, schedule, 1630.
on section 7, schedule, 1632.
on section 11, schedule, 1653.
on new section for schedule, 1653, 1654.
on section 10, corporations, 1661.
on section 22, corporations, 1667.

RICKS, JOEL (Continued.)

Remarks—

on point of order on appeal from chair, 1677.

on voting on corporations, 1682.

on water rights, 1685.

Reports as chairman of committee on schedule, miscellaneous and future amendments, 225, 243, 298, 1182, 1522.

Seconds—

motion of Goodwin instructing committee on site, 59.

Hart's motion on time of meeting, 62.

motion to adjourn, 189.

Withdraws—

motion to elect pages by rising vote, 55.

motion to adjourn, 188.

motion to amend section 20, executive, 1018.

ROBERTS, B. H., Member from Centerville, Davis County.

Appointed—

on committee on credentials, 13.

on committee to name standing committees, 38.

on committee to secure stenographer, 55.

on legislative committee, 65.

on committee on public lands, 66.

on committee on schedule, future amendments and miscellaneous, 67.

Moves—

to amend in relation to stenographer, 45.

to appoint committee of five on stenographer, 53.

on drawers for tables, 116.

to correct rule 8, 128.

to amend rules, 130.

to amend Thatcher's amendment to rule 22, 133.

to postpone consideration of section 10, bill of rights, 262.

a substitute for section 26, bill of rights, 360.

ROBERTS, B. H. (Continued.)

Moves—

an amendment for evening session, 491.

to amend section 6, municipal corporations, 669.

to amend section 4, bill of rights, 230, 238.

to strike out section 7, executive, 665.

on addition to article on legislative, 894.

to amend section 3, public debt, 1134.

to amend section 6, executive, 1151.

to strike out labor, 1163.

to amend section 4, education, 1237. 1308.

a substitute to section 11, corporations, 1469.

to strike out section 14, corporations, 1557.

a resolution relating to final reading and engrossing, 1585.

to amend substitute to section 3, public buildings, 1622.

to reconsider public buildings, 1718.

for Whitney to read articles, 1718.

a reconsideration of vote on public buildings, 1723.

to amend section 10, schedule, 1765.

to strike out section 1, miscellaneous, 1798.

to rise and report, 1796.

Presents—

petition for separate submission of suffrage, 711, 809, 851, 888, 993, 1032, 1142.

petition from labor unions of Salt Lake, 297.

resolution on conforming to the Enabling Act, 63.

protests against call for previous question, 638.

Remarks—

on motion to refer back report on credentials, 30, 31.

on amendment to motion to elect permanent officers, 43, 45, 46, 48, 49.

on election of enrollment clerk, 52.

on electing a stenographer, 53.

ROBERTS, B. H. (Continued.)

Remarks—

on adopting Constitution of the United States, 63.

Relating to resolution conforming to Enabling Act, 64, 65.

on report of committee on site and in favor of janitor, 69, 70, 71.

on selecting seats, 74.

on resolution to print Enabling Act, 77.

on motion to read rules, 81.

on official stenographer, 94, 96, 97.

on correction of minutes, 106.

on motion to receive and refer propositions, 110, 111.

on motion to procure drawers for tables, 116, 117.

on fixing times of meeting of committees, 119.

on adopting rules, 130, 134, 135.

on motion to adjourn, 168, 169, 171.

on motion to refer correction of minutes, 173, 174.

on resolution on senators and representatives, 180, 181.

on preamble and bill of rights, 213.

on amendment to section 4, bill of rights, 230, 231, 237, 239, 241, 264.

on motion to amend section 5, bill of rights, 256.

on motion to postpone consideration of section 10, bill of rights, 262.

on motion to set a time for committee on elections and suffrage to report, 264, 267.

on report to increase the committee on schedule, future amendments and miscellaneous, 268, 269.

on motion to amend section 10, bill of rights, 294, 295, 296.

on motion to refer proposition on liquor habit, 301.

on motion to set time for report on suffrage, 317.

on motion to amend section 18, bill of rights, 323.

on motion to amend section 23, bill of rights, 326.

ROBERTS, B. H. (Continued.)

Remarks—

on motion to amend section 24, bill of rights, 355, 358.

on motion to amend or strike out section 25, bill of rights, 359.

on motion to amend section 26, bill of rights, 360, 361.

on motion to amend section 2, education and school lands, 374, 375, 376, 381.

on motion to amend section 5, counties, cities and towns, 402.

on motion to print minority report on suffrage, 408, 409, 410, 412, 416.

on motion to amend section 1, elections and rights of suffrage, 420, 421.

remarks on suffrage, 421—428, 455, 459, 460, 461, 470, 474, 505, 515, 517, 519, 520, 524, 539, 542, 543, 563, 564, 577, 582, 594, 595, 598.

on motion to refer section 10, bill of rights, 494.

on motion to refer or amend section 22, bill of rights, 638, 648.

on voting on bill of rights, 652.

on motion to amend section 1, executive, 657.

on motion to strike out section 7, executive, 665.

on motion to amend section 6, municipal corporations, 670.

on motion to postpone action on elections and suffrage, 686, 690, 691.

on Wells's motion to amend section 1, elections and suffrage, 709, 710.

on motion to recommit elections and suffrage, 719, 720, 721, 722, 724, 736, 742, 750, 753, 754, 755, 758, 759.

on motion to pass section 1, elections and suffrage, 766.

on motion to amend section 3, elections and suffrage, 776.

on motion to amend section 14, elections and suffrage, 784, 787.

on voting on elections and suffrage, 803.

on motion to amend ordinance, 806.

ROBERTS, B. H. (Continued.)
Remarks—
on motion to recommit public lands, 813, 814.
on motion to amend section 1, militia, 816.
on motion to amend section 4, apportionment, 836, 837, 844, 856.
on Low presenting an unsigned petition, 851, 852.
on motion to strike out section 11, legislative, 867.
on motion to amend section 13, legislative, 877.
on motion to amend section 20, legislative, 883.
on motion to amend legislative article, 894, 896, 910, 923, 925, 926, 928.
on motion to adopt substitute for section 30, legislative, 951.
on appeal from the chair on adopting section 36, legislative, 960, 964, 967, 969.
on motion to reconsider section 36, legislative, 987, 989, 990, 991.
on motion to amend section 12, executive, 1013.
on motion to strike out section 14, executive, 1016.
on motion to amend section 20, executive, 1018, 1022, 1023, 1024, 1027, 1028.
on motion to amend section 1, labor and arbitration, 1048.
on motion to amend section 1, public debt, 1116, 1117, 1121, 1185, 1186, 1199, 1200.
on motion to amend section 3, public debt, 1125, 1126, 1134, 1187.
on motion to reconsider section 1, suffrage, 1145, 1147, 1148, 1149, 1150.
on motion to strike out article on labor, 1169, 1175.
on motion to amend section 4, public debt, 1189.
on motion to amend section 2, education, 1227.
on motion to amend section 4, education, 1247.
on motion to amend section 5, education, 1265, 1267, 1268, 1286, 1309, 1363, 1370, 1371.

ROBERTS, B. H. (Continued.)
Remarks—
on motion to amend section 5, judiciary, 1319, 1502.
on motion to amend section 12, judiciary, 1325.
on motion to amend section 20, judiciary, 1326, 1327, 1383, 1391.
on motion to amend section 3, mines and mining, 1417, 1423, 1424, 1531, 1536, 1537, 1538, 1539, 1542.
on motion to adopt majority report on prohibition, 1431, 1434, 1443, 1458, 1459, 1460.
on substitute to section 11, corporations, 1470, 1475, 1476, 1552, 1554.
on section 16, corporations, 1561.
on section 21, corporations, 1566.
on section 23, corporations, 1570.
on resolution on reading and engrossing, 1585, 1586, 1587.
on section 37, corporations, 1602.
on section 1, public lands, 1604, 1688.
on salaries, 1612.
on section 3, public buildings, 1621, 1625.
on schedule, 1629, 1643, 1646, 1652, 1744, 1755, 1756, 1762, 1763.
on section 25, corporations, 1673, 1674, 1677.
on section 38, corporations, 1678, 1679.
on corporations, 1682, 1688.
on invitation to reception, 1684.
on section 6, public buildings, 1716, 1724, 1725, 1727, 1728, 1732.
on section 20 and 21, bill of rights, 1719, 1720.
on miscellaneous, 1767, 1771, 1796, 1799.
on revision, 1790, 1791, 1793, 1795, 1833, 1850.
on engrossing, 1825, 1827.
on voting to adopt Constitution, 1835.
on motion in relation to ornaments in hall, 1849.
Requested to conduct president to chair, 40.
Requests withdrawal of motion to adjourn, 62.

ROBERTS, B. H. (Continued.)

Seconds—

motion relating to permanent organization, 37.

motion relating to stenographer, 48.

motion of Evans relating to indebtedness, 173.

Evans's motion to reconsider, 204.

motion of Evans on Coray, 220.

the amendment to section 10, elections and suffrage, 616.

Eichnor's amendment to section 1, elections and suffrage, 705.

Withdraws motion to strike out section 7, executive, 666.

Withdraws amendmennt to section 3, public debt, 1134.

ROBERTSON, JASPER, Member from Orangeville, Emery County.

Appointed—

on committee on apportionment and boundary, 66.

on committee on militia, 67.

Remarks—

on public lands, 1700.

Took oath as member, 59.

ROBINSON, JOSEPH E., Member from Kanab, Kane County.

Appointed—

on committee to name standing committees, 38.

on committee on elections and suffrage, 66.

on committee on apportionment and boundaries, 66.

on committee on schedule, future amendments and miscellaneous, 67.

Moves—

to adjourn, 36, 37.

to amend section 3, amendments, 674.

to amend section 3, taxation and revenue, 1177.

Presents—

petition in favor of suffrage, 1585.

ROBINSON, JOSEPH E. (Continued.)

Remarks—

on motion to adjourn, 36, 37.

on mileage, 78.

on suffrage, 455.

on motion to strike out section 10, elections and suffrage, 609.

on motion to amend section 5, elections and suffrage, 620.

on motion to recommit elections and suffrage, 718, 731.

on motion to amend section 2, judiciary, 1497.

on section 23, corporations, 1574.

on revision, 1788, 1812.

Reports as minority in favor of prohibition, 1188.

Seconds motion of Ivins to lay boundaries on table, 205.

ROBISON, WILLIS E., Member from Loa, Piute County.

Appointed—

on committee to name standing committees, 38.

on committee on apportionment and boundaries, 66.

on committee on water rights and irrigation, 66.

Presents—

proposition for insertion in Constitution, on forestry, 192.

proposition for insertion in Constitution, on public debt, 218.

petition for suffrage to go in Constitution, 994.

Remarks—

on suffrage, 575.

on motion to amend section 10, education, 1301.

on section 2, judiciary, 1497.

RYAN, GEORGE, Member from Eureka, Juab County.

Appointed—

on committee to name standing committees, 38.

RYAN, GEORGE (Continued.)

Appointed—
on committee on public buildings and State institutions, 66.
on committee on mines and mining, 67.
chairman on committee on militia, 67.

Moves—
to refer propositions, 155.
to amend section 2, elections and suffrage, 601.
to amend section 2, elections and suffrage, 771.
to amend section 8, elections and suffrage, 778.
to amend section 5, labor, 1169.
to strike out section 11, corporations, 1554.
to amend section 23, corporations, 1570.
a substitute for section 14, corporations, 1662.
to amend on revision, 1823, 1824.

Presents—
proposition for insertion in Constitution, on salaries, 155.
proposition for insertion in Constitution, on exemptions, 155.
proposition for insertion in Constitution, on corporations, 155.
petitions for separate submission of suffrage, 769, 809.

Remarks—
on proposition for insertion in Constitution, 155.
on motion to adjourn, 172.
on motion to amend section 11, bill of rights, 306.
on motion to amend section 25, bill of rights, 360.
on motion to amend section 2, elections and suffrage, 601.
on voting on section 1, elections and suffrage, 768.
on motion to amend section 2, elections and suffrage, 772, 773.

RYAN, GEORGE (Continued.)

Remarks—
on motion to amend section 8, elections and suffrage, 778, 779.
on motion to amend section 1, militia, 817, 818.
on article on militia, 865.
on motion to amend section 1, labor an darbitration, 1047, 1048.
on motion to amend section 1, public debt, 1117.
on article on labor, 1164, 1172.
on motion to amend section 3, mines and mining, 1423, 1425, 1529.
on section 11, corporations, 1554, 1555.
on section 14, corporations, 1557.
on section 23, corporations, 1575, 1578.
on section 25, corporations, 1581.
on section 2, corporations, 1657.
on section 9, corporations, 1658.
on revision, 1828.

Reports as chairman of committee on militia, 457.

Yields his time to Roberts, 421.

SCOTT, J. N., Salt Lake City.
janitor, 2.

SHARP, W. G., Member from Castle Gate, Emery County.

Appointed—
on executive committee, 66.
on committee on mines and mining, 67.

Excused to attend session of committee on suffrage, 162.
excused, 297.

Moves—
to amend section 7, labor and arbitration, 1066.
to amend section 11, taxation and revenue, 1114.
to amend section 3, corporations, 1468.

Presents—
petition for separate submission of suffrage, 851, 1143.

SHARP, W. G. (Continued.)

Remarks—

on motion to recommit elections and suffrage, 720.

on motion to amend section 4, taxation and revenue, 1076, 1079, 1080.

on motion to amend section 11, taxation and revenue, 1114.

on mines and mining, 1525.

SHURTLIFF, H. T., Member from Miller, Salt Lake County.

Appointed—

on committee on public buildings and State institutions, 66.

on committee on water rights and irrigation, 66.

Moves—

to postpone action on apportionment of senators and representatives, 186.

Presents—

proposition for insertion in Constitution on duties of county officers, 202.

SHIPP, ELDER M. B., of the Church of Jesus Christ of Latter-day Saints, offered prayer, 345.

SMITH, JOHN HENRY, Member from Third Precinct, Salt Lake City.

president of Convention, 2.

Appoints—

Eichnor and Thurman to escort Christensen to secretary's desk, 47.

committee on stenographer, 55.

Chairman of committee on rules, 61, 65.

Elected president of Convention, 40.

Moves—

to recommit labor and arbitration, 1044.

to amend section 13, legislative, 869.

to pass section 26, bill of rights, 360.

to amend section 15, bill of rights, 320.

to adopt article on ordinance, 807.

to strike out section 5, labor and arbitration, 1056.

SMITH, JOHN HENRY (Continued.)

Moves—

to strike out labor and arbitration article, 1069.

Nominated for president by Squires, 39.

Offers excuse for Thatcher, 59.

Presents—

lists of standing committees, 65.

Presented with portraits of members, 810.

Remarks—

on assuming the chair as president of the Convention, 40, 41, 42.

on accepting gavel, 43.

relating to committees, 61.

on motion to amend section 10, bill of rights, 289.

on substitute for section 15, bill of rights, 320.

on motion to amend section 24, bill of rights, 344.

on motion to amend section 25, bill of rights, 368.

on motion to amend section 2, education and school lands, 386.

on motion to refer back article on education and school lands, 395.

on suffrage, 564.

on motion to strike out section 10, elections and suffrage, 606.

on Richards's motion to amend section 5, elections and suffrage, 620.

on motion to amend section 22, bill of rights, 631.

on being presented with portraits, 810.

on motion to strike out section 11, legislative, 868.

on motion to amend section 13, legislative, 870, 876.

on motion to amend section 19, legislative, 880.

on motion to amend section 12, executive, 1010.

on motion to amend section 20, executive, 1025, 1027, 1028, 1030.

on motion to amend section 1, labor and arbitration, 1041.

SMITH, JOHN HENRY (Continued.)

Remarks—

on motion to strike out section 5, labor and arbitration, 1059.

on motion to strike out section 7, labor and arbitration, 1064, 1065.

on motion to amend labor and arbitration, 1068.

on motion to amend section 12, taxation and revenue, 1113.

on motion to amend section 1, public debt, 1116.

on motion to amend section 3, public debt, 1129.

on motion to amend section 5, public debt, 1139.

on motion to amend section 2, education, 1222.

on motion to amend section 4, education, 1310.

on motion to amend section 12, education, 1312.

on motion to amend section 5, judiciary, 1316.

on motion to amend section 20, judiciary, 1328.

on motion to add section to judiciary, 1393.

on motion to amend section 3, mines and mining, 1428, 1429.

on motion to strike out section 9, corporations, 1468.

on motion to strike out section 16, corporations, 1561.

on section 21, corporations, 1568.

on final adjournment, 1853.

SMITH, JOSEPH A., Providence, Cache County.

enrolling and engrossing clerk, 2.

elected enrolling and engrossing clerk, 50, 51, 52.

nominated for enrolling and engrossing clerk by Alma Eldredge, 50.

remarks on engrossing, 1827.

sworn in as clerk, 65.

SNOW, EDWARD H., Member from St. George, Washington County.

Appointed—

on committee to name standing committees, 88.

on legislative committee, 66.

on committee on apportionment and boundary, 66.

on committee on education and school lands, 66.

on committee on corporations, 66.

Moves—

to amend amendment and accept report, 69.

to amend section 4, bill of rights, 244.

to accept report of committee on site, 69.

to adopt resolution on senators and representatives, 177.

to amend section 2, bill of rights, 230.

to amend section 4, bill of rights, 244.

to amend section 3, amendments, 678.

to strike out section 5, legislative, 867.

for Varian to close debate on reconsideration, 994.

to have sergeant-at-arms take care of Squires, 1055.

to amend section 20, executive, 1153.

to amend section 4, public debt, 1188.

to adopt minority report on water rights, 1202.

to amend section 1, water rights, 1206.

to strike out section 4, education, 1231.

the previous question, 1708, 1800.

to suspend rules and amend, 1735.

to amend on revision, 1818, 1820.

a resolution for committee on engrossment, 1819, 1823.

Presents—

petition for separate submission of suffrage, 1084.

proposition to go into the Constitution, 103.

proposition for insertion in Constitution on apportionment, 167.

resolution on apportionment of senators and representatives, 177.

SNOW, EDWARD H. (Continued.)

Remarks—

on report of committee on standing committees, 57.

on motion to adopt report of commitee on site, 70.

on motion to refer article on apportionment to legislative committee, 167.

on resolution on senators and representatives, 178, 182.

on motion to amend section 4, bill of rights, 244.

on motion to amend section 23, bill of rights, 235.

on suffrage, 558, 1794.

on motion to recommit elections and suffrage, 759, 760.

on motion to amend section 4, apportionment, 856.

on motion to amend section 20, executive, 1022, 1153, 1154, 1155, 156.

on motion to strike out section 5, taxation and revenue, 1099, 1106.

on motion to strike out section 8, taxation and revenue, 1109.

on motion to amend section 5, public debt, 1137, 1138.

on article on labor, 1166.

on motion to amend section 4, public debt, 1188.

on water rights, 1203, 1204, 1209, 1211.

on motion to amend section 2, education, 1220.

on motion to amend section 5, education, 1264, 1265.

on motion to amend section 1, judiciary, 1405.

on motion to amend section 11, corporations, 1473, 1547.

on voting on judiciary, 1524.

on mines and mining, 1528, 1529, 1538.

on section 20, corporations, 1563.

on section 1, public lands, 1605, 1686.

on point of order on section 25, corporations, 1677.

on section 38, corporations, 1679.

on a point of order, 1718, 1734.

on miscellaneous, 1769, 1783, 1785, 1786, 1796.

SNOW, EDWARD H. (Continued.)

Remarks—

on revision, 1788, 1807, 1809, 1812.

on printing Constitution, 1825.

on engrossing the Constitution, 1826, 1827.

on motion to reconsider section 2, schedule, 1794.

Withdraws motion on report on site, 70.

Yields his time to Roberts, 895.

SMITH, GRANT H.

signs invitation to ball and reception, 1827.

SPENCER, H. H., Member from Ogden, Weber County.

Appointed—

on committee on public buildings and State institutions, 66.

on committee on salaries of public officers, 67.

Excused by request of Evans, 79.

Excused, 212, 307.

Moves—

to adjourn, 757.

to amend section 1, public debt, 1119, 1120.

Remarks—

on voting on section 1, elections and suffrage, 768.

on motion to amend section 1, public debt, 1119.

on motion to amend section 5, public debt, 1135, 1138, 1139.

SQUIRES, GEORGE B., Member from Salt Lake County.

Amends resolution to call Convention to order, 9.

Appointed—

on committee on credentials, 13.

on committee on legislative, 65.

on committee on revenue, taxation and public debt, 66.

SQUIRES, GEORGE B. (Continued.)

Appointed—
on committee on mines and mining, 67.

Asks privilege of the floor for Westerfield and Wenger,

Called—
to the chair during temporary absence of president, 125.
to be chairman of committee of the whole, 228, 244, 274, 304, 889.

Calls—
for ayes and noes on motion to report elections and suffrage, 318.
for ayes and noes on Eldredge's motion to postpone, 704.

Moves—
that Charles Crane call Convention to order, 9.
that committee clerks be typewriters, 46.
to suspend rules and elect pages by acclamation, 55.
that officers elected be sworn, 55.
to use furniture and room, 71.
to select seats, 74.
to refer Hart's motion to committee on rules, 75.
on name of committee, 109.
relating to salaries, 148, 149.
on furniture and committee rooms, 161.
to refer article on boundaries to legislative committee, 167.
to refer correction of minutes, 174.
to refer report on boundaries to committee on printing, 191.
to receive and file report of committee on expenses, 191.
to go into committee of the whole, 203, 668, 1793.
to adopt article on boundary, 206.
to rise and report from committee of the whole, 208.
to amend rule 21, 212.
to receive and file letter by Thatcher, 214.

SQUIRES, GEORGE B. (Continued.)

Moves—
to restrict time to present propositions, 218.
to adjourn, 222, 535, 1584, 1825.
to refer report of committee to committee on rules, 225.
to amend resolution on report on education, 228.
to amend motion to go into committee of the whole, 228.
to go into committee of the whole, 244, 363, 429, 805.
to meet contingent expense, 273.
to refer matter to committee, 301.
to lay on table resolution to change hour of meeting, 303.
to take section 4, bill of rights, from table, 363.
to amend section 4, bill of rights, 365.
to amend section 5, counties, cities and towns, 400.
to rise and report, 407, 455, 456, 809, 1232.
to amend section 11, elections and suffrage, 615.
to refer sections 22 and 23 to judiciary, 648.
previous question on bill of rights, 650.
to amend section 3, amendments, 675.
to postpone action on elections and suffrage, 679.
to strike out section 3, elections and suffrage, 776.
for a recess, 783.
to amend section 14, elections and suffrage, 793.
to amend ordinance, 811, 1720.
to recommit article on public lands, 819.
to amend section 2, apportionment, 859.
to take a representative from Salt Lake, 862.
to amend section 7, legislative, 867.
to amend section 18, legislative, 879.
the previous question on appeal from chair, 968.
to amend section 20, executive, 1027.

SQUIRES, GEORGE B. (Continued.)

Moves—

to amend section 2, taxation and revenue, 1114.
to amend section 3, public debt, 1134.
to amend article on labor, 1173, 1175.
previous question, 1237, 1373, 1374, 1704, 1760.
to amend section 5, judiciary, 1315.
to make judiciary special order, 1413.
to amend section 3, mines and mining, 1419.
to reconsider article on elections and suffrage, 1497.
to amend section 11, corporations, 1554.
to amend section 22, corporations, 1569.
to strike out banks from corporations, 1604.
to amend section 21, bill of rights, 1720.
to amend elections and rights of suffrage, 1721.
to strike out sections 3 and 4, miscellaneous, 1782.
to amend on revision, 1788, 1803, 1804, 1805, 1807, 1808, 1809, 1811, 1812, 1813, 1818, 1821, 1827, 1831, 1834.
in relation to communication of Wilson, 1815.
to lay resolution to print Constitution on table, 1824.
to adopt address, 1837.

Nominates—

John Henry Smith for president, 39.
L. C. Camp as page, 55.
Miss Macmaster as committee clerk, 120.

Presents—

petition against suffrage, 994.
petitions for separate submission of suffrage, 857, 934, 1084, 1143.

Requested to conduct to chair, 40.

Remarks—

on motion to elect permanent officers, 43, 45, 47.
on election of committee clerk, 47.
on committee to engage stenographer, 53.

SQUIRES, GEORGE B. (Continued.)

Remarks—

on hiring janitor, and report of committee on site, 69.
on hiring a janitor, 69.
on question of site and furniture, 71.
on selection of seats, 72.
on motion to adopt report on stenographer, 91, 95, 96, 100.
on Evans's motion to correct minutes, 106.
on motion to receive and file report of committee on expenses, 110.
on motion to make report on education special order, 228.
on motion to amend section 24, bill of rights, 345.
on motion to amend section 25, bill of rights, 359, 366, 367.
on motion to amend section 2, education and school lands, 379.
on suffrage article, 455, 513, 515, 519, 523, 575, 801, 1794.
on motion to amend section 10, bill of rights, 493, 494, 495, 622.
on motion to strike out section 10, elections and suffrage, 606, 610.
on motion to strike out section 12, elections and suffrage, 615.
on section 5, elections and suffrage, 617, 618, 620.
on motion to amend section 10, bill of rights, 622.
on motion to amend section 22, bill of rights, 625, 648.
on motion to go into committee of the whole, 669.
on motion to amend section 6, municipal corporations, 671, 673.
on motion to amend section 3, amendments, 675, 676, 677.
on motion for a recess, 679.
on motion to postpone action on elections and suffrage, 679, 681, 683, 684, 699.
on motion to recommit elections and suffrage, 717, 718, 719, 725, 735, 736, 748, 749, 750.
on motion to read by title and refer propositions, 111.

SQUIRES, GEORGE B. (Continued.)

Remarks—

on reading Page's proposition, 112.
on resolution for bids for stationery, 118.
on fixing time of committee meetings, 119.
on election of committee clerks, 120, 121, 122.
on correction of rules, 130.
on memorial on suffrage, 142.
on report of committee on expenses, 147, 148, 149, 150, 151, 153, 154.
on propositions for insertion in Constitution, 155.
on Ivins's motion relating to typewriters, 158.
on motion to adjourn, 168, 194, 766.
on motion to refer correction of minutes, 174.
on motion to refer legislative apportionment, 175.
on resolution on senators and representatives, 186, 187.
on motion to reconsider vote on minutes, 188.
on motion to adopt report of committee on apportionment, 191.
on motion to read report of committee on preamble, 201.
on motion to go into committee of the whole, 203, 204.
on motion to lay article on boundary on table, 205, 206.
on boundary, 207.
on motion to amend rules, 213.
on regular order of business, 216.
on report of committee on education, 216.
on motion to restrict time to submit propositions, 218, 219.
on motion on Coray, 221.
on resolution on stenographer, 223.
on resolution on clerks, 227.
on passage of section 1, suffrage, 766, 770.
on motion to amend section 3, elections and suffrage, 775, 776, 777.
on motion to amend section 8, elections and suffrage, 779.

SQUIRES, GEORGE B. (Continued.)

Remarks—

on motion to amend section 14, elections and suffrage, 788, 793, 794, 796, 798, 799, 1480, 1481, 1488, 1490.
on motion to go into committee of the whole, 812.
on motion to recommit public lands, 813, 814.
on article on militia, 815, 816, 818.
on motion to strike out section 1, apportionment, 820, 821, 822, 823.
on motion to amend section 4, apportionment, 824, 827, 828, 855, 856, 858.
on motion to amend section 2, apportionment, 860, 861, 862.
on motion to strike out section 11, legislative, 867.
on motion to amend section 13, legislative, 875.
on motion to amend section 18, legislative, 879, 880.
on motion to amend section 27, legislative, 885, 936.
on motion to amend section 35, legislative, 940, 941.
on challenging vote on section 36, legislative, 959.
on voting on legislative article, 1005, 1006.
on motion to amend section 12, executive, 1011, 1013.
on motion to amend section 20, executive, 1021, 1024.
on motion to amend section 1, labor and arbitration, 1039, 1052.
on motion to amend section 3, labor and arbitration, 1054, 1055.
on motion to amend section 7, labor and arbitration, 1062.
on motion to strike out section 9, labor and arbitration, 1067.
on motion to amend section 4, taxation and revenue, 1075, 1080, 1082, 1083.
on presenting letter accompanying petition against suffrage, 1084.
on motion to strike out section 5, taxation and revenue, 1091.

SQUIRES, GEORGE B. (Continued.)

Remarks—

on motion to amend section 12, taxation and revenue, 1110, 1111, 1112.

on motion to amend section 1, public debt, 1118, 1186.

on motion to amend section 3, public debt, 1133, 1187.

on motion to amend section 5, public debt, 1135, 1140.

on motion to amend section 8, public debt, 1142.

on section 6, executive, 1151.

on article on labor, 1167, 1169, 1174, 1176.

on motion to amend section 4, public debt, 1191.

on water rights, 1204, 1205.

on motion to amend section 4, education, 1232, 1306, 1347.

on motion to reconsider accounts, 1237.

on motion to amend section 5, education, 1255, 1258, 1265, 1268, 1271, 1280, 1284, 1339, 1347.

on motion to reconsider section 14, elections, 1287.

on motion to amend section 1, education, 1292, 1293, 1294, 1295.

on motion to amend section 2, education, 1304, 1331.

on motion to amend section 5, judiciary, 1315, 1503.

on motion to amend section 8, judiciary, 1323, 1504.

on motion to amend section 20, judiciary, 1328, 1389.

on motion to amend section 1, judiciary, 1400, 1401, 1402.

on motion to amend section 3, mines and mining, 1419, 1420, 1423, 1427, 1526, 1546.

on motion to amend section 11, corporations, 1470, 1472, 1475, 1476, 1549, 1550, 1552, 1554.

on motion for night sessions, 1476, 1477, 1479.

on motion to amend section 9, judiciary, 1508.

SQUIRES, GEORGE B. (Continued.)

Remarks—

on motion to amend section 20, judiciary, 1520.

on motion to reconsider section 9, judiciary, 1521, 1522.

on prohibition, 1546.

on section 16, corporations, 1562.

on section 20, corporations, 1563.

on section 21, corporations, 1563, 1566.

on section 23, corporations, 1571, 1574.

on sections 25 and 26, corporations, 1579, 1580, 1582, 1584, 1590, 1671, 1672.

on section 28, corporations, 1592.

on section 38, corporations, 1603.

on section 1, public lands, 1605, 1688.

on new section to public lands, 1608, 1610, 1690.

on section 3, public buildings, 1616.

on section 4, public buildings, 1626.

on section 6, public buildings, 1627.

on schedule, 1634, 1636, 1653, 1739, 1756, 1759, 1763, 1767.

on invitation to reception, 1654, 1683, 1684.

on section 2, corporations, 1657.

on section 9, corporations, 1658, 1659.

on miscellaneous, 1786, 1796, 1799.

on legislative, 1787.

on revision, 1789, 1792, 1793, 1803, 1806, 1816, 1817, 1828, 1829, 1831, 1832, 1833, 1850.

on resolution on engrossment, 1823.

on printing Constitution, 1825.

on compensation of stenographer, 1826.

on invitation to Saltair, 1826.

on engrossing, 1827.

on voting on Constitution, 1835.

on motion to divide per diem, 1835.

on printing proceedings, 1841, 1842, 1843, 1846.

Seconds Eldredge's motion to postpone suffrage, 704.

Withdraws—

motion to amend section 5, counties, cities and towns, 400.

motion to refer, 649.

SQUIRES, GEORGE B. (Continued.)

Withdraws—

motion to elect pages by acclamation, 55.

amendment to section 3, public debt, 1135.

STOVER, D. B., Member from Stockton, Tooele County.

Appointed—

on committee on credentials, 12.

on committee to name standing committees, 38.

on committee on corporations, 66.

on committee on mines and mining, 67.

on committee on militia, 67.

Moves—

to amend section 3, labor and arbitration, 1053.

to amend section 20, executive, 1021.

to accept with thanks offer of the telephone company, 125.

to amend section 2, elections and suffrage, 771.

to amend section 20, legislative, 881.

to adjourn, 1764.

to accept invitation to ball, 1827.

Nominates—

L. C. Johnson for committee clerk, 120.

Presents—

proposition for insertion in Constitution on poll tax, 220.

proposition for insertion in Constitution on public funds, 157.

proposition for insertion in Constitution on sale and manufacture of spirits, 157.

proposition for insertion in Constitution on inspection of public institutions, 157.

proposition for insertion in Constitution on poll tax, 202.

petition for separate submission of suffrage, 769, 809, 934.

STOVER, D. B. (Continued.)

Remarks—

on report from committee on accounts, 101.

on nomination of Johnson, 121, 123.

on withdrawing Johnson's name, 159.

on motion to recommit elections and suffrage, 750.

on motion to amend section 2, elections and suffrage, 773.

on motion to amend section 1, militia, 816.

on motion to amend section 3, labor and arbitration, 1053, 1054, 1055.

on labor, 1165.

STREVELL, C. N., Member from Ogden, Weber County.

Appointed—

on committee on credentials, 12.

on committee on education and school lands, 66.

on committee on revenue, taxation and public debt, 67.

chairman of committee on labor and arbitration, 67.

Asks privilege of floor for two members of Idaho legislature, 108.

Excused, 796.

Moves—

to amend section 1, labor and arbitration, 1032, 1050, 1053.

to amend section 3, counties, cities and towns, 399.

to adopt report of committee on credentials, 37.

relating to flag, 104.

to amend motion on rules, 316.

a new section to labor and arbitration, 1067.

to amend article on labor, 1175.

to amend section 29, corporations, 1597.

Presents—

proposition on capital and labor for insertion in the Constitution, 112.

proposition for insertion in Constitution on damages, 114.

STREVELL, C. N. (Continued.)

Presents—

propositions for insertion in Constitution on labor and elections, 155.

proposition for insertion in Constitution on election of senators, 202.

Reports as chairman of committee on credentials, 37.

Remarks—

on report of committee on credentials, 37.

on voting on legislative article, 1005.

on motion to amend section 20, executive, 1024.

on motion to amend section 1, labor and arbitration, 1033, 1038, 1039, 1041, 1044, 1045, 1050, 1053.

on motion to strike out section 4, labor and arbitration, 1056.

on motion to amend section 7, labor and arbitration, 1060, 1061, 1064, 1066.

on motion to strike out section 8, labor and arbitration, 1066.

on motion to strike out section 9, labor and arbitration, 1067.

on motion to amend labor and arbitration, 1068.

on labor, 1164, 1175.

on section 28, corporations, 1593.

on section 11, corporations, 1661.

on section 14, corporations, 1664.

SYMONS, CHARLES W., Member from First Precinct, Salt Lake City.

Appointed—

on judiciary committee, 66.

on committee on militia, 67.

Nominates—

John H. Thorn as page, 55.

John F. Chidester for temporary sergeant-at-arms, 12.

Presents—

proposition for insertion in Constitution on taxation, 202.

TALMAGE, DR. JAMES E.

remarks on education, 1341, 1343.

TATLOCK, E. W.

presented gavel to the president, 42.

THATCHER, MOSES, Member from Logan, Cache County.

Appointed –

on committee on preamble, 65.

on committee on revenue, taxation and public debt, 67.

on committee on ordinance, 67.

on committee on compilation and arrangement, 67.

Letter from, 213.

Moves—

to elect Parley P. Christensen by acclamation, 47.

for recess to prepare names of officers, 48.

to correct rule 22, 133.

to amend section 8, public debt, 1142.

to amend section 12, judiciary, 1521.

to strike out section 24, judiciary, 1520.

to amend section 13, corporations, 1555.

to amend section 2, public lands, 1606.

to amend section 2, salaries, 1613.

Remarks—

on motion to refer back report on credentials, 35.

on election of committee clerks, 47, 48.

on voting for Joseph A. Smith, 52.

on reading of rules, 81.

on motion to adopt report of committee on stenographer, 92, 93, 94.

on proposition to go into Constitution, 103.

on question of official stenographer, 93, 94.

on adopting rules, 133, 135.

on committee clerks, 104.

on motion to strike out labor, 1168.

on water rights, 1233.

on motion to amend section 5, education, 1261, 1271, 1272, 1286.

on motion to amend section 4, education, 1340, 1354, 1355, 1357.

on motion to amend section 3, mines and mining, 1420, 1535, 1536.

THATCHER, MOSES (Continued.)

Remarks—

on motion to adopt majority report on prohibition, 1444, 1446.
on motion to amend section 11, corporations, 1474, 1554.
on motion to amend section 27, judiciary, 1520.
on section 25, corporations, 1580, 1670, 1671, 1675.
on section 3, public buildings, 1625, 1626.
on section 23, corporations, 1668, 1683.

Takes oath as a member, 13.

THOMPSON, DANIEL, Member from Scipio, Millard County.

Appointed—

on committee to name standing committees, 38.
on committee on preamble, 65.
on executive committee, 66.
on committee on public buildings and State institutions, 66.

Excused 77, 663.

Moves—

to refer proposition, 193.
to amend section 3, public debt, 1142.

Offered prayer, 1723.

Presents—

proposition for insertion in Constitution regulating corporations, 193.
petition for suffrage to go into Constitution, 994.

Remarks—

on electing committee clerk, 161.
on motion to strike out section 10, elections and suffrage, 613.
on motion to postpone action on elections and suffrage, 700.
on appeal from chair on vote on section 36, legislative, 970.
on voting on reconsideration of section 36, legislative, 1003.
on motion to amend section 10, education, 1294, 1295, 1301.

THOMPSON, DANIEL (Continued.)

Remarks—

on motion to adopt majority report on prohibition, 1447.
on section 23, corporations, 1575.
on section 37, corporations, 1603.
on section 3, public buildings, 1619.

Seconds—

Richards's amendment to section 23, bill of rights, 338.
Allen's motion for previous question, 735.

THORESON, I. C., Member from Hyrum, Cache County.

Appointed—

on committee on salaries of public officials, 67.
on committee on taxation, revenue and public debt, 297.
on committee on compilation and arrangement, 297.

Moves—

to amend section 3, taxation and revenue, 1115.
to amend substitute for section 14, elections and suffrage, 789.
to amend boundary, 207.
the previous question on the suffrage measure, 417.
to amend report of committee on expenses, 75.
to take section 4, bill of rights, from table, 252.
to amend section 23, legislative, 936.
to amend section 24, legislative, 936.
to amend section 5, public debt, 1135.
to strike out section 3, water rights, 1217.
to amend section 2, education, 1226.
to amend section 10, education, 1292.
to amend section 3, mines and mining, 1420.
to amend section 1, public lands, 1686.
to amend section 4, public lands, 1690.
to amend bill of rights, 1719, 1720.
to amend section 2, miscellaneous, 1774.

THORESON, I. C. (Continued.)

Moves—

on revision, 1815.
to accept invitation to Saltair, 1826.
a substitute for resolution on printing proceedings, 1840.

Offers excuse for Low, 319.

Presents—

proposition on public corporations for Constitution, 112.
proposition on suffrage and elections for Constitution, 114.
proposition for insertion in Constitution on removal of county seats, 203.
proposition for insertion in Constitution on primary water rights, 272.
petition for separate submission of suffrage, 934.
petition for suffrage to go into the Constitution, 1181.

Remarks—

on resolution to get bids on stationery, 118.
on report of committee on expenses, 149.
on motion to refer propositions, 155, 156.
on electing committee clerk, 161.
on article on boundary, 207.
on report of committee on education, 216.
on reading of resolution on Coray, 221.
on resolution on clerk, 224, 227.
on accounts and expenses, 298.
on motion to amend section 24, bill of rights, 357.
on motion to amend section 3, amendments, 406.
on motion to strike out section 10, elections and suffrage, 609.
on motion to amend section 5, elections and suffrage, 620.
on motion to amend section 22, bill of rights, 632, 638, 645.
on motion to postpone action on elections and suffrage, 684.

THORESON, I. C. (Continued.)

Remarks—

on motion to recommit elections and suffrage, 714.
on a point of order on Lewis, 747.
on motion to amend section 2, elections and suffrage, 771.
on motion to amend section 3, elections and suffrage, 777.
on motion to amend section 8, elections and suffrage, 779.
on motion to amend section 14, elections and suffrage, 788, 789, 791, 792, 1481, 1482, 1483, 1494.
on motion to recommit public lands, 814.
on motion to amend section 4, apportionment, 853, 854.
on motion to amend section 8, legislative, 935.
on motion to strike out section 35, legislative, 943, 948.
on appeal from chair on vote on section 36, legislative, 964.
on motion to amend section 1, labor and arbitration, 1046.
on motion to strike out section 8, taxation and revenue, 1109.
on motion to amend section 12, taxation and revenue, 1110, 1111, 1112.
on motion to amend section 1, public debt, 1117.
on motion to amend section 3, public debt, 1129.
on motion to amend section 4, public debt, 1190.
on motion to amend section 5, public debt, 1196, 1197.
on water rights, 1205, 1217, 1233.
on motion to amend section 3, education, 1231.
on motion to amend section 5, education, 1259, 1261, 1361.
on motion to amend section 2, education, 1302.
on motion to adopt section 9, education, 1362.
on motion to amend section 8, judiciary, 1504, 1505, 1506.

THORESON, I. C. (Continued.)

Remarks—

on resolution on final reading of articles, 1585, 1586.
on section 28, corporations, 1594.
on schedule, 1648, 1749, 1754.
on section 1, public lands, 1687, 1689.
on section 4, public lands, 1692, 1702.
on miscellaneous, 1777, 1780, 1786, 1797, 1799.
on revision, 1788, 1816, 1820, 1828, 1829, 1830, 1832.
on printing proceedings, 1841, 1843.

THORN, JOHN H., Salt Lake City.

page, 2.
elected page, 55.
nominated for page by C. W. Symons, 55.
sworn in as page, 55.

THORN, JOSEPH E., Member from Pleasant Grove, Utah County.

Appointed—

on committee on public buildings and State institutions, 66.
on committee on manufactures and commerce, 67.

Offered prayer, 1835.

THURMAN, SAMUEL R., Member from Provo, Utah County.

Appointed—

on committee on site, 36.
to escort secretary to seat, 47.
on committee on stenographer, 55.
on judiciary committee, 66.
on committee on elections and suffrage, 66.
on committee on corporations, 66.
on committee to prepare address, 1802.

Called to the chair in committee of the whole, 345.

Excused, 141.

THURMAN, SAMUEL R. (Continued.)

Moves—

for committee to name standing committees, 36.
that rule 1 be read, 87.
relating to standing committees, 75, 76.
to suspend rules, 102.
for chairman of committees to give notice, 103.
to suspend the rule and refer propositions, 111.
to amend rule 3, 127.
to refer article on apportionment, 167.
to appoint committee to revise minutes, 173.
to strike out from section 9, bill of rights, 258.
to go into committee of the whole, 288.
to refer Low's proposition to committee of the whole, 300.
to lay Jolley's proposition to tax professionals on table, 300.
to set time to adjourn, 301.
to accept report of committee on rules and change time of meeting, 316.
to amend section 18, bill of rights, 323.
to amend setion 23, bill of rights, 326.
to go into committee of the whole, 408.
to go into committee of the whole on suffrage, 419.
for previous question on section 22, bill of rights, 650.
a point of order on Eichnor's amendment to section 1, elections and suffrage, 705.
to lay Lambert's amendment to section 1, suffrage, on table, 766.
to amend section 14, elections and suffrage, 784, 785.
to suspend rules on reconsideration of articles, 801.
to amend section 4, legislative, 866.
to amend section 13, legislative, 874.
to amend section 14, executive, 1014.
to make reconsideration of suffrage special order, 1031.

THURMAN, SAMUEL R. (Continued.)

Moves—

to amend section 3, labor and arbitration, 1053.

to strike out section 4, labor and arbitration, 1056.

to strike out section 7 and substitute, labor and arbitration, 1060.

to amend motion on section 8, public debt, 1141.

to lay reconsideration of suffrage on table, 1146.

to take minority report on prohibition from table, 1183.

to amend section 1, public debt, 1199.

to amend section 9, judiciary, 1506.

to reconsider judiciary, 1524.

to amend section 38, corporations, 1603.

to amend section 1, salaries, 1612.

to strike out section 5, public lands, 1703.

to amend section 6, public lands, 1703.

to amend section 13, bill of rights, 1719.

to amend suffrage, 1721, 1722.

to amend section 9, schedule, 1759.

to amend on revision, 1793, 1813, 1820, 1824.

to suspend rules and consider section 9, elections, 1794.

to amend miscellaneous, 1843.

for committee on compilation to ascertain expense of printing proceedings, 1845.

Presents—

memorial on suffrage from ladies of Utah County, 162.

proposition for insertion in Constitution on taking private property for public purposes, 164.

proposition for insertion in Constitution on non-partisan school elections, 166.

petition for separate submission of suffrage, 769.

THURMAN, SAMUEL R. (Continued.)

Presents—

petition for separate submission of suffrage, 810, 976.

petition for suffrage to go into the Constitution, 1232.

Remarks—

on motion to refer back report on credentials, 19, 21.

on motion to adjourn, 36, 38.

on organization, 36.

on selecting committee to name standing committees, 38.

on motion to elect permanent officers, 44, 49.

on motion on stenographer, 54.

on election of committee clerks, 47.

on election of enrollment clerk, 52.

on motion to adjourn, 63, 168.

on motion of Evans relating to selecting seats, 72.

on motion relating to standing committees, 76.

on motion to read rules, 80.

on motion to change time of meeting, 88, 89.

on official stenographer, 92, 93, 95, 96, 98, 99, 100.

on suffrage, 101.

on committee meeting announcements, 103.

on motion to correct minutes, 107.

on referring proposition for insertion in Constitution, 111, 116.

on motion of Evans, 113.

on election of committee clerk, 120, 122.

on adopting rules, 127, 135, 136.

and requests that memorial on suffrage be read, 162.

on proposition on live stock, 164.

on motion to adjourn, 168, 171, 194.

on motion to refer correction of minutes, 174, 189.

on motion to refer legislative apportionment, 176, 177.

on resolution on senators and representatives, 177, 182, 183.

on motion to reconsider motion to refer correction of minutes, 189.

THURMAN, SAMUEL R. (Continued.)

Remarks—

on motion for additional clerk, 194.
on proposition for insertion in Constitution on location of capital, 202.
on proposition for insertion in Constitution, 203.
on article on boundary, 207, 212.
on resolution on Constitution and its nature, 212.
on report of committee on education, 217.
on resolution on stenographer, 223.
on motion to amend section 4, bill of rights, 232, 245, 246, 251.
on motion to amend section 5, bill of rights, 253, 254.
on section 9, bill of rights, 257.
on motion to amend section 10, bill of rights, 260, 262, 275, 277, 291.
on motion to set a time for report of committee on elections and suffrage, 264, 265, 266, 267, 268.
on report of commiteee on expenses, 272.
on proposition on right of way, 300.
on proposition to tax professional men, 300.
on motion to change time of meeting, 301, 302, 303.
on motion to amend section 12, bill of rights, 309, 312.
on motion to amend section 13, bill of rights, 314, 315, 319.
on motion to report elections and suffrage, 318, 801.
on substitute for section 15, bill of rights, 320.
on motion to strike out section 21, bill of rights, 325, 326.
on motion to amend section 23, bill of rights, 326, 327, 329, 331, 336, 338.
on motion to amend section 2, education and school lands, 383.
on motion to refer back article on education and school lands, 394, 396.
on motion to amend section 5, counties, cities and towns, 400, 401, 404.
on motion to adopt minority report on suffrage, 408, 409, 411, 415, 416.

THURMAN, SAMUEL R. (Continued.)

Remarks—

on suffrage, 434, 461, 470, 518, 536, 538, 543, 553, 567, 576, 1722, 1723.
on motion to strike out section 10, elections and suffrage, 603, 604, 606, 609, 610, 611.
on motion to amend section 14, elections and suffrage, 616, 617.
on section 5, elections and suffrage, 617.
on motion to amend section 5, elections and suffrage, 620.
on motion to amend section 22, bill of rights, 625, 626, 627, 628, 635, 645, 650.
on voting on bill of rights, 652.
on motion to go into the committee of the whole, 668, 669, 703.
on motion to amend section 6, municipal corporations, 672.
on motion to amend section 3, amendments, 677.
on motion to postpone action on elections and suffrage, 682, 684, 694, 704.
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on motion to recommit elections and suffrage, 715, 716, 746, 752, 754, 764.
on motion to amend section 2, elections and suffrage, 771, 772.
on motion to amend section 2, elections and suffrage, 772.
on motion to amend section 3, elections and suffrage, 773, 774, 775, 777.
on motion to amend section 8, elections and suffrage, 780.
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on motion to suspend rules on elections and suffrage, 801, 802.
on a point of order on motion to suspend rules on suffrage, 802.
on motion to recommit public lands, 813, 814.
on motion to amend section 4, apportionment, 846, 847, 848, 857, 858, 859.

THURMAN, SAMUEL R. (Continued.)
Remarks—
on presentation of petitions, 852.
on motion to adopt apportionment, 863.
on motion to strike out section 11, legislative, 868, 869.
on motion to amend section 13, legislative, 870, 871, 872, 877.
on motion to amend section 20, legislative, 882.
on motion to amend section 27, legislative, 884.
on motion to add new section to legislative, 887.
on Roberts's amendment to legislative article, 908, 911, 912, 922.
on motion to strike out section 35, legislative, 949.
on appeal from chair on section 36, legislative, 964, 965, 966.
on motion to reconsider section 36, legislative, 973.
on motion to amend section 31, legislative, 975.
on motion to reconsider section 36, legislative, 977, 981, 983.
on motion to amend section 12, executive, 1008, 1011, 1012, 1013, 1014.
on motion to amend section 20, executive, 1017, 1018, 1024, 1026, 1028, 1029, 1154.
on motion to amend section 1, labor and arbitration, 1052.
on motion to amend section 3, labor and arbitration, 1053.
on motion to strike out section 5, labor and arbitration, 1060.
on motion to strike out section 7, labor and arbitration, 1061, 1062, 1063, 1066.
on motion to amend section 2, taxation and revenue, 1071, 1072.
on motion to amend section 3, taxation and revenue, 1074.
on motion to amend section 4, taxation and revenue, 1080.
on motion to strike out section 5, taxation and revenue, 1091, 1099.

THURMAN, SAMUEL R. (Continued.)
Remarks—
on motion to amend section 12, taxation and revenue, 1112.
on motion to amend section 2, taxation and revenue, 1114.
on motion to amend section 13, taxation and revenue, 1115.
on motion to amend section 1, public debt, 1117, 1123, 1199, 1200, 1201.
on motion to amend section 3, public debt, 1127, 1134.
on motion to amend section 5, public debt, 1135.
on motion to amend section 8, public debt, 1141, 1142.
on reconsideration of suffrage, 1149, 1497.
on article on labor, 1165.
on motion to table minority report on prohibition, 1183.
on motion to amend section 3, education, 1229.
on motion to amend section 4, education, 1232, 1342, 1347, 1353, 1362.
on motion to reconsider accounts, 1237.
on motion to amend section 5, education, 1248, 1284, 1285, 1286, 1305.
on motion to amend section 10, education, 1299, 1300.
on motion to amend section 2, education, 1302, 1306.
on motion to amend section 5, judiciary, 1314, 1317.
on motion to amend section 7, judiciary, 1321, 1504.
on motion to amend section 20, judiciary, 1328, 1382, 1391.
on motion to amend section 15, judiciary, 1393, 1395, 1396.
on a point of order on Farr's motion to amend, 1413.
on mines and mining, 1430, 1431, 1525, 1529, 1533, 1534, 1535, 1542, 1543, 1544, 1545.
on motion to adopt majority report on prohibition, 1456.
on motion to strike out section 1, corporations, 1465.

THURMAN, SAMUEL R. (Continued.)
Remarks—
on motion to amend section 11, corporations, 1472, 1474, 1475, 1549.
on motion for night sessions, 1477, 1478.
on motion to amend section 2, judiciary, 1498, 1499.
on motion to amend section 8, judiciary, 1504, 1505, 1506.
on motion to amend section 9, judiciary, 1507, 1508, 1512, 1513, 1521, 1522, 1523.
on motion to amend section 25, judiciary, 1520.
on motion to amend section 26, judiciary, 1521.
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on motion to divide per diem, 1835.
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Evans's motion to rebuke Squires, 1055.
Withdraws motion to lay on table, 766.

VAN HORNE, W. G., Member from Second Precinct, Salt Lake City.
Appointed—
on committee on site of holding Convention, 36.
chairman of committee on legislative, 65.
on committee on judiciary, 66.
on committee on executive, 66.
Amends Roberts's resolution to conform to Enabling Act, 64.
Called to the chair in committee of the whole, 1588.
Moves—
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to amend motion to go into committee of the whole, 272.
to amend section 10, bill of rights, 283.
to amend section 11, bill of rights, 305.
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to amend section 17, bill of rights, 323.
to amend section 23, bill of rights, 339.
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to strike out section 29, bill of rights, 362.
to amend section 4, bill of rights, 365.
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to amend section 12, executive, 667.
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to amend section 4, elections and suffrage, 778.
to amend section 8, elections and suffrage, 781.
to amend substitute for section 14, elections and suffrage, 800.
to amend section 4, apportionment, 850.
to amend section 2, apportionment, 861.
to amend section 3, legislative, 865.
to amend section 5, legislative, 867.
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to amend section 5, labor and arbitration, 1060.
to amend section 10, executive, 1152.
to strike out section 12, executive, 1153.
a substitute for section 14, corporations, 1555.
to amend section 16, corporations, 1562.
to amend section 19, corporations, 1562.
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on election of committee clerks, 122, 123.
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on motion to amend section 2, elections and suffrage, 771.
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on motion to amend section 19, legislative, 881.
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on motion to amend section 9, legislative, 936.
on motion to strike out section 33, legislative, 937.
on motion to strike out section 35, legislative, 941, 942, 943.
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on motion to amend section 12, executive, 1014.
on motion to amend section 20, executive, 1018, 1153.
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on amendment to labor, 1173.
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on motion to file petitions, 1182.
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on motion to amend section 20, judiciary, 1389, 1517.
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on motion to amend section 1, judiciary, 1404.
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nomination of Bruce Johnson, 49.
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Withdraws substitute to section 10, bill of rights, 296.

VARIAN, CHARLES S., Fifth Precinct, Salt Lake City.

Appointed—

on committee on rules, 61, 65.
chairman of executive committee, 66.

Amends Kiesel's motion, 117.

Asks leave of absence on committee on suffrage, 162.

Appeals from decision of chair, 705, 957.

Called—

to act as temporary chairman, 674, 789.
to chair in committee of the whole, 1413.

Calls for the ayes and noes, 685.

Moves—

to appoint a committee of seven on credentials, 12.
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to adjourn, 77.
to read rules by sections, 80.
to swear in stenographer, 100.
to set certain time for consideration of rules, 102.
to refer correction of minutes to committee on expense, 107.
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to defer action on expense report, 145.
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to read bill of rights by sections and amend, 229.
to lay amendment to section 4, bill of rights, on the table, 241, 248.
to amend amendment to section 10, bill of rights, 259.
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to adopt report of committee on rules, 268, 298.
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to amend section 3, counties, cities and towns, 398.
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to strike out section 23, bill of rights, 650.
to amend section 11, executive, 667.
to recommit elections and suffrage, 712.
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to amend section 4, apportionment, 831.
to return the unsigned petition to Low, 852.
to amend section 24, legislative, 883.
to amend section 27, legislative, 884.
to amend section 29, legislative, 885.
to amend section 31, legislative, 928.
to amend section 35, legislative, 947.
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to amend section 31, legislative, 973, 974.
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to amend section 12, executive, 1013.

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Moves—

to amend section 20, executive, 1023, 1030.
to amend section 1, labor and arbitration, 1037.
to amend section 2, taxation and revenue, 1070.
to amend section 4, taxation and revenue, 1074.
to reconsider section 1, elections and suffrage, 1144.
to amend article on labor, 1176.
to lay report of minority on prohibition on table, 1183.
a substitute for section 1, public debt, 1184.
to strike out section 2, water rights, 1217.
to amend section 2, education, 1220.
to amend water rights, 1233.
to amend section 10, education, 1301.
to amend section 2, education, 1301.
to amend section 6, education, 1312.
to amend section 5, judiciary, 1320.
to amend section 7, judiciary, 1320.
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to amend section 9, judiciary, 1322.
to amend section 3, education, 1336.
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to amend section 20, judiciary, 1375.
a new section to judiciary, 1392.
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to strike out section 19, corporations, 1562.
to amend section 21, corporations, 1564.
to amend section 21, corporations, 1569.
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to amend section 2, schedule, 1736.
to amend section 6, schedule, 1750.
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on section 8, judiciary, 1507.
on motion to amend section 9, judiciary, 1508, 1509, 1510, 1513.
on section 21, corporations, 1563, 1564, 1568.
on section 23, corporations, 1571, 1668.
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WARRUM, NOBLE, JR., Member from Logan, Cache County.
Appointed—
on committee on judiciary, 66.
on committee on municipal corporations, 66.
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Presents—
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WELLS, HEBER M., Member from Fourth Precinct, Salt Lake City.
Appointed—
chairman of committee on stenographer, 55.
chairman of committee on preamble and declaration of rights, 65.

WELLS, HEBER M. (Continued.)

Appointed—

on committee on education and school lands, 66.

on committee on engrossment and enrollment, 67.

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WHITNEY, ORSON F., Member from Fourth Precinct, Salt Lake City.

Appointed—

on committee on preamble, 65.
on committee on mines and mining, 67.

WHITNEY, ORSON F. (Continued.)

Appointed—

on committee on compilation and arrangement, 67.
on committee to prepare address, 1802.

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WILLIAMS, J. J., Member from West Jordan, Salt Lake County.

Appointed—

on committee on water rights and irrigation, 66.
on committee on schedule, future amendments and miscellaneous, 67.

Excused, 312, 805.

Moves—

to amend section 2, mines and mining, 1413.

Remarks—

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WILSON, JOHN R.

sent communication, 1813.

WOOTTON, ATTEWALL, of the Church of Jesus Christ of Latter Day Saints.

Offered prayer, 1287.